



**THE LEGAL STATUS OF AI-CREATED TRADEMARKS IN NIGERIA:
PROSPECTS AND CHALLENGES**

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ABSTRACT

As Artificial Intelligence (AI) is becoming increasingly indispensable within the creative and the commercial innovation ecosystems. Nigeria's trademark landscape like those of many jurisdictions; is confronted with complex legal challenges arising from AI-generated intellectual properties. This study examines whether brand identifiers such as logos, symbols, or signs autonomously generated by AI satisfy the requirements for trademark protection under existing laws, and interrogates the unresolved questions of authorship and proprietorship, namely; whether ownership should vest in the machine, the user, or the software developer? Adopting a doctrinal research approach, the study analyses the Trade Marks Act CAP T13 LFN 2004, identifying critical gaps stemming from its implicit assumption of human creators and its failure to recognize non-human authorship. A comparative analysis is undertaken, drawing on policy developments and regulatory responses from institutions such as the World Intellectual Property Organization, European Union Intellectual Property Office, and United Kingdom Intellectual Property Office. The findings revealed that Nigeria's current legal framework renders AI-generated trademarks legally uncertain due to its presumption of human proprietorship, compounded by institutional limitations and policy inertia. In response, the study recommends comprehensive legislative reform of the Trade Marks Act to explicitly address AI-generated works, the development of a national policy framework on AI and intellectual property, and the modernisation of the Trademarks Registry to enhance administrative efficiency. Collectively, these measures are essential for aligning Nigeria's trademark system with global regulatory trends and fostering innovation-driven economic growth.

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1.1 INTRODUCTION

The advent of artificial intelligence (AI) technologies is profoundly reshaping the creative and commercial landscape, extending its influence to the realm of intellectual property (IP) rights, particularly trademarks.⁴ Nigeria and the world at large, is now a place where tech-driven economy is rapidly expanding amid global technological progression; AI's capacity to generate novel trademarks such as; logos, slogans, and brand identifiers presents both opportunities and legal conundrums. Trademarks are distinctive signs that identify goods or services in commerce; and this have traditionally been rooted in human ingenuity under the relevant Trademark's legislations.⁵ However, AI systems, powered by machine learning algorithms, can autonomously produce such marks with minimal human intervention, challenging conventional notions of creation and protection.⁶ This intersection demands an examination of Nigerian trademark law's adaptability to AI-generated content, drawing on constitutional provisions, related statutes, and international frameworks to illuminate gaps and potential pathways for a tech-driven future-proof legislation that accommodates and recognised the opportunities that AI brings.

Historically, trademark law in Nigeria evolved from colonial-era ordinances to the current framework under the Trademarks Act 2004, which aligns with international obligations under the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) administered by the World Trade Organization.⁷ The Trademarks Act defines a trademark as any device, brand, or label capable of graphical representation and distinguishing goods or services.⁸ Registration confers exclusive rights upon the

⁴Muhammed Hamza Zakir, et al, 'The Impact of Artificial Intelligence on Intellectual Property Rights' International Journal of Human and Society Vol.3 No. 4 Oct – Dec 2023 page 312-319 <https://www.researchgate.net/publication/376796618-the-impact-artificial-intelligence-on-intellectual-property-rights>> accessed 27 April 2026.

⁵Trade Marks Act, Cap T13, Laws of the Federation of Nigeria 2004.

⁶ World Intellectual Property Organization, WIPO Conversation on Intellectual Property (IP) and Artificial Intelligence (AI) (WIPO, Geneva, 2019).

⁷ World Trade Organization, Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (WTO, Geneva, 1994).

⁸Trade Marks Act, CAP T13, Laws of the Federation of Nigeria 2004.

proprietor, emphasising originality and distinctiveness as prerequisites.⁹ Yet, the rise of AI complicates this paradigm. For instance, generative AI tools like neural networks are capable of creating trademarks by analysing vast datasets. These raise questions about whether such outputs meet the Act's implicit requirement for human authorship. Comparative insights from the World Intellectual Property Organization (WIPO) highlight similar global debates, where AI's role in IP creation is viewed as a “*black box*” process lacking traditional inventive steps.¹⁰ In Nigeria, this is exacerbated by the absence of explicit provisions addressing non-human creators, unlike in copyright law, here the Copyright Act vests ownership in natural persons or qualifying entities.¹¹ The Nigeria Data Protection Regulation, while regulating data usage in AI training, does not extend to IP ownership, leaving a doctrinal void.¹²

The core problem lies in the legal uncertainty surrounding authorship and ownership of AI-created trademarks. Under Nigerian law, trademark registration requires an applicant to claim proprietorship, typically implying human origination or control.¹³ However, when AI generates a mark or a distinctive symbol, perhaps using algorithms trained on public domain data, this raises important questions, on who holds the rights in such creations? Is it the developer of the AI, the user, or no one at all? This ambiguity echoes constitutional concerns under section 44 of the Nigerian Constitution,¹⁴ which safeguards property rights but presupposes human agency. Case law, such as in *Nigerian Breweries Plc v. Dumuje*,¹⁵ underscores the need for demonstrable distinctiveness and good faith in registration, yet offers no guidance on AI involvement. Internationally, WIPO's conversations on AI and IP policy note that without human 'sufficient contribution' such creations may fall outside the protectable scope.¹⁶ In Nigeria, this uncertainty risks deterring and/or stifling innovation, as businesses hesitate to invest in AI-driven branding amid fears of invalid registration or infringement claims. Moreover, if AI-generated marks infringe existing trademarks, liability

⁹Ibid. see section 9

¹⁰ World Intellectual Property Organization, WIPO Technology Trends 2019: Artificial Intelligence (WIPO, Geneva, 2020).

¹¹ Copyright Act, Cap C28, Laws of the Federation of Nigeria 2004.

¹² Nigeria Data Protection Regulation 2019.

¹³ J.O. Asein, *Nigerian Copyright Law and Practice* (2ndedn., Books and Gavel Publishing, 2012).

¹⁴ Section 44, Constitution of the Federal Republic of Nigeria 1999 (as amended)

¹⁵ (2016) 5 NWLR (Pt 1505) 1.

