

International Protection of Intellectual Property Rights

Intellectual Property Insight



December 2025



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1. Introduction

In today's globalised economy, commercial activities tend to expand beyond the borders of one geographical area. Businesses are beginning to look outward for sustainability and profitability. The protection of Intellectual Property rights (IPRs) is largely rooted within national boundaries extending only as far as the conferring state, and this raises a critical risk for businesses and investors. Against this backdrop, there is a need for the international protection of intellectual property rights. This is because, beyond safeguarding innovation and goodwill, the international protection of IP rights will help promote cross-border investment, encourage knowledge transfer, and strengthen the legal basis for global trade.¹

Accordingly, this paper provides an insight into the rationale behind international protection of IPRs, the registration system structures at the international level, including the Madrid System, the Hague System, and the Patent Cooperation Treaty, as well as at the regional level. It ultimately outlines the practical challenges and emerging issues that shape the future of IP protection.

2. Rationale for International Protection of IPRs

The rationale for international protection of IPRs is the protection of identity and creativity on an international level. IP grants creators certain exclusive rights over their work for a limited time, allowing them to recover the costs incurred in creating it and to earn economically from it. Without this protection, innovators could lose the chance to realise new innovations due to the risk of their idea being stolen, thereby discouraging inventors and deterring them from creating. IP rights systems promote long-term innovation and economic growth by providing legal certainty, underpinned by law, to foster investments and product markets driven by high innovation.

Furthermore, international protection of IP serves a social purpose as IP regimes are developed not only to compensate innovators but also to promote the dissemination of knowledge to the broader society. As an example, patent law requires inventors to publish their inventions, thereby enabling others to acquire

¹ Gene M. Grossman and Edwin L.C. Lai, 'International Protection of Intellectual Property', (2024)

them and build on them. This forms a circle of compounded innovation that advances both technology and culture, while simultaneously guaranteeing access to new knowledge for society. IP is grounded in the principle that it balances the protection of individual creators and the moral growth of mankind as a whole.

Overall, the protection of IP rights on an international scale has socio-economic motive. It encourages more creativity and inventiveness, while also promoting international knowledge and cultural exchange. International protection promotes equity in an increasingly globalised world, where the need to share and exchange innovation and technology is on the rise, ultimately fostering economic growth and the success of individual nations.

3. Framework for International Protection of IPRs

The frameworks available to obtain international protection of IPRs include:

3.1. *The Madrid System*

The Madrid System is one of the international registration systems administered by the World Intellectual Property Organisation (WIPO). This international trademark registration system began with the Madrid Agreement concerning the International Registration of Marks, established in 1891. Subsequently, in 1989, the Protocol relating to the Madrid Agreement was adopted in addition to the existing treaty.²

The Madrid System enables the filing of a single trademark application, potentially providing protection in all member states. Ordinarily, because of the territorial nature of trademark protection, an owner of a mark who intends to formally protect a mark in jurisdictions other than their home country will be required to file separate, independent applications in each country. This would generally be a cumbersome exercise, to say the least. However, with the Madrid System, it is possible to file applications in contracting party countries through a single application process at a home trademark office.

The Madrid System is managed by the International Bureau of the World IP Organization (WIPO), part of the United Nations, located in Geneva, Switzerland. Nigeria has not yet adopted this treaty.

² Anamta Khan, 'The Madrid System: Madrid Agreement and Madrid Protocol, (2021), <[The Madrid System: Madrid Agreement and Madrid Protocol](#)> accessed November 3, 2025.

3.2. *The Patent Cooperation Treaty (PCT)*

Similar to the Madrid System, the Patent Cooperation Treaty (PCT) offers a streamlined process for inventors to apply for patents in multiple countries through a single application. Patent protection is also territorial, and to obtain protection in a jurisdiction, a local application must be filed in the desired country. The PCT streamlines the patent application process, reducing costs and complexity for applicants seeking protection in multiple jurisdictions. The PCT has been particularly beneficial in providing a method of filing an international patent application, promoting the exchange of technical information across countries, and promoting the sharing of technology.³

The PCT is administered by the International Bureau of WIPO. There are 157 contracting parties to this treaty, including Nigeria, which became a signatory on February 8, 2025.

3.3. *The Hague System for the International Registration of Industrial Designs*

The Hague System for the International Registration of Industrial Designs is managed by WIPO and enables users to secure and maintain global protection for their designs with minimal formalities and costs. The system enables design owners to register their designs in contracting party countries, utilizing a single application, as opposed to filing separate applications in each country where protection is sought.

This system is governed by the Hague Agreement Concerning the International Registration of Industrial Designs, enabling applicants to protect their designs more efficiently. It offers a cost-effective and less complex alternative to filing individual applications in each country, thereby expanding global market potential.⁴ The Hague System comprises 77 contracting parties covering more than 90 countries.

