

LEVERAGING INTELLECTUAL PROPERTY AS A GUIDE FOR THE FULFILMENT OF SUSTAINABLE DEVELOPMENT GOALS IN NIGERIA

Nkeiruka Tasie Nwachukwu*

Abstract

Intellectual property is an indispensable tool for shaping a futuristic and prosperous society. By fostering innovation, stimulating economic growth, and promoting cultural and social development, Intellectual property can empower societies to address global challenges and build a more sustainable and equitable world. The African continent is rich in natural resources and home to the world's largest free trade zone. Despite this, the continent has been plagued by so many difficulties, ranging from poverty, illiteracy, and high mortality rates, among others. Irrespective of the Sustainable Development Goals, which are universal and can serve as a roadmap for improving the environment, human well-being, and quality of life, little has been achieved in their fulfilment in Nigeria. This article seeks to analyse the importance of leveraging Intellectual property responsibly and ethically so as to guarantee fulfilment of the Sustainable Development Goals. The article concluded that no sustainable development goals can be adequately achieved in the absence of government involvement. This article recommended the involvement of the government in the enlightenment of the several intellectual property rights to ensure responsible use and appreciation. Through this involvement, incentives for innovations and creativity arising from intellectual property can be guaranteed.

Keywords: Intellectual Property, Sustainable Development Goals, WIPO

* LLB (IMSU), BL (ABUJA), LLM (RSU) PhD (RSU), Lead Counsel Law Uncut Advocates & Solicitors Port Harcourt Nigeria; Tel: 08038693822, Email: nkudums@yahoo.com.

1.0 INTRODUCTION

Intellectual property being intangible in nature, protects products of human intelligence and creations. According to the World Intellectual Property Organization (WIPO), Intellectual property refers to creations of the mind: inventions; literary and artist Intellectual works; and symbols, names, and images used in commerce.¹ Intellectual property refers to mental work created through intellectual human activities such as industrial property including patent, utility models, design and trademark and copyright.² In other words, Intellectual Property is inclusive of everything created through the intellectual activity of a person. It's the means by which a society accords recognition to any intellectual efforts. It can also be described as an exclusive right granted to an individual for his immense contribution to the intellectual creation of a given society.

Intellectual property is divided into two categories namely, Copyright and related rights (literary, artistic and scientific work such as novels, poems and plays, films, musical works, drawings, paintings, photographs and sculptures, and architectural designs, performing and recording, broadcasting in radio and television programs) and Industrial property (patents for inventions, trademarks, industrial designs, geographical indications).³

At the foundation of the law on intellectual property, lies the need to support and encourage the development of literary, artistic and

¹ WIPO, 'What is Intellectual Property' <<https://www.wipo.int>> accessed 4 May 2022.

² P H Purwandoko and M N Imanullah, 'Application of Natural Law Theory (Natural Right) to Protect the Intellectual Property Rights' (2017) 6(1) Open Access Research, 136.

³ F O Babafemi, *Intellectual Property: The Law and Practice of Copyrights, Trademarks, Patents and Industrial Designs in Nigeria* (1st edn, Ibadan: Justinian Books Limited 2007) 342.

scientific work by granting certain property rights to the creator as well as inventors in arts and the sciences. In general terms, the need for the protection of intellectual property is; to guarantee the statutory protection of the moral and economic rights of creators over their creations while granting the public right to assess these creations. The second is to promote, as a deliberate act of government policy, creativity and the dissemination and application of its results and to encourage fair trading which would contribute to economic and social development

The general concept of intellectual property rights as a human right is that every individual, irrespective of age, gender or origin are entitled to enjoy rights granted them by any legal instrument without any discrimination. These rights, which accrue to us as members of the human family, are inalienable in nature (cannot be taken from us), inherent (inborn), and apply to all equally (universality).

Intellectual property rights (IPR) refer to the legal rights granted to an inventor or creator to protect his invention or creation for a certain period of time.⁴ IPR allows the originator of certain ideas, inventions and expressions to exclude others from using those ideas, inventions and expressions without permission. It will be safe to say that Intellectual Property Rights seek to indicate the difference between the property over which it is granted and similar ones sold by market competitors. By so doing, creators or owners of intellectual property rights can benefit from their own work or investment in a creation.