¹⁶ World Intellectual Property Organization, WIPO Conversation on Intellectual Property (IP) and Artificial Intelligence (AI) (WIPO, 2019).

attribution becomes contentious; whether to the AI system, its programmer, or the user? This further complicates enforcement under sections 5 and 13 of the Trademarks Act. The significance of this work lies in its potential to reshape Nigeria's intellectual property policy amid growing AI adoption across sectors such as fin-tech and e-commerce.¹⁷ Clarifying the legal status of AI-created trademarks is vital for fostering innovation, advancing Sustainable Development Goal 9 on industry and infrastructure, and enhancing Nigeria's competitiveness under TRIPS.¹⁸ Some scholars have continuously warned that outdated IP frameworks could impede technological progress, especially in developing economies, where AI offers leapfrogging potentials.¹⁹ Prominent amongst these scholars is Maskus who opined that overly strong IP protection can limit technology diffusion, especially where domestic innovation capacity is still developing.²⁰

Adewopo observed that intellectual property has become more economically significant, critically important, and controversial than ever before.²¹ What once centered on protecting simple creations such as books, poems, or other artistic, scientific, and trade-related works has now expanded to encompass a wide range of modern creative and technological innovations. As a result of rapid commercial, industrial, and technological changes, IP has taken on a far more complex character,²² for developing country. This complexity underpins his strong advocacy for reforming IP law to address the emerging challenges posed by artificial intelligence.²³

It is against this backdrop that this paper examines the applicability of Nigeria's trademark provisions to AI-generated marks, identifies challenges in authorship, registrability, and enforcement, and explores prospects for reform, drawing lessons from jurisdictions such as the European Union, where the courts have grappled with AI

¹⁷ C. Okeke, 'AI Adoption in Nigerian Fintech: Opportunities and Regulatory Challenges' (2023) 67(1) *Journal of African Law* 45–68.

¹⁸ World Trade Organization, Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (WTO, Geneva, 1994).

¹⁹ D. Gervais, 'The Machine as Author' (2020) 105(5) *Iowa Law Review* 2053–2106. <<https://ilr.law.uiowa.edu/sites/ilr.law.uiowa.edu/files/2022-10/The%20Machine%20as%20Author%20.pdf>> accessed 28 April 2026..

²⁰ Maskus K.E., 'The Role of Intellectual Property Rights in Developing Economies' <<https://www.>>

²¹ Adebambo Adewopo, 'According to Intellectual Property Law: A Pro-Development Vision of the Law and the Nigerian Intellectual Property Law and Policy Reform in the Knowledge Era' Nigeria Institute of Advanced Legal Studies. <<https://www.nials-nigeria.org>>Edictedbookcovers>pdf files> accessed on the 30 April 2026.

²² Ibid

²³ Ibid.

in IP.²⁴ Using a doctrinal and normative methodology,²⁵ it interprets statutes, case law, and treaties to propose adaptive reforms aligned with WIPO and TRIPS standards.

2.1 CONCEPTUAL CLARIFICATIONS

2.1.1 Artificial Intelligence (AI)

Artificial intelligence refers to computational systems capable of performing tasks that traditionally require human cognitive functions, including pattern recognition, learning from experience, decision-making, and creative output generation. The definition encompasses both narrow AI systems designed for specific tasks such as logo generation or brand name creation and machine learning algorithms that improve performance through iterative exposure to data without explicit reprogramming.²⁶

Critically, this study distinguishes between AI-assisted creation, where human operators retain substantial creative control and decision-making authority, and AI-generated creation, where the system autonomously produces outputs with minimal or no human intervention beyond initial parameters or prompts. The latter category, characterised by algorithmic autonomy and computational creativity, presents the primary conceptual challenge to traditional trademark doctrine and constitutes the focal point of this analysis.

2.1.2 Trademark

A trademark, as defined under the Nigerian Trademarks Act, means "a mark used or proposed to be used in relation to goods for the purpose of indicating, or to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark."²⁷ This definition encompasses words, names, symbols, devices, or any combination thereof adopted and used by manufacturers or merchants to identify their goods and distinguish them from those manufactured or sold by others. Within the context of AI-generated marks, this study adopts an expansive interpretation that includes visual logos, brand names, colour combinations, typographic designs, and composite marks any distinctive identifier capable of trademark protection regardless of whether such marks were conceived by

²⁴Thaler v. Comptroller-General of Patents, Designs and Trade Marks [2021] EWCA Civ 1374.

²⁵ B. Sodipo, Piracy and Counterfeiting: GATT, TRIPS and Developing Countries (Kluwer Law International, 2017). <[https://tind.wipo.int/search?ln=en&as=0&p=subjectheading:\[Counterfeits+and+counterfeiting.\]](https://tind.wipo.int/search?ln=en&as=0&p=subjectheading:[Counterfeits+and+counterfeiting.])> accessed 28 April 2026.

²⁶Russell SJ and Norvig P, *Artificial Intelligence: A Modern Approach* (4thedn, Pearson 2020). <<https://aima.cs.berkeley.edu/>> accessed on the 29th/04/2026.

²⁷See section 67 of Trademarks Act, Cap. T13, Laws of the Federation of Nigeria 2004.

human designers or autonomously generated by computational systems. The functional capacity of the mark to distinguish commercial origin, rather than the process of its creation, remains the definitional touchstone.

2.1.3 AI-Generated Trademark

An AI-generated trademark, denotes a distinctive commercial identifier whether denominative, figurative, or composite that is autonomously created by an artificial intelligence system without substantial human creative intervention at the moment of generation.²⁸ This category excludes marks where AI functions merely as a tool executing human-directed commands (AI-assisted marks) and instead encompasses scenarios where machine learning algorithms, generative adversarial networks, or other computational processes independently select, combine, or create distinctive elements based on programmed objectives, training data, or optimisation criteria.²⁹

The critical distinguishing feature is algorithmic autonomy: the AI system exercises computational judgment regarding aesthetic choices, linguistic combinations, or design elements in ways not directly specified or anticipated by human programmers. Importantly, this definition does not require that the AI possess consciousness, intentionality, or understanding attributes that remain philosophically contested and technologically unattained but merely that the creative output results from computational processes rather than human cognitive activity.³⁰

2.1.4 Legal Personality

Legal personality refers to the capacity of an entity to bear rights and obligations under law, including the ability to own property, enter contracts, sue and be sued, and otherwise participate as a recognised subject within the legal system.³¹ Nigerian law, consistent with common law traditions, recognises two categories of legal persons: natural persons (human beings) and juristic persons (corporate entities, unincorporated associations, and other entities granted legal personality by statute). The concept assumes particular significance in the context of AI-generated trademarks because trademark proprietorship, under existing Nigerian law, presumes a legal person capable of owning, controlling, and enforcing trademark rights. The question of whether AI

²⁸ D. Gervais (n18)

²⁹ C. Okeke, 'AI Adoption in Nigerian Fintech: Opportunities and Regulatory Challenges' (2023) 67(1) *Journal of African Law* 45–68; M. B. Ncube, 'Artificial Intelligence and Intellectual Property: Distinguishing Human and Machine Creativity' (2022) 10(3) *WIPO Journal* 211–233.

³⁰ Levy D, *Love and Sex with Robots: The Evolution of Human-Robot Relationships* (Harper Perennial 2018).

