



AN EXAMINATION OF THE ISSUES AND CHALLENGES IN THE ENFORCEMENT OF TRADEMARKS IN NIGERIA

**^aM. I. Abdullahi*

^a Department of Private Law, Faculty of Law, Ahmadu. Bello. University Zaria, Kaduna State, Nigeria.

**Corresponding author email: maryamsaleh44@yahoo.com*

Abstract:

Despite an extensive legal framework, trademark enforcement in Nigeria is severely hampered by deep-seated legal, institutional, and practical challenges. This article doctrinally explores these issues, identifying outdated legislations, weak enforcement agencies, judicial inefficiencies, and widespread socio-economic factors like endemic counterfeiting and low public awareness. These interconnected challenges constitute systemic weaknesses undermining effective trademark protection. The article recommends concrete steps based on legal reforms, institutional capacity building, and comparative best practices of South Africa and the United Kingdom, with emphasis on the need for an across-the-board approach involving legislative updating, enhanced institutional capacity, judicial specialisation, and firm public-private collaboration to create a trademark regime that fosters economic growth and consumer protection.

Keywords: *Trademarks, Enforcement, Intellectual Property, Counterfeiting, Nigeria, Doctrinal Analysis, Trademarks Act 1965, Merchandise Marks Act.*

1. Introduction

Trademarks, as identification marks,¹ play a critical role in business to build brand image, consumer trust, and business security. They promote loyalty and grant monopoly rights, deterring infringement. From an economic perspective, trademarks induce development by attracting investment and tourism,² and encourage innovation as they reward owners.³ These rights are valuable assets, yet their economic benefit is dependent on strong

¹ E.g., logos, words, shapes

² Lisa N. Thompson, "Using Trademarks as a Tool to Boost Local Economic Development through Place Branding | New Hampshire Municipal Association" (*New Hampshire Municipal Association*) <<https://www.nhmunipal.org/town-city-magazine/septemberoctober-2018/using-trademarks-tool-boost-local-economic-development>>

³ Banwo & Ighodalo, "IP Protection Framework in Nigeria - Trademarks - Banwo & Ighodalo" (*Banwo & Ighodalo*, June 2, 2025) <<https://www.banwo-ighodalo.com/grey-matter/ip-protection-framework-in-nigeria-trademarks/>>.

enforcement as poor enforcement diminishes their value.⁴ Robust trademarks also protect consumers by guiding purchasing decisions,⁵ an impact undermined by counterfeiting, which harms public welfare.

The law on trademarks in Nigeria is fairly robust and is governed primarily by the Trade Marks Act,⁶ historically based on UK law,⁷ and supplemented by additional acts like the Merchandise Marks Act⁸ and Cybercrimes (Prohibition, Prevention, Etc) Act.⁹ Accordingly, this research is warranted by widespread trademark counterfeiting and infringement in Nigeria, which is a significant international and African centre for such illicit trade, with a multi-billion dollar internal market.¹⁰ This commerce gravely jeopardizes public health, particularly through counterfeit drugs leading to substantial mortality.¹¹ Economically, it dissolves revenues, discourages investment, leads to job loss, and destroys consumer confidence.¹² Inadequate enforcement, the target of this study, ignites this cycle and inflicts obscure costs on business and government.¹³ The danger to public health, economic stability, and consumer well-being demands this essential investigation.¹⁴

This study adopts a doctrinal research approach, critically analysing primary sources of law and secondary sources to assess Nigeria's trademark enforcement system and operation.¹⁵ This is supplemented with empirical context from enforcement reports.¹⁶ The study looks at Nigeria's legal framework for trademark enforcement, enforcement methods, key challenges, and comparative analysis with South Africa and the UK, and provides recommendations and conclusions.