In determining these rights, domestic or national law in place try to maintain a balance between the exclusive right granted to the creator

⁴ H Chopra and S Kumar, 'Intellectual Property Protection and Rights: Historical and Current Prospective' (2014) (6)(5) International Journal of Pharmacy and Pharmaceutical Sciences, 572.

of the intellectual property and the need for the public to benefit from the property.

2.0 OVERVIEW OF SUSTAINABLE DEVELOPMENT GOALS

Every nation, individual, or company aspires to ensure the sustainable development of its resources to serve present and future generations. By so doing, longevity is guaranteed.

Before the introduction of the Sustainable Development Goals (SDGs), the United Nations introduced the Millennium Development Goals (MDGs) in September 2000. The MDGs initiated a ground breaking new collaboration and a vast level of involvement that captured worldwide attention. The MDGs highlighted the significance of establishing challenging objectives (United Nations 2015). World leaders endorsed the eight MDGs to fight poverty, hunger, and discrimination against women. Many of the eight goals emphasize health, and the United Nations Member States committed to reaching these objectives by 2015.

By 2015, a significant advancement in sustainable growth occurred with the adoption of United Nations Agenda 2030 and its 17 Sustainable Development Goals and 169 targets which aim is to achieve by 2030. These goals are universal, meaning they apply to everyone globally. They serve as a roadmap for the improvement of the environment, human well-being, and quality of life. Furthermore, their aim is to enhance worldwide peace and eliminate poverty in all its dimensions.

The Agenda 2030 framework is organized into five key areas: People, Planet, Prosperity, Peace, and Partnership, collectively known as the "5Ps". These 5Ps serve as a framework for evaluating the progress towards the Sustainable Development Goals (SDGs).

The first area, People, is dedicated to eradicating poverty and hunger in all their forms, which aligns with the SDGs 1 and 2, "No Poverty" and "Zero Hunger". It also focuses on ensuring everyone has access to a healthy and equitable living environment, as per SDGs 3, "Good Health and Well-being", 4, "Quality Education", and 5, "Gender Equality".

The second area, Planet, is committed to safeguarding the Earth from degradation. This involves sustainable use and management of resources, equitable sharing of natural resources, and urgent action on climate change to meet the needs of both current and future generations. The Planet SDGs include: 12, "Responsible Consumption and Production", 13, "Climate Action", 14, "Life Below Water", and 15, "Life on Land".

The third area, Prosperity, is about ensuring everyone has the opportunity to lead fulfilling lives while economic, social, and technological progress is made in harmony with nature. The Prosperity SDGs cover: 6, "Clean Water and Sanitation", 7, "Affordable and Clean Energy", 8, "Decent Work and Economic Growth", 9, "Industry, Innovation and Infrastructure", 10, "Reduced Inequalities", and 11, "Sustainable Cities and Communities".

The fourth area, Peace, is focused on promoting peace and stability worldwide, as per SDG number 16, "Peace, Justice and Strong Institutions".

The final area, Partnership, aims to view Agenda 2030 as a renewed global collaboration for sustainable development, with a special emphasis on addressing the needs of the poorest and most vulnerable, involving all nations, stakeholders, and individuals, as per SDG number 17, "Partnership for the Goals" (United Nations 2021).

3. Intellectual Property Rights as a Catalyst for Sustainable Development Goals in Africa

Africa has been described as the largest continent after Asia covering about one fifth of the total land surface of Earth.⁵ Sub-Saharan Africa is a vast area with a wide range of countries with income ranging from low, average to high. Despite the country's diversity, the continent is rich in natural resources and home to the world's largest free trade zone, as well as a market for 1.2 billion people.⁶ With these advantages, Africa has the opportunity to create a new development strategy that leverages its resources and population.

Intellectual Property rights are rapidly emerging as crucial tools for boosting trade and creating wealth when fully utilized.⁷ The African continent stands to gain from the intellectual property framework in the same manner as developed nations. As awareness and development of the intellectual property framework grow, there's a push for fostering innovative and creative abilities, commercializing local research and development, and addressing the new challenges and opportunities in intellectual property protection. This, in turn, opens up economic opportunities for the continent. The African continent can further leverage intellectual property rights to enter the global market by focusing on its economic strengths, such as protecting geographical

⁵ A Smedley and A Kroner, 'Africa' <<https://www.britannica.com>>accessed 12 August 2024.