³¹ Ngwu UJ, 'Legal Personality of Corporations and Their Criminal Liability Under Nigerian Law' (2017) 8 *NnamdiAzikiwe University Journal of International Law and Jurisprudence* 134.

systems themselves might be granted legal personality analogous to corporate personality or whether ownership of AI-generated marks must necessarily vest in identifiable human or corporate actors constitutes a foundational issue examined throughout this study. Current Nigerian jurisprudence provides no precedent for non-human, non-corporate legal personality, rendering the attribution of trademark rights in AI-generated marks conceptually and doctrinally problematic under the prevailing legal frameworks.

2.1.5 Authorship and Inventorship

Authorship and inventorship are primary concepts within copyright and patent law. However, in trademark law, these concepts illuminate analogous questions regarding the creative genesis of protected subject matter. Authorship denotes the origination of creative expression by a human mind, traditionally requiring conscious intellectual effort and creative choice.³² Inventorship, within patent law, identifies the natural person who conceived the inventive concept and reduced it to practice. Both concepts presume human agency and cognitive contribution as prerequisite for intellectual property protection. In the trademark context, whilst formal "authorship" is not a statutory requirement for registration, the analogous question concerns who may claim proprietorship over a mark: implicitly, the person or entity responsible for the mark's creation and adoption for commercial use. Where AI systems autonomously generate marks, traditional authorship paradigms fail, necessitating either re-conceptualization of proprietorship as distinct from authorship or attribution of ownership to human actors with attenuated creative contributions from programmers, system owners, or commercial users of AI-generated marks.³³

2.1.6 Distinctiveness

Distinctiveness constitutes the cardinal requirement for trademark protection, referring to a mark's capacity to identify and distinguish the goods or services of one trader from those of another.³⁴ Nigerian law recognises a spectrum of distinctiveness: inherently distinctive marks (arbitrary or fanciful terms bearing no relationship to the goods),

³²Ginsburg JC, 'The Concept of Authorship in Comparative Copyright Law' (2003) 52 DePaul Law Review 1063.<https://scholarship.law.columbia.edu/faculty_scholarship/619/> accessed 28 April, 2026.

³³Abbott RA, 'I Think, Therefore I Invent: Creative Computers and the Future of Patent Law' (2016) 57 Boston College Law Review 1079.<<https://bclawreview.bc.edu/articles/566>> accessed 28 April, 2026.

³⁴ See section 9 of the Trademarks Act, CAP T13 Laws of Federation of Nigeria 2004.

suggestive marks (requiring some imagination to connect the mark to the goods), descriptive marks (directly describing goods or their characteristics, protectable only upon proof of acquired distinctiveness through secondary meaning), and generic terms (incapable of trademark protection). For AI-generated marks, distinctiveness analysis presents unique challenges: computational systems may be optimised to generate maximally distinctive combinations, potentially saturating available trademark space with algorithmically superior marks; alternatively, AI systems might unconsciously replicate existing marks or generate outputs lacking the indispensable cognitive "creative spark" that courts have historically associated with distinctiveness.³⁵ The question is whether the manner of its creation, particularly its computational origin, bears on its legal capacity to function as a source identifier. Or whether the computational genesis of a mark affects its legal capacity to function as a source identifier.

3.1 LEGAL FRAMEWORK FOR TRADEMARK REGISTRATION IN NIGERIA

The Nigerian trademark regime is principally governed by the Trade Marks Act, Cap T13, Laws of the Federation of Nigeria 2004 (the Act); a legislation that consolidates and modernises earlier colonial enactments dating back to 1917. The Act regulates the registration, protection, and enforcement of marks used in the course of trade, serving as the cornerstone of Nigeria's intellectual property system.³⁶ According to section 67(1) of the Act, a "trade mark" is defined as "a mark used or proposed to be used in relation to goods for the purpose of indicating a connection in the course of trade between the goods and some person having the right to use the mark." This definition emphasises the *human nexus* between the mark and its proprietor.

Thus, trademark protection is contingent upon an identifiable person; natural or juristic capable of exercising rights and obligations under Nigerian law.³⁷ The Trademark Act divides marks into two broad categories; Part A and Part B of the register; each with distinct criteria for registration. Part A is reserved for inherently distinctive marks, while Part B covers marks capable of acquiring distinctiveness through use.³⁸ This

³⁵ M. B. Ncube, 'Artificial Intelligence and Intellectual Property: Distinguishing Human and Machine Creativity' (2022) 10(3) *WIPO Journal* 211–233.

³⁶The Trademarks Act, CAP T13 Laws of Federation of Nigeria 2004.

³⁷Trade Marks Act, Cap T13, LFN 2004.

³⁸*Ibid.*

bifurcation underscores the importance of consumer recognition and the functional role of distinctiveness in trademark protection.

Nigeria's trademark law is supplemented by the Trademarks Regulations Laws of 1967, which were made pursuant to the provisions of section 42 and 45 of the Trademarks Act. The Trademarks Regulation Laws provided for the detail procedural aspects such as application, opposition, and renewal. The law is administered by the Registrar of Trade Marks under the Federal Ministry of Industry, Trade and Investment. Although corporate registration falls within the purview of the Corporate Affairs Commission (CAC), the CAC collaborates administratively with the Trademarks, Patents and Designs Registry to ensure proper corporate and brand identity integration.³⁹ However, the Act predates modern technological developments and remains silent on the legal status of non-human or automated creators. Its language anchored in human agency and proprietorship reflects twentieth-century assumptions about creativity and ownership that no longer correspond with the present realities and evolving technological progression of AI-generated content.

The registrability or otherwise of a trademark under the Trademark Act is governed by several statutory criteria; distinctiveness, non-deceptiveness, non-generic character, and lawful representation. Section 9(1) stipulates that a mark is registrable in Part A if it contains or consists of at least one of the following elements:

- i. The name of a company, individual, or firm represented in a special or particular manner;
- ii. The signature of the applicant;
- iii. An invented word or words
- iv. A word having no direct reference to the character or quality of the goods;
- v. Any other distinctive mark.⁴⁰

Distinctiveness is the hallmark of trademark protection. It determines a mark's ability to differentiate one trader's goods from another's. Section 9(2) further allows the Registrar to require evidence of distinctiveness through use if the mark is not inherently distinctive. In *Ferodo Ltd v. Ibeto Industries Ltd*,⁴¹ the Court of Appeal emphasised that distinctiveness constitutes the "badge of origin" identifying goods in the course of

³⁹Companies and Allied Matters Act (CAMA), Cap C20, LFN 2020.

⁴⁰ Section 9(1), Trade Marks Act, Cap T13, LFN 2004.