1. Legal and Regulatory Framework in Nigeria

The foundation for trademark protection in Nigeria is based on several key legal statutes among which is the Trademarks Act, 1965,¹⁷ the Merchandise Marks Act, 1916,¹⁸ the Counterfeit and Fake Drugs and

⁴ EKO Solicitors and Advocates "Why Do You Need to Register Trademark in Nigeria?" (May 28, 2025) <<https://ekosolicitors.com/why-do-you-need-to-register-trademark-in-nigeria/>>

⁵ Banwo & Ighodalo, "IP Protection Framework In Nigeria - Trademarks - Banwo & Ighodalo" (Banwo & Ighodalo, June 2, 2025) <<https://www.banwo-ighodalo.com/grey-matter/ip-protection-framework-in-nigeria-trademarks/>>.

⁶ Trade Marks Act, CAP T13, LFN 2004

⁷ BYRON, I. P. (2018). *The challenges of trademark protection law in Nigeria* (Doctoral dissertation).

⁸ Merchandise Marks Act CAP M10 LFN. 2004

⁹ Cybercrimes (Prohibition, Prevention, Etc) Act, 2015

¹⁰ Adams & Adams, "Nigeria's Battle Against Counterfeit Goods Intensifies - Adams & Adams" (Adams & Adams, March 19, 2025) <<https://www.adams.africa/nigeria/nigerias-battle-against-counterfeit-goods-intensifies/>>

¹¹ Ibid.

¹² European Innovation Council and SMEs Executive Agency "Challenges of Counterfeiting in Nigeria" (*IP Helpdesk*, November 11, 2024) <https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/challenges-counterfeiting-nigeria-2024-11-11_en>

¹³ Ibid.

¹⁴ Adams & Adams, "Nigeria's Battle Against Counterfeit Goods Intensifies - Adams & Adams" (Adams & Adams, March 19, 2025) <<https://www.adams.africa/nigeria/nigerias-battle-against-counterfeit-goods-intensifies/>>

¹⁵ Nwotite, A., Iguh, N. A., & Onwugbolu, C. S. (2025). Challenges of trademark protection laws to the Nigerian economy. *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 16(1), 1-13.

¹⁶ Adams & Adams, "Nigeria's Battle Against Counterfeit Goods Intensifies - Adams & Adams" (Adams & Adams, March 19, 2025) <<https://www.adams.africa/nigeria/nigerias-battle-against-counterfeit-goods-intensifies/>>

¹⁷ Trademarks Act, 1965 CAP T13, LFN 2004

¹⁸ The Merchandise Marks Act, 1916 CAP M10, LFN 2004

Unwholesome Processed Foods (Miscellaneous Provisions) Act,¹⁹ the Trade Malpractices (Miscellaneous Offences) Act,²⁰ and the Cybercrimes (Prohibition, Prevention) Act, 2015.

The Trademarks Act, 1965, is Nigeria's main trademark law and governs registration and statutory infringement action for registered marks. Historically, not covering service marks; a lacuna recently filled by the Business Facilitation Act, 2022,²¹ the 1965 Act is generally regarded as archaic.²² Registration under the Act confers exclusive use rights, whereas Section 3 precludes a right to an action for infringement proceedings unless there is prior registration.²³ One main drawback under the instant Act is that the Registry has no direct administrative enforcement powers, consequently necessitating court action.²⁴ Furthermore, the Act also does not explicitly define "infringement" which effectively affects the extent of actions that can be maintained under the Act.

Away from the Trademarks Act, 1965, the Merchandise Marks Act, 1916²⁵ is the key criminal foundation against trademark counterfeiting, false trade descriptions, and importing infringing goods in Nigeria.²⁶ It aims to penalize consumer deception and dishonest competition.²⁷ Offences may be punished with fines, imprisonment, and confiscation.²⁸ Its antiquity is one of the largest obstacles to fighting current counterfeiting, while the penalties under the Act are largely inadequate and consequently do not constitute good deterrents.²⁹

Other statutory pieces worth noting are the Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act³⁰ which is a sector-specific legislation as it does not cover all types of trademarked goods.³¹ It criminalizes dealing in unregistered, adulterated, or counterfeit regulated products (drugs, food) and empowers NAFDAC in that regard. Moving forward, there is the Trade Malpractices (Miscellaneous Offences) Act³² which makes provisions broader than trademarks but relevant for deceptive practices involving brands although its penalties are still not attuned to current realities rendering them inadequate. It makes provisions which criminalize false or misleading labelling, packaging, sale, or advertising of products regarding quality, brand name, composition etc.