³ Evelyn Hartman, 'Understanding the Patent Cooperation Treaty (PCT)', (2025), <[Understanding the Patent Cooperation Treaty \(PCT\)](#) [iplawobserver.com](#)> accessed November 2025.

⁴ Legal IP Strategies Staff, 'Understanding the Hague System for International Design Registration' (2024), <[Understanding the Hague System for International Design Registration - Legal IP Strategies](#)> accessed 11 August 2025.

3.4. Berne Convention for the Protection of Literary and Artistic Works

The Berne Convention for the Protection of Literary and Artistic Works was adopted in 1886 with the goal of creating a universal standard for the protection of original works of authorship. It provides creators such as authors, musicians, poets, painters etc. with the means to control how their works are used, by whom, and on what terms. It is based on three basic principles:

- i. Works originating in one of the contracting countries must be given the same protection in each of the other contracting countries as the latter grants to the works of its own nationals (principle of national treatment).
- ii. Protection is not conditional upon compliance with any formality; rather it is automatic
- iii. Protection is independent of the existence of protection in the country of origin of the work. If, however, a Contracting Country provides for a longer term of protection than the minimum prescribed by the Convention and the work ceases to be protected in the country of origin, protection may be denied once protection in the country of origin ceases.⁵

The Berne Convention serves as the backbone of various Copyright legislations around the world, including the Copyright Act, 2022.⁶ The major features of the Convention are:

- a. It eliminates formalities/registration in acquiring copyright protection. This guarantees that original works of authorship are automatically protected in all member countries.
- b. The minimum term for protection of copyright is the author's life and 50 years after death.
- c. The convention requires member states to treat foreign works as they would treat works created in their jurisdiction.
- d. The convention provides for the protection of works in other jurisdictions even though copyright has expired in the jurisdiction of origin.
- e. Moral rights should be maintained at least until the expiration of economic rights.

The Berne Convention has 180 signatories, including Nigeria.

⁵ Legal Service India, 'List of Member Countries of Berne Convention of which India is also a Signatory Country', (2025), <Berne Convention Countries List – International Copyright Validity & Copyright Registration Guide 2025>, accessed November 10, 2025.

⁶ Nigeria's primary copyright legal framework.

3.5. Regional Frameworks

The African Regional IP Organisation (ARIPO) is a regional IP body established to coordinate and streamline IP (IP) protection among its member states. Its primary aim is to facilitate efficient IP management across diverse legal jurisdictions in Africa.⁷ Another regional IP body is the Organisation Africaine de la Propriété Intellectuelle (OAPI). Similar to ARIPO, it allows applicants seek patent, trademark or design protection across all member states.

Nigeria is not a member of any of these bodies.

4. Practical Challenges in International IP Registration and Enforcement

4.1. Counterfeiting and Piracy

Counterfeiting refers to tangible goods that infringe trademarks, design rights or patents. Meanwhile, piracy, as used here, refers to the infringement of copyrights on tangible goods.⁸ Therefore, of particular essence here is the tangibility of the object of the rights. Neither concept has intangible goods within the scope of its respective application. The pair also have major implications, not merely for the rights of the owner of the counterfeited good, but also for the broader economy of the affected jurisdiction.

For instance, in 2021 alone, the Swiss economy lost USD 3 billion to counterfeit goods that infringed trademarks. This also led to the untimely determination of 6,000 jobs.⁹ There is, perhaps, no good as adversely affected in this regard as Swiss watches. Between 2020 and 2021, more than half (52%) of all counterfeit watch seizures by global customs authorities involved Swiss rights holders.¹⁰ Moreover, in 2004, a counterfeit version of Omo, a product of Unilever, was sold in the Mozambique market. The counterfeit bore Unilever's Mozambique address on its label and imitated the OMO graphics. Although it was briefly traded on the market, its impact proved costly. As a result of its market activity, Omo sales plummeted by 40% from the normal monthly rate. As a result, Mozambique faced an estimated US \$588,000 revenue loss in unremitted VAT, import duty, and

7 By Legal Strategies Staff, 'Understanding the ARIPO Design System and Registration Processes', (2024), <Understanding the ARIPO Design System and Registration Processes - Legal IP Strategies>, accessed August 12, 2025.

8 OECD/EUIPO (2016) Trade in Counterfeit and Pirated Goods: Mapping The Economic Impact, OECD Publishing, Paris

9 OECD, Counterfeiting, Piracy and the Swiss Economy 2025 (Illicit Trade, OECD Publishing, Paris), <<https://doi.org/10.1787/6d206067-en>> accessed November 17, 2025.

10 Ibid.

corporate tax from counterfeiters, directly attributable to the 60% decrease in sales.¹¹

It is worth noting that, beyond the above short-term losses, medium- and long-term losses also accrue from counterfeiting and piracy activities, including a diminished investment in innovation and eroding competitiveness over time.