⁴¹(2004) 5 NWLR (Pt. 866) 317.

trade. Similarly, in *Bata Ltd v. M. S. (Nigeria) Ltd*,⁴² the court held that the essence of a trademark lies in its ability to distinguish the goods of one trader from that of another. These cases illustrate how the Nigerian Courts, through the intellectual Property jurisprudence interprets distinctiveness as an inherently human test linked to intention, perception, and reputation. Section 11 of the Act prohibits registration of marks that are “likely to deceive or cause confusion,” or that are contrary to law or morality.⁴³ This provision aims to protect consumers from misleading representations and to preserve public confidence in trade practices. In *Seven-Up Co. v. Warri Bottling Co. Ltd*,⁴⁴ the court re-affirmed that deception occurs where a mark’s similarity to another may mislead an average consumer as to the origin of goods. This evaluative process again pre-supposes human perception and decision-making. Section 9(1)(d) further excludes words that merely describe the character or quality of goods. Generic terms, such as “milk” for dairy or “bread” for bakery products, cannot function as trademarks because they serve a descriptive rather than distinctive purpose.⁴⁵

In a related development, in the case of *Societe Des Produits Nestlé S.A. v. Cadbury Nigeria Plc*,⁴⁶ the Federal High Court rejected the registration of a mark that was found to be descriptive of the goods’ nature rather than indicative of origin. Section 18(1) of the Act mandates that only “a person claiming to be the proprietor of a trade mark used or proposed to be used” may apply for registration. The Act’s consistent reference to “person” implies legal personhood, thereby excluding non-human creators such as AI systems from registration eligibility.⁴⁷ Section 22(1) also provides that infringement actions may only be instituted by “the proprietor or registered user” of a trademark, further reinforcing the necessity of legal capacity.⁴⁸

The Trademarks, Patents and Designs Registry, domiciled in the Federal Ministry of Industry, Trade and Investment, administers the registration and management of trademarks pursuant to sections 2 and 3 of the Act.⁴⁹ The Registrar of Trademarks is empowered to examine applications, maintain the register, publish notices of acceptance or opposition, and issue certificates of registration. The Corporate Affairs

⁴²(1975) 2 NMLR 1.

⁴³Trade Marks Act, Cap T13, LFN 2004.

⁴⁴(1989) 2 NWLR (Pt. 101) 519.

⁴⁵Trade Marks Act, Cap T13, LFN 2004.

⁴⁶(2011) 3 NWLR (Pt. 1235) 412.

⁴⁷Section 18(1), Trade Marks Act, Cap T13, LFN 2004.

⁴⁸Ibid, Section 22(1).

⁴⁹ Ibid, see section 2 and 3

Commission, while primarily responsible for company incorporation under the Companies and Allied Matters Act (CAMA), plays a complementary role in brand protection. It ensures that company names do not infringe registered trademarks and coordinates with the Registry in cases of potential conflict. This inter-agency cooperation, though informal, promotes consistency between corporate identity registration and trademark protection.⁵⁰

While Nigerian case law on AI-generated marks is non-existent, courts have consistently affirmed that originality and distinctiveness are the cornerstones of trademark registrability. In *Ferodo Ltd v. Ibeto Industries Ltd*,⁵¹ the court observed that distinctiveness is not merely visual or phonetic but functionality serves to identify the commercial source of goods. Similarly, in *Beiersdorf AG v. NASE Industrial Ltd*,⁵² the Federal High Court held that a mark must not only be novel but also sufficiently distinctive to warrant registration. These cases underscore the judiciary's human-centred interpretation of creativity and recognition, as it has been the case for centuries. The assumption that only a natural or juristic person can originate or control a mark underpins all Nigerian jurisprudence on trademarks. Consequently, AI-generated outputs fall outside this interpretive paradigm, as the courts have not extended legal recognition to non-human entities.

Although comprehensive in defining registrability for human actors, the Trade Marks Act is doctrinally inadequate in dealing with AI-generated content. Its provisions presume human creativity, proprietorship, and accountability. Section 9's emphasis on names, signatures, and invented words implies deliberate human agency. Section 18's reference to a person claiming to be proprietor" excludes autonomous machines incapable of possessing legal identity or intention.

Additionally, the Act provides no procedural mechanism for determining authorship or ownership of AI-created marks. For instance, where an AI system autonomously generates a logo, it is unclear whether ownership vests in the programmer, operator, or user. This ambiguity undermines the enforceability of rights and exposes applicants to potential disputes over originality and liability. Further, Nigeria's statutory silence contrasts with global policy trends. The World Intellectual Property Organization and the United Kingdom Intellectual Property Office have initiated consultations to explore

⁵⁰Companies and Allied Matters Act (CAMA), Cap C20, LFN 2020.

⁵¹ (2004) 5 NWLR (Pt. 866) 317.

⁵²(2007) 14 NWLR (Pt. 1053) 109.

reform options, but Nigeria has yet to engage in similar discourse.⁵³ The result is a growing disparity between technological innovation and legal adaptation.

Finally, section 67's definition of a trademark as a mark indicating a connection between goods and "some person" entrenches human exclusivity. Without legislative reform, AI-generated trademarks remain a non-registrable instrument and unenforceable under Nigerian law. The Act's outdated language and lack of interpretive flexibility as a result of orthodox landscape of the Act, which is pro-natural person in nature, represent a major impediment to integrating AI creativity into Nigeria's IP framework.

4.1 GLOBAL APPROACHES TO AI-CREATED TRADEMARKS

4.1.1 The United States of America: Human Authorship as a Legal Imperative

The United States of America maintains one of the most explicit human-centred approaches to trademark registration. The Lanham Act, formally known as the Trademark Act of 1946; codified as Title 15 of the U.S. Code, governs trademarks and service marks, stipulating that registration must be made by a "person" who uses or intends to use the mark in commerce.⁵⁴ The Act defines "person" to include natural individuals and legal entities such as corporations,⁵⁵ but not autonomous systems such as AI or machines. The United States Patent and Trademark Office (USPTO) have reaffirmed this principle in administrative practice, requiring that every application identify a human or corporate applicant as the owner of the mark.⁵⁶ AI may be used as a creative tool, but it cannot serve as the applicant, proprietor, or legal agent. This position aligns with the U.S. Copyright Office's rejection of non-human authorship in *Re: A Recent Entrance to Paradise*, where it held that "works produced by a machine without human intervention lack the requisite human authorship."⁵⁷

In a related development in respect to the patent matters, recently in the United States, the above position was reiterated in the case of Dr. Stephen Thaler, who had filed patent applications in numerous countries for two of his inventions; a food container and a flash light. He claimed that these two inventions were autonomously created by his AI system, "DABUS" (Device for the Autonomous Bootstrapping of the Unified

⁵³World Intellectual Property Organization, Conversation on Intellectual Property and Artificial Intelligence (Geneva, 2019).<https://www.wipo.int/meetings/en/details.jsp?meeting_id=51767> accessed 29 April 2026.