⁶ World Bank Group, 'The World Bank in Africa: Overview'<<https://www.worldbank.org>>accessed 12 August 2024.

⁷ C T Owoseni, *New Developments and Challenges in the Protection of Intellectual Property Rights (Iprs): A Nigerian Perspective* (World Intellectual Property Organization Publication 2001) 2.

indications and appellations of origin, and using these as commercial strategies to differentiate local products from the region.

3. INTELLECTUAL PROPERTY RIGHTS AS AN ENABLER FOR A SUSTAINABLE FUTURE

1. 1. Copyright- Goal 4(Quality Education)

According to Ola, copyright can be described as the exclusive right of the owner to control the exploitation of his work and to grant authorisation to others in this regard, subject to certain limitations and exceptions.⁸ In some jurisdictions, copyright is termed author's right. Author's right refers to the creator of an artistic work that also have certain specific rights that only they can exercise such as moral rights, rights to prevent the reproduction of their work except permission is granted by the author.⁹ Copyright guarantees the sole right to do or authorize the doing of the following acts: to produce, reproduce, perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public, if the work is unpublished, to publish the work or a substantial part thereof.¹⁰

Below are the categories of works accorded copyright protections;¹¹ Literary Works (example novels like *The Great Expectations*), Dramatic Works – a play for performance on the stage or television or in a movie (example *Jerry Maguire*, *Good Will Hunting* among others), Musical Works (example, songs, musical scores and

⁸ R O Ola, *Operation and Regulation of Copyright Collective Administration in Nigeria: Important Lessons for Africa* (LLM dissertation, University of South Africa 2012) 4.

⁹ World Intellectual Property Organisation, *Understanding Copyright and Related Rights* (WIPO Publication 2016) 4.

¹⁰ British Copyright, Designs and Patent Act 1988, s 1(2)(d).

¹¹ A A Thomas, 'An Examination of the Protection of Traditional Intellectual Property Rights Under International Law and the Impediments in Developing Countries' (Unpublished Research, Adekunle Ajasin University 2017) 49.

soundtracks), Artistic Works (for example, paintings, photographs and images), Films (for example, videos and cinematic performances), Sound Recordings (for example, oral history tapes and recorded lectures), Broadcasts (example, TV and radio), Typographic Works which is the art of working with text¹² (example, web design, posters or other types of graphic design). Computer programming also enjoys copyright protection. The possibility of works belonging to more than one category is possible.

The Copyright Act 2023 regulates copyright and recognises works eligible for protection such as literary works, musical works, artistic works, cinematograph films, sound recordings and broadcasts.¹³ To be eligible for protection under the Copyright Act, the work in question must be an original and a result of an expression and not an intention.¹⁴

One exception to the use of copyright is fair dealing. Fair dealing is a user's right under copyright law permitting him to use or deal with, a copyright work without permission or payment of copyright royalties.¹⁵ Fair dealing" means dealing with a work in a manner that is true and reasonable.

Fair dealing is a defence to copyright infringement and has been incorporated into Nigerian Copyright Act¹⁶ though no definition was stated therein. When it comes to cases of infringement bordering on

¹² GCFGlobal, What is Typography? <<https://www.edu.gcfglobal.org>> accessed 5 May 2022.

¹³ Copyright Act 2023, s 2(1).

¹⁴ *Ibid*, s 2(2)(a)(b).

¹⁵ D Taylor, 'What is fair dealing and how does it relate to copyright?' <<https://www.lib.sfu.ca>> accessed 18 May 2022.

¹⁶ Nigerian Copyright Act 2004, s 5(1).

fair dealing, the court will take several factors into consideration like;¹⁷ the purpose of the dealing (that is if commercial or for educational); character of the dealing; measure of the dealing; existing alternatives to the dealing; nature of the work and the resultant effect of your dealings on the original work. Notable under fair dealing is usage hinged on non-commercial research and private study. There are exceptions under Copyright Act that exist when it comes to educational purpose or use and library use, satire, criticism, news reporting as long as it is fair.

The court in analysing whether your use is fair looks at these factors as a whole to determine if when balanced on a scale of fairness, your use is fair. Fair dealing is ascertained on a case-by-case basis and every case should be judged by its own merit. In *Dodsley v Kinnersley*,¹⁸ the court stated that; "No certain line can be drawn to distinguish a fair abridgment; but every case must depend on its own facts.