¹⁹ Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act CAP. C34 LFN 2004

²⁰ Trade Malpractices (Miscellaneous Offences) Act CAP. T12 LFN 2004

²¹ Section 69, Business Facilitation Act, 2022, widened the definition of a trademark by including services in the definition of goods.

²² Byron, I. P. (2018). *The challenges of trademark protection law in Nigeria* (Doctoral dissertation).

²³ However, this does not affect the right to an action for passing off under the law of torts.

²⁴ Bolanle Olowu, (2024) Nigeria Protecting and Enforcing Trademarks and Copyrights <<https://nigerianlawguru.com/wp-content/uploads/2024/11/PROTECTING-AND-ENFORCING-TRADEMARKS-AND-COPY-RIGHTS.pdf>>

²⁵ The Merchandise Marks Act, 1916 CAP M10, LFN 2004

²⁶ Adeola Oyinlade & Co "Trademark Law in Nigeria: A Guide to Registration, Infringement and Enforcement – Legal Developments" (*The Legal 500*) <<https://www.legal500.com/developments/thought-leadership/trademark-law-in-nigeria-a-guide-to-registration-infringement-and-enforcement/>>.

²⁷ Community Reading of the Merchandise Marks Act, 1916

²⁸ Toyosi Odunmbaku, Uma Omai, "Law Over Borders Comparative Guide: Anti-Counterfeiting" <<https://www.globallegalpost.com/lawoverborders/anti-counterfeiting-225672922/nigeria-933693779>>

²⁹ Adeola Oyinlade & Co "Trademark Law in Nigeria: A Guide to Registration, Infringement and Enforcement – Legal Developments" (*The Legal 500*) <<https://www.legal500.com/developments/thought-leadership/trademark-law-in-nigeria-a-guide-to-registration-infringement-and-enforcement/>>.

³⁰ Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act CAP. C34 LFN 2004

³¹ Covers primarily NAFDAC-regulated products

³² Trade Malpractices (Miscellaneous Offences) Act CAP. T12 LFN 2004

Furthermore, the Cybercrimes (Prohibition, Prevention) Act criminalizes unauthorized use of a name, business name, trademark, domain name online without authority, if it causes damage or loss. By these provisions, it addresses modern digital infringement and provide for more significant penalties than older Acts.

Relative to international obligations, Nigeria has ratified key IP treaties like the Paris Convention³³ and the TRIPS Agreement,³⁴ which establish minimum IP protection standards.³⁵ Their domestic impact is, however, curtailed by non-domestication, as Section 12 of the Nigerian Constitution requires treaties to be legislated into domestic law to be enforceable in courts. This incomplete domestication and judicial application of TRIPS and the Paris Convention is a failure to domesticate global norms, frustrating possible improvement in IP enforcement and investor confidence.³⁶

Noteworthy, a number of parties participate in trademark registration and enforcement activities among which are the Trademarks, Patents and Designs Registry: This Registry, which is under the Federal Ministry of Industry, Trade and Investment, is responsible for trademark registration, such as search, examination, publication, opposition hearings, and issuing of certificates.³⁷ It has no direct administrative enforcement powers against marketplace infringement and had been noted to experience operational difficulties such as delays and backlogs in registration.³⁸ Furthermore, law enforcement agencies including the Nigeria Police Force and the Nigerian Customs Service are important institutions for the enforcement of trademark rights in Nigeria. In this regard, the Nigerian Customs Service (NCS) is very active at the borders with detention, seizure, and destruction powers over infringing goods although effectiveness is hampered by porous borders and limited resources.³⁹ The Nigeria Police Force (NPF) on the other hand prosecutes and investigates criminal trademark offenses often in collaboration with other agencies.⁴⁰ However, in its prosecutorial drive, limited specialized IP units may limit proactive investigations.