⁵⁴The Lanham Act, 15 U.S.C. §§1051–1141n (United States).

⁵⁵ Ibid, see section 45 of the Lanham Act.

⁵⁶United States Patent and Trademark Office (USPTO), Trademark Manual of Examining Procedure.

⁵⁷ United States Copyright Office, 'Re: A Recent Entrance to Paradise' <<https://www.copyrightoffice.gov>> accessed 30 April 2026.

Sentience). Dr. Thaler, the owner of the DABUS, contended that he was entitled to the patents for his AI's inventions by virtue of owning the machines that produced the inventions autonomously.⁵⁸

The United States Patents Office also applies established tests for distinctiveness, such as the *Abercrombie & Fitch Co. v. Hunting World, INC.*,⁵⁹ hierarchy, which categorizes marks as generic, descriptive, suggestive, arbitrary, or fanciful. Under this test, an AI-generated mark may still be registered if a human applicant claims ownership and the mark satisfies distinctiveness requirements. Thus, while U.S. law indirectly accommodates AI-assisted creativity, it categorically excludes AI autonomy from proprietorship. This approach reflects a pragmatic balance embracing technological assistance while preserving human accountability.

4.1.2 The United Kingdom: Maintaining Human Accountability with Policy Adaptation

The United Kingdom Intellectual Property Office (UKIPO) administers trademarks under the Trade Marks Act 1994, which defines a trademark as “any sign capable of being represented graphically, capable of distinguishing goods or services of one undertaking from another”.⁶⁰ Section 32(2)(b) of the Act provides that the application must be filed by a “person claiming to be the proprietor,”⁶¹ which provision is what can be likened to the provision of section 18(1) of the Trade Marks Act,⁶² applicable in Nigeria. The UK's legal position thus mirrors Nigeria's, but with one significant difference: the UKIPO has undertaken formal consultations on AI and intellectual property. In its 2021 AI and IP Consultation Report, the Office concluded that current legislation adequately accommodates AI-assisted creation but should remain under review as technology evolves.⁶³ It explicitly stated that AI systems cannot own trademarks or act as applicants because they lack legal personality, intention, and moral accountability.

Nevertheless, the UK's regulatory framework demonstrates flexibility. The UKIPO acknowledges that AI tools may contribute substantially to the design of marks and

⁵⁸Scintilla IP, ‘AI-Inventor, or Impostor? The DABUS Case Explained’ <<https://www.scintilla-ip.com/ai-inventor-or-imposter-the-darmus-case-explained/>> accessed 28 April 2026.

⁵⁹ (1976) 537 F.2d 4.

⁶⁰Trade Marks Act 1994 (United Kingdom).

⁶¹Ibid.

⁶²Trade Marks Act (Cap T13, LFN 2004).

⁶³United Kingdom Intellectual Property Office, *AI and IP Consultation Report* (London: UKIPO, 2021). <<https://www.gov.uk/government/consultations/artificial-intelligence-and-ip-copyright-and-patents>> accessed 29 April 2026.

encourages disclosure of such involvement in applications. By maintaining human proprietorship while recognizing machine assistance, the UK achieves a nuanced balance between innovation and legal certainty. This approach could guide Nigeria toward developing the necessary administrative guidelines rather than immediate statutory reform.

4.1.3 The European Union: Institutionalising Human Perception and Consumer Protection

The European Union Intellectual Property Office (EUIPO) administers the EU Trade Mark Regulation (EUTMR), which defines a trademark as “any sign capable of distinguishing the goods or services of one undertaking from another and capable of representation on the register”.⁶⁴ Similar to the UK and U.S. frameworks, the Regulation presupposes human proprietorship. Distinctiveness within the EU is assessed from the perspective of the “average consumer” as articulated in *Procter & Gamble Co. v. OHIM (Baby-Dry)*.⁶⁵ The Court held that distinctiveness depends on public perception and market understanding rather than the creator’s subjective intent. This consumer-oriented test implicitly excludes AI authorship, as an algorithm cannot engage in commerce or generate goodwill. The EUIPO Guidelines for Examination of Trademark Applications further clarify that ownership and authorship must be attributed to a natural or legal person.⁶⁶ However, the EU has been at the forefront of policy innovation. The European Parliament Resolution on Intellectual Property Rights for the Development of Artificial Intelligence Technologies called for exploration of new legal categories for AI-generated creations. Although this has not yet resulted in legislative reform, it marks the most advanced policy dialogue on AI and IP in the world. For Nigeria, the EU model offers valuable lessons on how to incorporate consumer perception and market functionality into doctrinal analysis. It also illustrates the potential of policy-driven reform through administrative guidance before legislative amendment.

4.1.4 The World Intellectual Property Organization (WIPO): Toward Global Harmonisation.

⁶⁴Regulation (EU) 2017/1001 on the European Union Trade Mark (EUTMR). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R1001>> accessed 29 April 2026.

⁶⁵ [2001] ECR I-6251.

⁶⁶European Union Intellectual Property Office (EUIPO), *Guidelines for Examination of Trademark Applications* (2022). <<https://guidelines.euiipo.europa.eu/>> accessed 29 April 2026.

The World Intellectual Property Organization (WIPO) has taken a leading role in fostering global dialogue on AI and IP. Since 2019, WIPO has organised the WIPO Conversation on Intellectual Property and Artificial Intelligence, bringing together policymakers, academics, and industry stakeholders to address the implications of AI-generated works.⁶⁷ The discussions revealed a near-universal consensus that while AI can facilitate creativity, it should not be recognised as an author or proprietor.

WIPO's 2019 Technology Trends Report on Artificial Intelligence highlighted the need for IP systems to adapt to new realities without undermining human accountability.⁶⁸

The Organization recommends a flexible interpretive approach that distinguishes between AI-assisted and AI-autonomous outputs, emphasising that legal protection should attach to human beneficiaries of AI activity. These recommendations, though non-binding, influence domestic IP offices, including the UKIPO and EUIPO, which have integrated WIPO's principles into policy guidance. Nigeria, as a member of WIPO and the World Trade Organization (WTO), participates in these dialogues but has yet to domesticate any policy or legislative initiative addressing AI-generated trademarks. Active engagement with WIPO's normative developments could help Nigeria bridge the gap between its outdated statutory provisions and emerging global standards.