Though an unenforceable clause of provision under Chapter II of 1999 Constitution, a justification for the doctrine of fair dealing can be argued from the provision which states; that the government sometimes in a bid to direct its policy towards equal opportunities at all level will guarantee free, compulsory and universal primary education and free adult literacy programme.¹⁹ When it comes to the freedom to express ideas, hold opinion without interference, it is only necessary for the doctrine of fair dealing be imbibed in order to ensure equitable right between the copyright owner and user.

¹⁷ Taylor(n16).

¹⁸ (1761) Amb.403.

¹⁹ Constitution of the Federal Republic of Nigeria 1999(as amended), s 18.

Fair dealing over copyright work is a necessary tool to promote education which will enable reasonable and fair use of literary works. A prominent feature in quality education will be the usage of textbooks, literary and artistic materials which is hinged on Copyright. Taking into account the high cost of educational materials like books, the Berne Convention have become a yardstick for other legislations at the national level by creating exceptions for the usage of literary works on grounds on fair dealing. With the concept of “fair dealing” as an exception when it comes to Copyright, it becomes easier to create the enabling environment to guarantee quality education in the African regions like Nigeria plight with illiteracy and lack of fund for educational pursuits.

A nation that regards and respects education is a country that have prospects of economic development. For there to be an adequate fulfilment of SDG4, there ought to be an inclusive and equitable education aimed at ensuring complete primary and secondary education; ²⁰easy access to early childhood education; ²¹access to technical, vocational and tertiary education;²² elimination of gender disparities in education²³ and elimination of illiteracy and innumeracy.²⁴

2. Patent- Goal 9; Goal 6; Goal 7; Goal 13(Industry, Innovation and Infrastructure/Clean Water and Sanitation/Affordable Energy/Climate Change)

Patent is the grant of certain rights for the protection of inventions. The patent is a legal document which contains all the information

²⁰ Sustainable Development Goal 4:1.

²¹ *Ibid*, 4:2.

²² *Ibid*, 4:3.

²³ *Ibid*, 4:5.

²⁴ *Ibid*, 4:6.

related to the invention and generally stipulates the conditions on how to use a patent legally or how it can be commercially exploited.²⁵ It is a government grant to an inventor to exclude others from making, using or selling an invention for a stipulated period of time.²⁶ A patentable invention seeks to proffer solutions in the form of results, improvement or mechanical for industrial applications.

Invention means creative ideas that could be reduced to written form to guarantee it to be patentable or patented. It can come in the form of new machine, process, apparatus, manufacture or composition of matter or any new use or improvement, any new design or configuration of any kind of work of authorship.²⁷ Inventions border on creativity and innovation. The goal of creating sustainable and dependable infrastructure (SDG9.1) is somewhat more directly linked to concerns regarding access to innovations protected by intellectual property rights (IPR). SDG9.5 emphasizes the importance of fostering innovation, which can be examined in a similar light to SDG8's push for innovation incentives: both are fundamental objectives of intellectual property aiming for the same outcome in various ways.

The issue of sustainable and resilient infrastructure (SDG9.a) shares similarities with other targets in terms of access to protected innovations, as infrastructure, access to information and communication technology, and innovation are all interconnected.

²⁵ A F Christie and C Dent, 'General Inconvenient: The 1624 Statute of Monopolies as Political Compromise' (2010) Intellectual Property Research Institute of Australia Working Paper, 1.

²⁶ W Fisher, 'Patent' <<http://www.britannica.com>> accessed 8 May 2026.

²⁷ Law Insider, 'Invention or Discovery Definition' <<https://www.lawinsider.com>> accessed 12 May 2026.

However, it's important to recognize that the specific challenges may vary depending on the type of technology used in developing countries when compared to other developed countries. At the same time, this position cannot be used to generalise as not all developing countries are the same, and the technology needs may differ based on the country's location, such as the Equator, small island nations, or mountainous regions.

Sustainable development Goal 6 centres on clean water and sanitation. Improving the efficiency of water usage can become a good strategy to improve access to innovations that can guarantee access to safe drinking water for larger population.