Other agencies like the National Agency for Food and Drug Administration and Control (NAFDAC) regulates food, drug, and allied products, combating counterfeits through registration, inspection, seizure, and

³³ Paris Convention for the Protection of Industrial Property, Mar. 20, 1883, as revised at Stockholm on July 14, 1967, and as amended on Sept. 28, 1979, 21 U.S.T. 1583, 828 U.N.T.S. 305.

³⁴ Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994).

³⁵ Kasim M. W. & Akatiki G. D. (2021) "The Protection against Unfair Competition in the WTO/Trips agreement and the Paris Convention: Lessons for Nigeria", <<https://bsum.edu.ng/journals/law/vol10/files/file2.pdf>>

³⁶ Ibid.

³⁷ Banwo & Ighodalo, "IP PROTECTION FRAMEWORK IN NIGERIA - TRADEMARKS - Banwo & Ighodalo" (*Banwo & Ighodalo*, June 2, 2025) <<https://www.banwo-ighodalo.com/grey-matter/ip-protection-framework-in-nigeria-trademarks/>>.

³⁸ Tolu Olaloye, Susan Akinade, "Navigating Trademark Issues in Nigeria: Practical Strategies for Businesses | IPLINK ASIA" <<https://www.iplink-asia.com/article-detail.php?id=1161>>

See also Bolanle Olowu, (2024) Nigeria Protecting And Enforcing Trademarks And Copyrights <<https://nigerianlawguru.com/wp-content/uploads/2024/11/PROTECTING-AND-ENFORCING-TRADEMARKS-AND-COPY-RIGHTS.pdf>>

³⁹ Adams & Adams, "Nigeria's Battle Against Counterfeit Goods Intensifies - Adams & Adams" (*Adams & Adams*, March 19, 2025) <<https://www.adams.africa/nigeria/nigerias-battle-against-counterfeit-goods-intensifies/>>

⁴⁰ Bolanle Olowu, (2024) Nigeria Protecting And Enforcing Trademarks And Copyrights <<https://nigerianlawguru.com/wp-content/uploads/2024/11/PROTECTING-AND-ENFORCING-TRADEMARKS-AND-COPY-RIGHTS.pdf>>

prosecution.⁴¹ In a more limited role, the Standards Organisation of Nigeria (SON) establishes and enforces standards of quality for all other products, combating imitations across sectors.⁴²

2. Modes of Trademark Enforcement

2.1. Administrative Actions and Civil Litigation

Administrative enforcement, by the Trademarks Registry, focuses on validity of registration via Opposition Proceedings (opposing published applications)⁴³ and Cancellation Proceedings (petitioning for cancellation of registered marks on such grounds as non-use or fraudulent registration).⁴⁴ These do not empower the Registry to stop ongoing market infringement.

On the other hand, civil litigation in the Federal High Court is the main avenue for securing direct remediation.⁴⁵ This is achieved through an action on the tort of passing-off and statutory remedy for trademark infringement. The tort of passing-off as common law action is a protection for goodwill of registered or unregistered marks against misrepresentation likely to confuse the public and result in damage.⁴⁶ Under the tort of passing-off, the “classical trinity” of goodwill, misrepresentation and damage must be established.⁴⁷ Furthermore, the statutory remedy for trademark infringement is available for registered trademarks acting as a basis for the action on infringement as a defence to such an action.⁴⁸ However, as noted by the Supreme Court held in *Dike Geo Motors v. Allied Signal Inc.*,⁴⁹ registration of a trademark by a defendant is not an absolute defense if registered in bad faith or used fraudulently.

The range of remedies available upon a successful prosecution of a civil action for the enforcement of trademark rights include injunctions whether interlocutory or perpetual, damages, an account of profits, Anton Piller orders (search and seizure), orders for delivery up and destruction, Mareva injunctions (asset freezing), and declaratory judgments.⁵⁰ However, critically, the effectiveness of these remedies is dependent on judicial efficiency.