4.1.5 LESSONS FOR NIGERIA

The comparative survey underscores a consistent global principle: AI cannot currently hold legal rights or status as a trademark proprietor. However, it also reveals a growing trend toward administrative flexibility and policy evolution. The United States, United Kingdom, and EU have all begun to distinguish between AI-assisted creativity and AI-autonomous outputs, which remained unprotected in Nigeria, three key lessons emerges; first, doctrinal adaptation for Nigeria's Trade Marks Act should be interpreted or amended to clarify ownership of AI-assisted marks, perhaps through secondary regulations under section 45.⁶⁹

⁶⁷World Intellectual Property Organization, *WIPO Technology Trends 2019: Artificial Intelligence* (Geneva, WIPO, 2019).<<https://www.wipo.int/publications/en/details.jsp?id=4386>> accessed 29 April 2026.

⁶⁸European Parliament Resolution on Intellectual Property Rights for the Development of Artificial Intelligence Technologies (2020/2015(INI)).<https://www.europarl.europa.eu/doceo/document/TA-9-2020-0277_EN.html> accessed 30 April 2026.

⁶⁹Trademarks Act CAP13 Laws of the Federation of Nigeria 2004.

Secondly, administrative modernisation of the Trademarks Registry could issue guidelines recognising AI's role in design processes while maintaining human accountability for applications. Thirdly, policy participation in Nigeria should actively engage in WIPO's global discussions and regional collaborations, aligning its IP reform agenda with contemporary technological realities. Adopting these measures would not only enhance Nigeria's compliance with international best practices but also position it as a regional leader in the regulation of AI and intellectual property.

5.1 PROSPECTS OF AI-CREATED TRADEMARKS IN NIGERIA

5.1.1 Legislative Modernisation and Statutory Reform

The most pressing reform priority is the modernisation of the Trademarks Act, which has remained largely unchanged since its colonial antecedent of 1965. The Act's definitional provisions particularly section 67(1), defining a trademark as a mark used by "a person having the right to use the mark" reflect a strictly a human-centric view of proprietorship.⁷⁰ This statutory language is incompatible with modern AI-assisted commerce. To remedy this, Nigeria could adopt an inclusive interpretive framework that distinguishes between AI-assisted and AI-autonomous marks. For AI-assisted creation, registration could proceed under existing provisions, provided a human applicant assumes responsibility as proprietor. For AI-autonomous outputs, new statutory recognition may be necessary, acknowledging the involvement of an intelligent system while assigning ownership to the deploying entity or developer.⁷¹

A revised section could, for instance, define a trademark as a mark "created by a person or generated by an automated or intelligent system under the direction or control of a person," thereby retaining human accountability while recognizing technological mediation.⁷² Similar legislative innovation has been contemplated in the United Kingdom and European Union, where policymakers have proposed flexible provisions for computer-generated works.⁷³ Furthermore, the pending Industrial Property Commission Bill offers a strategic platform for integrating such modernisation. Although primarily designed to merge Nigeria's IP agencies, the Bill could introduce

⁷⁰Trademarks Act CAP T13 LFN 2004.

⁷¹Adewopo, A., *Nigerian Intellectual Property Law and Policy*(NIALS Press, 2012). <https://www.europarl.europa.eu/doceo/document/TA-9-2020-0277_EN.html> accessed 30 April 2026.

⁷² Trademarks Act CAP T13 LFN 2004.

⁷³European Parliament Resolution (n 77).

enabling clauses empowering the Commission to issue AI and IP guidelines, aligning domestic law with the World Intellectual Property Organization framework.⁷⁴

5.1.2 Doctrinal Reinterpretation of Distinctiveness and Authorship

In the absence of immediate legislative reform, Nigerian courts and policymakers may pursue doctrinal reinterpretation to harmonise traditional IP principles with emerging realities. The doctrines of distinctiveness, ownership, and authorship are adaptable if approached through purposive construction. For example, the concept of “distinctiveness” in section 9 of the Act could be interpreted functionally rather than anthropologically. The test should focus on whether the mark objectively distinguishes goods or services in trade, regardless of the mechanism of creation. This approach aligns with the Court of Justice of the European Union’s decision in *Procter & Gamble Co. v. OHIM (Baby-Dry)*, which emphasized the perceptual function of a mark rather than its origin.⁷⁵

Similarly, authorship could be redefined through the notion of derivative proprietorship, wherein the human or corporate entity directing the AI’s use assumes ownership of resulting outputs. This model, already reflected in UK copyright law under section 9(3) of the Copyright, Designs and Patents Act 1988, attributes authorship of computer-generated works to the “person by whom the arrangements necessary for the creation of the work are undertaken.” A parallel interpretive approach could be adopted judicially in Nigeria without immediate legislative amendment.⁷⁶ Doctrinal elasticity preserves the fundamental principle that rights must vest in legally accountable persons while ensuring that innovation does not operate in a legal vacuum.

5.1.3 Administrative and Institutional Reforms

Modernising Nigeria’s trademark infrastructure is indispensable to the effective governance of AI-generated marks. The Trademarks, Patents and Designs Registry, established under sections 2 and 3 of the Trade Marks Act, urgently requires digital transformation to process complex, data-intensive applications involving algorithmic design, generative outputs, and multimedia elements. Presently, its manual procedures are ill-equipped to handle the technical nuances of AI-assisted submissions.

⁷⁴Industrial Property Commission Bill, Federal Republic of Nigeria (2023 Draft). <<https://youngafricanpolicyresearch.org/wp-content/uploads/2023/07/National-Intellectual-Property-Policy-Strategy.pdf>> accessed 30 April 2026.

⁷⁵(2001) ECR I-6251.

⁷⁶See section 9 of the Trademarks Act CAP T13 LFN 2004.

Institutional modernization should thus prioritise the digitalization of registry operations through integrated online platforms for filing, examination, and conflict detection using AI-assisted tools; capacity building for examiners and policymakers in artificial intelligence, data analytics, and IP evaluation; and the issuance of administrative guidelines on AI-assisted trademarks, modelled after the EUIPO's Guidelines for Examination and the UKIPO's AI and IP Consultation Report. In addition, stronger inter-agency coordination between the Corporate Affairs Commission and the Registry would ensure that company name registration aligns with trademark protection, reducing conflicts and enhancing transparency. Such modernisation will not only improve administrative efficiency but also position Nigeria as a leader in technology-driven IP governance across sub-Saharan Africa⁷⁷

5.1.4 Policy Development and International Engagement

Nigeria's lack of a coherent policy framework for artificial intelligence and intellectual property contrasts sharply with global trends. The World Intellectual Property Organization continues to host multilateral dialogues urging member states to craft adaptive policies for AI-generated works, while the European Parliament's Resolution on Intellectual Property Rights for the Development of Artificial Intelligence Technologies emphasises maintaining human accountability alongside technological neutrality.⁷⁸ Nigeria should leverage its membership in WIPO, the World Trade Organization, and the African Regional Intellectual Property Organization (ARIPO) to establish a National AI and IP Policy that recognises AI as a creative tool under human supervision, clarifies ownership and attribution rules for AI-generated marks, and promotes ethical standards in algorithmic creativity. Collaboration with universities, research institutions, and the private sector will be crucial to shaping adaptive IP policies that harmonise domestic law with international commitments under the Paris Convention and the TRIPS Agreement. Such policy engagement would align Nigeria's IP system with global best practices and strengthen its readiness for the fourth industrial revolution.