4.2. Cost-Intensive System

The IP application process can prove very costly for small and medium-scale enterprises, as well as for private individuals. The intricate and expensive nature of the IP application process, encompassing fees for patent and trademark registration, as well as recurring annual and legal costs, places a significant strain on resource-constrained SMEs.¹² Notably, many of these businesses generally rely on bank loans or asset finance to raise capital. Where, as in most cases, the commercial value of their IP has not been substantially realised, they may lack the requisite collateral to obtain the loan facilities necessary to complete their IP registration as well as expand their businesses.¹³

4.3. Variation in IP Laws Across Countries

Every jurisdiction operates under a unique legal framework, meaning an act considered an infringement in one country might be perfectly legal elsewhere. Even with international agreements, such as the Berne Convention, striving to align copyright laws, the actual enforcement and specific legal structures differ considerably worldwide. This creates difficulties in safeguarding creative works globally, posing challenges for creators, businesses and users alike. As echoed by the European Parliament, “Despite over a century of international harmonisation, copyright law remains essentially national law...”¹⁴

A typical example in this regard is the distinction in the jurisdictional applications of fair use and fair dealing. Australia's Copyright Act (1968) incorporates “fair dealing” provisions, which delineate instances where

11 WIPO Magazine, 'Recent Challenges for Enforcement of IP Rights', (2006), <<https://www.wipo.int/web/wipo-magazine/articles/recent-challenges-for-enforcement-of-intellectual-property-rights-35159>> Accessed August 12, 2025

12 Hongyu Qin, 'Challenges and Countermeasures in IP Management for Small and Medium Enterprises', (2024) Applied Sciences and Innovative Research, 123, 125.

13 WIPO Magazine, 'IP, Finance and Economic Development', (2016), <<https://www.wipo.int/web/wipo-magazine/articles/intellectual-property-finance-and-economic-development-55567#:~:text=Despite%20broad%20recognition%20of%20the,by%20commercial%20banks%20as%20collateral.>> Accessed August 12, 2025

14 Ivana Katsarova, 'The Challenges of Copyright in the EU, European Parliamentary Research Service', (2015), <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2015/564380/EPRS_BRI\(2015\)564380_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2015/564380/EPRS_BRI(2015)564380_EN.pdf)> Accessed August 12, 2025

copyrighted literary, dramatic, musical, artistic, and audio-visual works may be utilised without permission. These legally sanctioned uses specifically encompass criticism or review, parody or satire, reporting news, research or study and judicial proceedings or professional advice.¹⁵ Meanwhile, fair use, as applicable in the US law is guided by four factors critical to discerning fair use, to wit, (i) the purpose and character of the use (ii) the intrinsic nature of the copyrighted work, (iii) the extent of the portion used, and (iv) the influence on the prospective market or financial worth.¹⁶ Therefore, while fair use is an open-ended defence, allowing transformative or productive uses, fair dealing is a closed set of specific, defined exceptions to copyright infringement.

4.4. Lack of Awareness and Training

There is a genuine need to properly inform the public about the various legal frameworks that protect IP rights in the international scene. This need is particularly prevalent in developing Countries, where relevant stakeholders may need to engage in mass media campaigns in the local languages to ensure maximum reach and proper comprehension of the information disseminated.¹⁷

There is also a need for capacity development to ensure that the technical aspects of the laws are understood. This is due to the twin realities of the complexity of the laws involved and the limited knowledge/understanding of the IP officials responsible for enforcing those laws.¹⁸ The training should also be directed to officials in related ministries, departments, and enforcement agencies. Additionally, legal practitioners and members of the judiciary should not be left out, but rather properly equipped through the applicable workshops.

15 The University of Newcastle, 'Fair dealing v. Fair use', <<https://www.newcastle.edu.au/library/teaching-and-research-support/copyright/copyright-basics/copyright-basics/fair-dealing-vs.-fair-use>> Accessed August 12, 2025.
See also Australian Copyright Act (1968), s.40,41,41A, 42

16 Copyright Act 1976, s 107

17 PWC, 'Impact of IP Infringement on Business and the Nigerian Economy', <<https://www.pwc.com/ng/en/assets/pdf/ip-infringement-ngr-economy.pdf>>, Accessed August 12 2025

18 "Existing Needs for Training and for Development of Enforcement Strategies", WIPO Consultation Meeting on Enforcement, September 11-13, 2002

5. Conclusion

IP rights protection on the international front is essential for global trade, creativity, and innovation. This paper has demonstrated that regional and international registration systems are crucial tools in securing rights across national boundaries. These structures have simplified the process that was once tedious to obtain protection in various jurisdictions, promoting trade, the flow of technology, and the circulation of culture.

Nevertheless, obstacles such as counterfeiting and piracy, the expense of applications, and inconsistencies among our national IP laws are still holding back initiatives for global protection. Ultimately, a harmonized and well-enforced international IP framework remains essential to ensuring that innovation and creativity are rewarded, protected, and leveraged for sustainable development in an increasingly interconnected world.

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