⁴¹ Adeola Oyinlade & Co “Trademark Law in Nigeria: A Guide to Registration, Infringement and Enforcement – Legal Developments” (*The Legal 500*) <<https://www.legal500.com/developments/thought-leadership/trademark-law-in-nigeria-a-guide-to-registration-infringement-and-enforcement/>>.

⁴² Adams & Adams, “Nigeria’s Battle Against Counterfeit Goods Intensifies - Adams & Adams” (*Adams & Adams*, March 19, 2025) <<https://www.adams.africa/nigeria/nigerias-battle-against-counterfeit-goods-intensifies/>>

⁴³ Banwo & Ighodalo, “IP PROTECTION FRAMEWORK IN NIGERIA - TRADEMARKS - Banwo & Ighodalo” (*Banwo & Ighodalo*, June 2, 2025) <<https://www.banwo-ighodalo.com/grey-matter/ip-protection-framework-in-nigeria-trademarks/>>.

⁴⁴ Ibid.

⁴⁵ Resolution Law Firm, “Enforcement Of Intellectual Property Rights In Nigeria” (September 22, 2024) <<https://www.resolutionlawng.com/enforcement-of-intellectual-property-right-in-nigeria/>>

⁴⁶ Banwo & Ighodalo, “IP PROTECTION FRAMEWORK IN NIGERIA - TRADEMARKS - Banwo & Ighodalo” (*Banwo & Ighodalo*, June 2, 2025) <<https://www.banwo-ighodalo.com/grey-matter/ip-protection-framework-in-nigeria-trademarks/>>.

⁴⁷ Templars, Trademark Infringement: Suing For ‘Passing-Off’ In Nigerian Courts (2015) <<https://www.templars-law.com/app/uploads/2015/05/Trademark-Infringement.pdf>>

⁴⁸ Banwo & Ighodalo, “IP PROTECTION FRAMEWORK IN NIGERIA - TRADEMARKS - Banwo & Ighodalo” (*Banwo & Ighodalo*, June 2, 2025) <<https://www.banwo-ighodalo.com/grey-matter/ip-protection-framework-in-nigeria-trademarks/>>.

⁴⁹ *Dike Geo Motors et al. v. Allied Signal Inc. et al.* (2024) 10 NWLR (Pt.1946) 201

⁵⁰ ICA (2024) “Available Remedies for Intellectual Property Infringement” (September 19, 2024) <<https://ica.ng/what-are-the-available-remedies-for-intellectual-property-right-infringement-in-nigeria/>>

2.2. Criminal Prosecution

As against administrative actions and civil litigation, criminal prosecution seeks to dissuade infringers through punitive sanctions under a number of statutes. In this regard, Under the Section 3 of the Merchandise Marks Act, 1916 criminalizes trademark forgery, false application, sale of goods under false description, and importation of infringing goods, punishable with fine, imprisonment, and forfeiture. Furthermore, Section 1 of the Trade Malpractices (Miscellaneous Offences) Act makes provision for false/misleading labelling or advertisement, punishable with NGN 50,000.

Under Section 3 of the Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act, penalties are prescribed targeting fake drugs and foods with prosecuted by NAFDAC while Section 25 of the Cybercrimes (Prohibition, Prevention) Act, 2015 criminalizes unauthorized use of trademarks online with intent to cause harm, punishable by a fine of NGN 5,000,000 or two years' imprisonment. In terms of successful prosecution, it is hard to obtain convictions due to the burden of proof, corruption, lack of specialized officers, and judicial delay.⁵¹ Noteworthy, the Trademarks Act itself does not contain criminal liability for infringement per se but for ancillary offenses like false representation.⁵²

3. Challenges in Trademark Enforcement

3.1. Legislative and Institutional Deficiencies

A major legislative deficiency in the enforcement of trademarks in Nigeria is the outdated laws and penalties replete in the legislative framework. Nigeria's Trademarks Act 1965 is archaic, failing to address modern offences like domain name counterfeiting and lacking statutory definition of infringement.⁵³ Both the instant Act and the Merchandise Marks Act impose fines that are woefully insufficient such as N200 fine for false representation of registration consequently offering no meaningful deterrent.⁵⁴