5.1.5 Judicial and Jurisprudential Innovation

⁷⁷ World Intellectual Property Organization, *WIPO Conversation on Intellectual Property (IP) and Artificial Intelligence (AI)* (WIPO, Geneva, 2019). <https://www.wipo.int/edocs/mdocs/mdocs/en/wipo_ip_ai_ge_19/wipo_ip_ai_ge_19_inf_4.pdf> accessed 30 April 2026.

⁷⁸ Ibid.

In the absence of immediate legislative reform, Nigeria’s judiciary must play a proactive role in developing doctrinal and jurisprudential innovations. Historically, Nigerian courts have demonstrated interpretive pragmatism in adapting statutory provisions to evolving commercial realities. In *Ferodo Ltd v. Ibeto Industries Ltd*,⁷⁹ the Court of Appeal affirmed the functional significance of distinctiveness in protecting commercial reputation; this principle could extend to AI-influenced trademarks. The judiciary could further develop a doctrine of constructive authorship, attributing presumptive ownership of AI-generated marks to the human or corporate entity deploying the technology unless otherwise stipulated by contract. This approach would preserve accountability, foster certainty, and encourage technological integration into commerce. Judicial education on technology law, intellectual property reform, and AI ethics would reinforce consistency and sophistication in adjudication.

Ultimately, comprehensive reform of Nigeria’s trademark regime would yield multifaceted benefits: legal certainty, innovation incentives, administrative efficiency, and global relevance. Aligning Nigeria’s trademark law with international best practices is not merely a technical adjustment but a strategic imperative. As AI increasingly shapes creativity and commerce, Nigeria’s IP system must evolve from reactive adaptation to proactive innovation, affirming its leadership in Africa’s digital economy while safeguarding the doctrinal coherence of its intellectual property framework.

5.2 CHALLENGES POSED BY AI-CREATED TRADEMARKS IN NIGERIA

5.2.1 Absence of Statutory Recognition for Non-Human Creation

The Trade Marks Act defines a “trade mark” in section 67(1) as a mark used in connection with goods “by a person having the right to use the mark.” The repeated reference to “person” throughout the Act, particularly in sections 9, 11, 18, and 22, presumes legal personhood as a condition for ownership and enforcement.⁸⁰ This terminology excludes autonomous systems from proprietorship, as machines lack legal identity under all the relevant laws and most importantly the grundnorm, the Constitution of the Federal Republic of Nigeria 1999 (as amended).

Unlike copyright law which an, at least in theory, recognise “computer-generated works” under certain jurisdictions,⁸¹ Nigeria trademark law contains no equivalent

⁷⁹Ferodo Ltd v. Ibeto Industries Ltd (n51).

⁸⁰ Trade Marks Act, Cap T13, LFN 2004.

⁸¹ Copyright, Designs and Patents Act 1988 (United Kingdom), s. 9(3).

provision. The absence of legal personality for AI-generated content thus renders such marks unregistrable. Even where an AI-created logo or name satisfies the technical elements of distinctiveness, the lack of a legal claimant precludes formal protection. This lacuna produces a paradox: AI can create distinctive signs that perform the same market functions as human-designed marks, yet these cannot be legally owned or enforced.

5.2.2 Uncertainty in Ownership and Authorship

Ownership of AI-generated trademarks presents an equally complex dilemma. Section 18(1) of the Act provides that “any person claiming to be the proprietor of a trade mark used or proposed to be used” may apply for registration. The operative phrase “*claiming to be the proprietor*” implies conscious assertion of authorship or commercial control.⁸² In the context of AI-generated marks, determining who qualifies as proprietor becomes problematic. Possible Applicant may include the programmer who designed the algorithm, the business entity that commissioned or used it, or the end-user who deployed it to produce the output. Each plays a role in the causal chain of creation, but none can clearly claim authorship in the traditional legal sense.

This ambiguity undermines the requirement of proprietary certainty that underpins the registration process. Nigerian courts have emphasized that a registrant must establish ownership and bona fide use before protection arises, as seen in *Patkun Industries Ltd v. Niger Shoes Manufacturing Co. Ltd.*⁸³ In an AI context, satisfying this requirement would be nearly impossible without statutory clarification.

5.1.3 Inadequacy of Distinctiveness and Deception Tests

The doctrines of distinctiveness and non-deceptiveness, articulated in sections 9 and 11 of the Act, presuppose human intention and consumer perception as the evaluative benchmarks. Distinctiveness is judged by whether a mark serves as a “badge of origin” in identifying goods with a particular trader or otherwise; while non-deceptiveness concerns whether the mark misleads the average consumer,⁸⁴ or not is critical to determining good’s distinctiveness.

AI-generated marks disrupt these tests in two ways. First, algorithmic outputs may mimic existing marks due to data training biases, producing unintentional duplication or deceptive similarity. Without human intent, assigning liability becomes difficult.

⁸² Trade Marks Act, Cap T13, LFN 2004.

⁸³(1988) 5 NWLR (Pt. 93) 138.

⁸⁴Trade Marks Act, Cap T13 LFN 2004.

Secondly, AI systems may generate abstract or non-linguistic identifiers such as visual patterns or machine codes that defy conventional distinctiveness analysis. The Registrar of Trade Marks lacks statutory or procedural tools to evaluate such non-traditional marks. Judicial precedents reinforce the human orientation of these tests. In *Ferodo Ltd v. Ibeto Industries Ltd*, the Court of Appeal described distinctiveness as the “hallmark of a mark’s individuality⁸⁵ and similarly, in *Beiersdorf AG v. NASE Industrial Ltd*(originality was linked to creative effort and market association. These doctrines collapse when applied to algorithmic creation, where originality results from computational processing, data collated and codes rather than human imagination.⁸⁶

5.1.4 Institutional and Procedural Limitations

The Trademarks, Patents and Designs Registry, though established under sections 2 and 3 of the Act, lacks the infrastructural and technical capacity to address AI-related applications.⁸⁷ The Registry operates largely on manual systems with limited digitalisation. Examiners rely on visual and phonetic comparison to detect conflicts, a process unsuitable for algorithmically generated marks that may incorporate complex data patterns or multi-model elements. Moreover, the Registry has not issued any practice directions or examination guidelines on AI-assisted or autonomous applications. This administrative vacuum leads to inconsistent evaluation of modern trademark forms such as dynamic, holographic, or data-driven marks. In contrast, the European Union Intellectual Property Office and the United Kingdom Intellectual Property Office have both developed guidelines acknowledging AI-assisted creation while affirming human proprietorship.⁸⁸ Nigeria’s lack of procedural innovation leaves its system vulnerable to obsolescence and international isolation. Institutional overlap also presents a structural challenge. While the Corporate Affairs Commission oversees business name registration, it lacks coordination with the Trademarks Registry in detecting AI-generated or conflicting marks. This disjointed system undermines the coherence of Nigeria’s brand protection regime.