There has been great invention such as:

- a. lifeStraw which is a straw like filter that uses hollow fibre membrane technology to physically remove bacteria, parasites and microplastics from water source without needing batteries or chemicals.²⁸
- b. There is also the black crocheted flower like absorber with a super hydrophilic coating that evaporates polluted water vapours into cleaner water. Taking into account that this device uses yarn, it is cheaper.
- c. There is also the Automatic Variable Filtration technology which instead of using acoustics to drive water through a filtering membrane, inserts an influent at the top to flow downward. This enables compressed air to move contaminants into airlift pipe thereby allowing for easy disposal. A guaranteed success will necessitate access to patented technologies that play a critical role in ensuring access to

²⁸ Patsnap, '5 Water Treatment Innovations Shaping Our Future' <<https://www.patsnap.com>> accessed 19 May 2026.

clean and potable water, either by purifying water or preventing water pollution in the region. With new invention on the rise, access to clean and safe water can become an everyday occurrence. Granting patent over this invention will help to ensure global reach.

The 7th Sustainable Development Goal (SDG) focuses on ensuring access to energy, primarily electricity. The goal is to ensure everyone has access to energy services (SDG7.1), increase the proportion of renewable energy in the energy mix (SDG7.2), and improve energy efficiency (SDG7.3). The expansion of energy infrastructure and the advancement of technology (SDG7.b) are areas where issues related to intellectual property rights (IPR) comes into play.

This is where patentable inventions come into play. Inventions that can guarantee affordable and clean energy aim at maximizing natural resources, reducing manufacturing costs and improving grid distribution. With renewable energy catering to a certain percentage of global electricity, innovations are welcome developments. Some notable innovations in renewable energy are:²⁹

- a. Perovskite solar cells which are transforming solar power with dramatic efficiency gains and affordability.
- b. Green hydrogen is emerging as a zero-carbon fuel for sectors facing electricity challenges, such as heavy industry and long-distance transportation. It is produced through water electrolysis, which is powered by renewable energy and produces a clean alternative for decarbonizing steel, chemicals, and shipping.

²⁹ J Vickerman, 'Innovations in Renewable Energy: Developments Expected in 2025' <<https://www.ratedpower.com>> accessed 19 May 2026.

c. Bifacial solar panels capture sunlight from both sides which has been able to increase efficiency and energy output. Recent advancement in this area (solar tracking systems) that follows the sun's movements had improved their performance.

From these inventions, it is clear that some of the strategies of achieving good energy through technology will entail promoting use of renewable and clean energy technologies, modernizing traditional energy sources and inventing energy efficiency technologies. With the collapse of national grid, solar panels have become a great invention not only for its ability to reduce dependency on generators but also guarantee a clean energy good for the environment.

The 13th Sustainable Development Goal (SDG) focuses on Climate Action. In recent times, the climate has become so unpredictable as a result of wrong choices made by human being. The human interference has impacted human life and health negatively and tremendously. A higher percent of Countries in the African region is most affected by the climate change. What makes it worst is that climate change has impact on several other sustainable development goals like 2; 3,6,7,11,14, and 15. Intellectual property which centres on innovation can serve as an enabling ground for establishing innovative systems that can create a balance when it comes to climate change. Companies like Carbicrete (Canada) and Sublime Systems (USA) have invented ways to manufacture concrete without using traditional, fossil-fuel reliant cement.³⁰ Instead they use industrial by products like steel slag or electrochemical processes at ambient temperature. They also inject captured CO₂ directly into wet concrete

³⁰ World Future Energy Summit, 6 Climate Change Innovations to Watch
<<https://www.worldfutureenergysummit.com>>accessed 20 May 2025.

during manufacturing, trapping the gas permanently inside the structure.

There is also a breakthrough in green ammonia production which uses renewable energy to split water into hydrogen and combine it with nitrogen from the air. This helps to eliminate fossil fuels entirely from the equation, providing a clean pathway for sustainable farming and a zero-carbon fuel for massive global cargo ships.³¹ These innovations can go a long way to guarantee a better climate.