Institutionally, corruption within enforcement agencies is a significant obstacle to trademarks protection.⁵⁵ It is compounded by a lack of specialized expertise and chronic under-resourcing in financial and human terms within these agencies.⁵⁶ Insufficient IP training for judiciary and law enforcement also weakens effectiveness.⁵⁷ Furthermore, inadequate inter-agency coordination stands as a major bane. Hence, although there have been

⁵¹ Nwaogazie MM, "Issues and Challenges Faced in Intellectual Property Rights in Nigeria" (*IP Bulletin*, May 23, 2022) <<https://ipbulletin.in/intellectual-property-rights-in-nigeria/>>

⁵² Ibid.

⁵³ BYRON, I. P. (2018). *The challenges of trademark protection law in Nigeria* (Doctoral dissertation).

⁵⁴ Resolution Law Firm, "Enforcement Of Intellectual Property Rights In Nigeria" (September 22, 2024) <<https://www.resolutionlawng.com/enforcement-of-intellectual-property-right-in-nigeria/>>

⁵⁵ Oloko, Temitope. (2025). Enforcement of Intellectual Property Rights in Nigeria and South Africa: A Comparative Reappraisal. 11. 2025. 10.55662/CLRJ.2025.1104.

⁵⁶ Adams & Adams, "Nigeria's Battle Against Counterfeit Goods Intensifies - Adams & Adams" (*Adams & Adams*, March 19, 2025) <<https://www.adams.africa/nigeria/nigerias-battle-against-counterfeit-goods-intensifies/>>

⁵⁷ European Innovation Council and SMEs Executive Agency "Challenges of Counterfeiting in Nigeria" (*IP Helpdesk*, November 11, 2024) <https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/challenges-counterfeiting-nigeria-2024-11-11_en>

some ad-hoc partnerships,⁵⁸ there is hardly any formalized, strategic approach to inter-agency collaboration, which results in redundant efforts, enforcement gaps, and ineffective use of resources.⁵⁹

3.2. Judicial Inefficiencies

Excessively long delays in Nigerian court decisions generally increase litigation costs and uncertainty, which benefit infringers and diminish the deterrent effect of litigation.⁶⁰ To this is added the lack of specialization of judges. In effect, there are no specialist IP courts or sufficient judges who possess specialized IP training in Nigeria, and therefore, the IP legislations are enforced erratically and there are chances of biased judgments.⁶¹ The World Intellectual Property Organisation's Nigerian judge training program emphasizes this institutional shortfall.⁶²

3.3. Socio-Economic and Practical Hurdles

Under socio-economic considerations, low public awareness stands as a major disabler of trademarks enforcement. Broad levels of low public awareness among consumers and enterprises regarding IP rights and the risks associated with counterfeit goods are prevalent.⁶³ This is further exacerbated by budgetary constraints which drive demand for cheaper fakes while Nigeria's extensive and porous borders facilitate large-scale smuggling of counterfeit goods, overwhelming enforcement agencies like the Nigeria Customs Service.⁶⁴ Furthermore, the high fee of legal services, especially for SMEs, renders formal enforcement inaccessible to the majority of brand owners and thus renders their IP rights theoretical.⁶⁵

4. Comparative Insights and Lessons for Nigeria: Lessons From South Africa and the United Kingdom

⁵⁸ Kayode O, "Nigeria IP Enforcement by Customs and NAFDAC: Protecting Your Brand" (*O. Kayode & Co | Intellectual Property Lawyers - Nigeria*, April 30, 2025) <<https://www.okayode.com/2025/04/29/nigeria-ip-enforcement-by-customs-nafdac/>>

⁵⁹ European Innovation Council and SMEs Executive Agency "Challenges of Counterfeiting in Nigeria" (*IP Helpdesk*, November 11, 2024) <https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/challenges-counterfeiting-nigeria-2024-11-11_en>

⁶⁰ Oloko, Temitope. (2025). Enforcement of Intellectual Property Rights in Nigeria and South Africa: A Comparative Reappraisal. 11. 2025. 10.55662/CLRJ.2025.1104.