3. Plant Varieties- Goal 1 & 2 (End Poverty/ Zero Hunger)

Plant variety rights (also known as plant breeders' rights) are a form of intellectual property right designed to encourage people to develop and disseminate new varieties of plants.³² These rights accord legal protection as a form of reward for the investments made in breeding and developing new varieties.³³ The duration of the right is for 25 to 30 years depending on the specie of plant.³⁴ Plant Variety or breeder's rights are legally enforceable and with this right, the owner has exclusive right to commercially use, sell produce, sale, receive royalties from any sale made and to import, export and prevent any unauthorised person from reproduction of the new varieties of plant.³⁵ There are exceptions to these rights which are: to propagate that is grow or use a protected variety for non-commercial purpose such as

³¹ *Ibid.*

³² Ministry of Business, 'Innovation & Business, Review of the Plant Variety Rights Act: What are Plant Variety Rights' <<https://www.mbie.govt.nz>>accessed 23 May 2022.

³³ PVR (Protecting Innovation), '*Plant Variety Rights*' (2013) <<https://www.plantvarietyrights.org>>accessed 13 May 2026.

³⁴ WIPO, 'Introduction to Plant Variety Protection under the UPOV Convention' (2017) <<https://www.wipo.int>>accessed 13 May 2026.

³⁵ K Christian, 'Plant Breeders Rights' (2018) <<https://www.sciencedirect.com>>accessed 13 May 2026.

consumption. Example for consumption; to use any variety for breeding to hybridize and produce a new variety from one or more protected varieties and to use propagating material from a protected variety for human consumption or other non-reproductive purposes. The Africa continent has faced so many economic and developmental challenges which geared its head by elevating poverty in the region. About 462 million people are still living in poverty.³⁶

The best alleviation of the poverty in these regions will be agriculture which will enable farmers to grow their own agricultural product. Intellectual property rights can serve as an enabler here through the protection of Indigenous plant and animal varieties (biodiversity) for farmers.

The breeding of plants for the development of new varieties goes back to the start of agriculture and is closely linked to the domestication of cereal crops. The methods of plant breeding began with modifying the genetic characteristics of plants by choosing for dominant features throughout the breeding process. Plant breeders' rights, a type of intellectual property right, can lead to further development and boost in the agricultural sector. The UPOV Convention sets the structure for protecting plant varieties, with each nation creating its own laws to fulfil its commitments under the convention.

4. Traditional Knowledge/Genetic Resources - Goal 3 (Good Health and Well-being)

Traditional knowledge, popularly known as TK, is a living body of knowledge that is developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or

³⁶ World Bank Group, 'The World Bank in Africa: Overview' <<https://www.worldbank.org>>accessed 12 May 2026.

spiritual identity.³⁷ In general word, TK includes knowledge, know how, skills, innovation or practices passed between generations, in a traditional context that forms part of the traditional lifestyle of indigenous and local communities who act as the guardian or custodians. Example of such is knowledge about the medicinal properties of several plants, herbs and roots, knowledge about fishing or hunting techniques among others. Creators of TK are the indigenous people.

Another close associate of TK is genetic resources which is defines as genetic material of plant, animal, microbial or other origin containing functional units of heredity that has actual or potential value.³⁸ Some traditional knowledge is associated with genetic resources. For instance, TK can provide researchers with the information needed to isolate valuable active compounds for medicines and other products conducive for patentable inventions.

Goal 3 target is to guarantee good health, creating the enabling environment for health to thrive, ending epidemics of certain diseases and overall health for all individuals concerned. Traditional medical knowledge, such as the medicinal use of herbs, is often associated with genetic resources. Traditional medicine is quite different from western medicine that enjoy patent protection as a result of its nature, character, transformation having gone through the process of research and development based on certain scientific methods such as pharmacology.

So irrespective of the potentials that might exist for TK innovations under the patent system, the fact remains that traditional medicine has

³⁷ WIPO, *DL101-Module 11-TK, TCEs and GRs* (WIPO Academy 2019) 28.

³⁸ *Ibid.*

not benefitted from patent protection since they do not meet the requirements of novelty, inventive steps and industrial applicability. All three of these steps must be fulfilled together. The absence of one of these requirements denies the individual or community of patent protection. This raises the need for a more accommodating system that will take cognizance of TK peculiarities. An insight towards the impact genetic resource plays towards good health was well captured in the cases below. There is the *Quassia Amara* case which arose in French Guiana, a region in the north eastern coast of South America. The region which is located in the rain forest, is constantly plagued with malaria. To ensure their protection against malaria, the indigenous community there developed a traditional plant based preventive systems to control outbreak. In 2003, a group of researchers from the *institut de Recherche pour le Developpement* (IRD) conducted a research and in the course of their research discovered 27 plants used by the indigenes as traditional medicine to combat malaria.³⁹ Significantly, one of the plants *Quassia Amara* was the most effective cure to malaria which could be used either alone or in combination with the other plants.⁴⁰ The researchers interviewed the indigenes in that vicinity after which they proceeded to extract the compound within the *Quassia Amara* and conducted further research on the effectiveness of the plant in various stages and how to utilise it.⁴¹ Their findings led to the researchers obtaining patent protection for the compound. Without acknowledging the Guianas communities, the institute applied for a patent from the European Patent Agency which was granted in March 2015.

³⁹ W Fisher, 'Toward Global Protection for Traditional Knowledge' (2018) (198) Centre for International Governance Innovation Article, 3.

⁴⁰ E Pain, 'French Institute Agree to Share Patent Benefits After Bio Piracy Accusation' (2016) <<https://www.science.org>>accessed 17 November 2022.

⁴¹ G Bourdy and Others, 'Quassia Bio Piracy Case and the Nagoya Protocol: A Researcher's Perspective' (2017) (206) *Journal of Ethnopharmacology*, 290-297.

In 2015, French *Liberte Danielle Mitterrand* Foundation filed an opposition to the European Patent Office against a patent belonging to the *Institut de Rechercher pour le Developpement*.⁴² In the words of Rodolphe Alexandre, French Guiana's highest ranking official, "the misuse of people's traditional knowledge without prior consent and return to the community cannot be tolerated and the filing of patent by IRD depicts lack of ethics".⁴³

On February 2016, the authority of the *institue* issued a statement stating that IRD would work with "authorities" in Guiana to develop a protocol that would guarantee a fair division of the benefits accruing thereof.⁴⁴

There is also the turmeric patent case.⁴⁵ In 1995, Turmeric patent was granted to two researchers Somank Das and Harihar Kohli of the University of Mississippi Medical Centre taking into account its healing of wound capabilities.⁴⁶ At the time of application, the patent application was considered to be novel as a result of the information available to the examining authority. The patent was subsequently challenged and found invalid. India forced the US Patent and Trademark Office to revoke the patent granted. Subsequently, the patent was withdrawn after a year legal battle with India's Council of Scientific and Industrial Research that argued that turmeric a native

⁴² Bourdy and Others(n42).

⁴³ M Valo, 'Biopiracy, When Indigenous Practices Are Stolen and Patented' (2016) <<https://worldcrunch.com>>accessed 18 November 2022.

⁴⁴ *Ibid.*

⁴⁵ K S Jayaraman, 'US Patent Office Withdraws Patent on Indian Herb' (1997) <<https://www.doi.org/10.1038/37838>>accessed 20 November 2022.

⁴⁶ *Ibid.*

Indian plant, had been used for centuries by its people for wound healing and as such, lacked the novelty criteria required for patenting.

It is glaring that contemporary medicine as we known, has its root in age-old health knowledge. Patents arising from the use of genetic resources like turmeric for healing wounds; neem for its antifungal properties and extract of black plum (*syzygium cumini*) for its diabetes components have been contested and eventually revoked.⁴⁷ With the adoption of the landmark WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge, possible protection of genetic resources that form components of medicinal remedies is guaranteed. This is a positive step towards meeting medical targets and guaranteeing overall good health.⁴⁸ The time for recognition and acknowledgement is now or never.

5. GEOGRAPHICAL INDICATION- Goal 12 (Responsible Consumption and Production)

World Intellectual Property Organisation (“WIPO”) defined Geographical Indication (GI) as a “sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin”⁴⁹ To qualify as a sign, there must be an indication that the products in question bear the quality and characteristics best associated with that particular region. Often time the connection may carry the name of the region such as Nigeria or Mexico or symbols in the form Gondola a landmark in Venice or Big Ben which symbolises England. Geographical indication applicable

⁴⁷ R Priya and C Kurian, “Regulating Access and Protecting Traditional Health Knowledge through Intellectual Property Rights? Issues from a Holistic Health Systems Perspective’ (2018) Sage Journals, 1.