⁶¹ Nwaogazie MM, "Issues and Challenges Faced in Intellectual Property Rights in Nigeria" (*IP Bulletin*, May 23, 2022) <<https://ipbulletin.in/intellectual-property-rights-in-nigeria/>>

⁶² "WIPO and Nigerian Judiciary Collaborate to Strengthen IP Adjudication Capacity in Nigeria" (*Judiciaries*) <<https://www.wipo.int/en/web/judiciaries/w/news/2025/wipo-and-nigerian-judiciary-collaborate-to-strengthen-ip-adjudication-capacity-in-nigeria>>

⁶³ European Innovation Council and SMEs Executive Agency "Challenges of Counterfeiting in Nigeria" (*IP Helpdesk*, November 11, 2024) <https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/challenges-counterfeiting-nigeria-2024-11-11_en>

⁶⁴ Adams & Adams, "Nigeria's Battle Against Counterfeit Goods Intensifies - Adams & Adams" (*Adams & Adams*, March 19, 2025) <<https://www.adams.africa/nigeria/nigerias-battle-against-counterfeit-goods-intensifies/>>

⁶⁵ Oloko, Temitope. (2025). Enforcement of Intellectual Property Rights in Nigeria and South Africa: A Comparative Reappraisal. 11. 2025. 10.55662/CLRJ.2025.1104.

An exegesis of the regulatory framework of South Africa and the United Kingdom provides interesting perspectives and standpoints. Notably, South Africa has a more robust IP regime, especially its Counterfeit Goods Act 37 of 1997 (CGA),⁶⁶ providing a comprehensive framework for counterfeiting, defining offences, granting powers to inspectors including the police and customs, and requiring significant penalties.⁶⁷ It also utilizes specialized Commercial Courts.⁶⁸ This stands in contrast with Nigeria's utilization of outdated and discordant legislations.

The United Kingdom has a mature regime under the Trade Marks Act 1994 (TMA)⁶⁹ and an active UK Intellectual Property Office (IPO) with a wide role.⁷⁰ Enforcement includes civil action, criminal prosecution via agencies like the Police Intellectual Property Crime Unit (PIPCU), border measures,⁷¹ and specialist courts like the Intellectual Property Enterprise Court (IPEC), which offers a streamlined procedure for SMEs.⁷²

5. Recommendations for Reform

In consideration of the analyses above, the following reforms are proffered as recommendations for improving the Nigerian Trademark enforcement mechanism and regime.

5.1. Legislative and Institutional Overhaul

The legislative framework should be modernized by repealing and replacing the Trademarks Act, 1965, with a new Act that aligns with international best practices, defines infringement, includes modern marks, and provides deterrent penalties. A dedicated Anti-Counterfeiting Act should also be established, similar to South Africa's, to consolidate the criminal provisions and confer powers on relevant agencies. This should be accompanied by granting the IP office administrative enforcement powers.

Institutionally, specialized IP courts should be set up or distinct IP branches in the Federal High Court, with continually trained judges.⁷³ Similarly, the IP office should be enhanced by converting the Trademarks Registry into an independent, well-funded Intellectual Property Commission with an expanded mandate, operational autonomy, and better resources, as previously envisaged.⁷⁴

⁶⁶ Counterfeit Goods Act 37 of 1997 (Government Gazette No. 18324, Notice No. 1284 of 1 October 1997). Commencement date: 1 January 1998 (Proclamation No. R.80, 1997 in Government Gazette No. 18483 of 1 December 1997).