⁴⁸ *Ibid.*

⁴⁹ WIPO, ‘Geographical Indications: What is a Geographical Indication’ <<https://www.wipo.int>> accessed 28 May 2022.

more in traditional knowledge/ cultural expression, agricultural, food and textile industries. Geographical indication accords the exclusive right to use the indication to prohibit its use by a third party whose product does not meet the applicable standard.⁵⁰

Adequate framework put in place for protection and enforcement of rights of creators can guarantee a system that will ensure responsible consumption and production. The goal is to ensure sustainable use and development for the future generation. The protection of geographical indication has not only become popular around the world but is also a viable intellectual property right that can potentially foster economic development especially in developing countries.⁵¹

The potential of GI protection is to add value and promote rural socio-economic development. GI also guarantees responsible production and consumption of indigenous knowledge creations, create value for local communities through products that are deeply rooted in tradition, culture and geography in African regions.

There have been several regional intellectual property legislations that have been forefront when it comes to promoting sustainable use and future. A typical one is the African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders and the Regulation of Access to Biological Resources 2000 which took cognizance of the following:⁵² rights of the State and its people

⁵⁰ C Iwuala, 'Geographical Indications in Nigeria: Realities and Recommendations' (2021) <<https://www.clrnn.net>>accessed 27 May 2022.

⁵¹ S Gwom, 'Protection of Geographical Indications in Nigeria: A legal and Policy Deficit' (2019) <<https://www.researchgate.net>>accessed 4 July 2024.

⁵² OAU Model Law for the Protection of the Rights of Local Communities, Farmers and Breeders and the Regulation of Access to Biological Resources 2000, Preamble.

to exercise sovereign and inalienable rights over their biological resources; the rights of local communities over their biological resources and knowledge; the vital role that women play in the generation, conservation, and sustainable use of biological diversity and associated knowledge and technologies to guarantee full participation; the need to protect and encourage cultural diversity by giving due value to knowledge, innovations and practices of local communities to guarantee conservation, management and use of biological resources; the duty of the State and its people to regulate access to biological resources and to community knowledge and the need to provide adequate mechanisms for guaranteeing just, equitable and effective participation in the protection of collective and individual rights as its guiding light to achieve its objectives. Legislation like this is a tool that promotes goal 5(gender equality);10(reduced inequalities); 11 (sustainable cities and communities);14(life below water); 15 (life on land). Effectiveness towards these goals will require Goal 16(peace, justice and strong institutions)

6. CONCLUSION

Intellectual Property rights are rapidly emerging as crucial tools for boosting trade and creating wealth when fully utilized. Nigeria stands to gain from the protection and enforcement of intellectual property rights, especially since it is a viable tool that can guarantee the Sustainable Development Goals. Intellectual property creates opportunities for fostering innovation and creativity. Through sensitization and creating awareness, the development of inventive skills, enactment of a robust legal framework and tackling the challenges posed through the protection of intellectual property rights, Nigeria stands to benefit immensely from the economic potentials associated therein.

5. RECOMMENDATIONS

- i. **Government Involvement:** No sustainable development goals can be adequately achieved in the absence of government involvement. The responsibility of social, economic, and environmental sustainability lies solely on the government, which can speed the adaptation of the goals in their various countries. In the face of a lack of political will, degradation, poverty, health and total disregard of biodiversity resources will increase. Through this involvement, incentives for innovations and creativity arising from intellectual property can be guaranteed.
- ii. **Sensitization of Intellectual Property Right:** The sensitization programme will aim at educating everyone on how to recognize their rights, roles and position when it comes to protecting their interest over their creation. Knowing when to seek redress upon infringement of rights can help to guarantee a sustainable use and development of our creations and resources.
- iii. **Creation and execution of fresh policies and initiatives that are can bolster the goals of intellectual property.** Taking into consideration that the existing law on intellectual property law is out dated and has colonial foundation, it is time for Nigeria to enact a law that is a reflection of its peculiarities. Till now, Nigeria is yet to domesticate the Lisbon Agreement (which seeks the protection of geographical indication), and the WIPO Treaty on intellectual property, genetic resources and Associated Traditional Knowledge. Domesticating this international framework can go a long way to guarantee sustainable economic growth for the nation.