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Trade Marks Act 1994 (c. 26), Royal Assent: 21st July 1994

See also ELegal Online, "UK Personal | Trademark Protection and Infringement Claims - eLegal Consultants" (*eLegal Consultants*, February 10, 2025) <<https://elegonline.com/uk-personal/trademark-protection-and-infringement-claims/>>

⁷⁰ Andonian B, "UK Intellectual Property Law: Key Regulations and Enforcement Strategies" (*Civil Litigation Lawyers*, June 3, 2025) <<https://civillitigationlawyers.co.uk/uk-intellectual-property-law/>>

⁷¹ Ibid.

⁷² Ibid.

⁷³ Oloko, Temitope. (2025). Enforcement of Intellectual Property Rights in Nigeria and South Africa: A Comparative Reappraisal. 11. 2025. 10.55662/CLRJ.2025.1104.

⁷⁴ CTBA, "Reforming the Intellectual Property Law and Administration in Nigeria – Centre for Trade and Business Advocacy" <<https://centre-tba.org/position-papers/reforming-the-intellectual-property-law-and-administration-in-nigeria/>>

5.2. Enhancing Capacity and Coordination

There should be specialised trainings through the establishment of continuous, specialised IP training for the judiciary, Customs, Police, NAFDAC, SON, and other interested agencies, including specialist IP crime units within the police.⁷⁵ Furthermore, a statutory national inter-agency task force on IP enforcement should be set up with representation from key agencies, statutory authority, budget allocation, and political backing for coordinating national strategy and operations.⁷⁶

5.3. Public Engagement and Collaborative Efforts

The government should launch focused nationwide consumer and business public awareness campaigns on risks of counterfeits, IP importance and IP value, registration, and enforcement, using a variety of media while incorporating basic IP awareness in school curricula.⁷⁷ This should be accompanied by a private sector and regional cooperation to foster intensive market monitoring and enforcement by manufacturers, adoption of protective technologies,⁷⁸ and recording of IP rights with Customs.⁷⁹ This therefore calls for Public-Private Partnerships (PPPs) for intelligence and resource sharing.

6. Conclusion

Trademark enforcement in Nigeria is significantly compromised by obsolete legislation, ineffective sanctions, institutional weaknesses, judicial inefficiencies, and challenging socio-economic facts. A comparison with South Africa and the United Kingdom highlights the benefits of modern anti-counterfeiting legislation, specialized courts, empowered IP offices, and coherent cooperation – all of which Nigeria lacks.

A strong trademark regime is essential for economic development, innovation, and consumer welfare. The present regime is lacking. A multi-dimensional reform is urgently required, comprising sweeping legislative modernization, deep-seated institutional strengthening, and deep judicial reform. Strong public awareness campaigns and active public-private partnerships are also essential. With political will and collaborative effort, Nigeria can reform its trademark enforcement landscape to provide a safer, more stable, and more successful business climate.

⁷⁵ European Innovation Council and SMEs Executive Agency “Challenges of Counterfeiting in Nigeria” (*IP Helpdesk*, November 11, 2024) <https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/challenges-counterfeiting-nigeria-2024-11-11_en>

⁷⁶ Oyinkansola Komolafe “Intellectual Property, SMEs and Economic Recovery in Nigeria” <<https://www.wipo.int/web/wipo-magazine/articles/intellectual-property-smes-and-economic-recovery-in-nigeria-55919>>

⁷⁷ NAFDAC, “NAFDAC Anti-Counterfeiting Strategies - NAFDAC” (NAFDAC, January 11, 2024) <<https://nafdac.gov.ng/about-nafdac/nafdac-anti-counterfeiting-strategies/>>

⁷⁸ European Innovation Council and SMEs Executive Agency “Challenges of Counterfeiting in Nigeria” (*IP Helpdesk*, November 11, 2024) <https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/challenges-counterfeiting-nigeria-2024-11-11_en>

⁷⁹ Kayode O, “Nigeria IP Enforcement by Customs and NAFDAC: Protecting Your Brand” (*O. Kayode & Co | Intellectual Property Lawyers - Nigeria*, April 30, 2025) <<https://www.okayode.com/2025/04/29/nigeria-ip-enforcement-by-customs-nafdac/>>