5.1.5 Lack of Policy and Legislative Alignment

Globally, IP authorities have begun exploring legislative adaptation to AI innovation. The World Intellectual Property Organization, through its Conversation on IP and AI,

⁸⁵ Ibid.

⁸⁶Beiersdorf AG.(n 52).

⁸⁷Trade Marks Act, Cap T13, LFN 2004.

⁸⁸European Union Intellectual Property Office, *Guidelines for Examination of Trademark Applications* (2022). <<https://guidelines.euipo.europa.eu/>> accessed 27 April 2026.

advocates that member states develop interpretative guidelines for AI-generated outputs.⁸⁹ The European Parliament has similarly called for policy frameworks that balance innovation with accountability.⁹⁰ Nigeria, however, has not initiated any national consultation or policy draft addressing AI and IP.

The Industrial Property Commission Bill, pending legislative enactment, represents a missed opportunity for modernisation. While it seeks to consolidate IP administration, it fails to define authorship or ownership in the context of AI-created works. Without reform, Nigerian law risks becoming increasingly detached from global standards and technological realities. The absence of forward-looking policy perpetuates uncertainty, discourages innovation, and impedes foreign investment in digital industries. Furthermore, Nigeria's failure to participate actively in regional dialogues such as the African Regional Intellectual Property Organization (ARIPO)'s exploration of AI and IP reflects a policy vacuum that hinders harmonisation. This isolation contrasts sharply with global trends favouring anticipatory regulation.

6.1 CONCLUSION

The emergence of AI as a creative and commercial agent represents one of the most significant disruptions to the traditional understanding of intellectual property law. Within the context of Nigeria's Trade Marks Act, this study has demonstrated that the legal system remains deeply rooted in anthropocentric assumptions of creativity, proprietorship, and accountability. While the Act provides a coherent doctrinal structure for conventional trademarks, its provisions fail to anticipate or accommodate the possibility of autonomous or algorithmic creation.

The doctrinal foundation of trademark law in Nigeria, as articulated in sections 9, 11, and 18 of the Act, presumes that every registrable mark originates from a "person" capable of exercising legal rights and obligations.⁹¹ This statutory architecture reflects a conceptual model in which creativity, intention, rights and moral agency are uniquely human attributes. Consequently, AI-generated trademarks whether fully autonomous or human-assisted falls outside the definitional scope of registrable marks. The law, as it

⁸⁹World Intellectual Property Organization, *Conversation on Intellectual Property and Artificial Intelligence* (Geneva, 2019). <<https://guidelines.euipo.europa.eu/>> accessed 28 April 2026.

⁹⁰European Parliament Resolution on Intellectual Property Rights for the Development of Artificial Intelligence Technologies (2020/2015(INI)). <https://www.europarl.europa.eu/doceo/document/TA-9-2020-0277_EN.html> accessed 28 April 2026.

⁹¹Trademarks Act, CAP T13 LFN 2004.

stands, offers no procedural or substantive mechanism for recognizing or protecting algorithmic outputs, regardless of their commercial distinctiveness.

From a doctrinal perspective, this exclusion reveals a deeper jurisprudential tension between creativity as authorship and creativity as function. Nigerian case law, including *Ferodo Ltd v Ibeto Industries Ltd* and *Beiersdorf AG v NASE Industrial Ltd*,⁹² has long emphasized distinctiveness as the hallmark of trademark protection.⁹³ Yet, distinctiveness in these cases is framed as a product of human invention or use, not as an emergent property of computational design. This interpretive limitation underscores the need for a paradigm shift from viewing distinctiveness as a reflection of human intention to treating it as an objective functional quality capable of being generated through technological processes.

At a broader level, the study reveals five critical findings. First, the Trade Marks Act lacks statutory recognition of non-human creation, resulting in a protection gap for AI-generated marks. Secondly, ownership and authorship remain legally indeterminate, as the Act provides no basis for assigning proprietorship in cases where AI systems, rather than natural or juristic persons, are the effective creators.⁹⁴ Thirdly, existing registrability criteria distinctiveness, non-deceptiveness, and originality are doctrinally unsuited to algorithmic creation because they depend on human-centred tests of intention and consumer perception.⁹⁵ Additionally, institutional and administrative frameworks are outdated, with the Trademarks Registry lacking the technological capacity and regulatory flexibility to assess AI-assisted or autonomous applications.⁹⁶ Finally, Nigeria remains disconnected from global policy developments, as international bodies such as the World Intellectual Property Organization, African Intellectual Property Organization and jurisdictions like the United States, United Kingdom, and European Union are actively exploring adaptive solutions.⁹⁷

These findings carry profound doctrinal implications. The traditional linkage between creativity and personhood, embedded in Nigerian IP law, must be re-examined in light

⁹²Beiersdorf AG (n 47).

⁹³*Ferodo Ltd v Ibeto Industries Ltd* . (n 46).

⁹⁴See section 9 and 11 of the Trademarks Act CAP T13 LFN 2004.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷World Intellectual Property Organization, *Conversation on Intellectual Property and Artificial Intelligence* (2019). <https://www.wipo.int/edocs/mdocs/mdocs/en/wipo_ip_ai_ge_19/wipo_ip_ai_ge_19_inf_4.pdf>

accessed 30 April 2026.

of AI's capacity to generate distinctive and market-relevant outputs. However, recognizing AI as a legal person would contradict established principles of accountability and legal responsibility. The more pragmatic reform path lies in derivative proprietorship, assigning ownership of AI-generated marks to the human or corporate entity that controls or deploys the AI system. This model maintains the integrity of legal personhood while expanding.

In light of the findings of this study proposes the following key reforms to strengthen Nigeria's trademark regime in response to the realities of AI-assisted creativity to:

1. The Trade Marks Act should be amended to explicitly recognize AI-assisted and AI-generated trademarks by defining a mark as one "created by a person or generated through an intelligent system under human control." The Industrial Property Commission Bill should empower the Commission to issue AI and IP Guidelines consistent with WIPO principles, while clarifying ownership through derivative proprietorship for entities deploying AI systems in commercial use.
2. Pending statutory reform, Nigerian courts should adopt a purposive interpretation of trademark provisions, emphasizing the functional distinctiveness of marks over the identity of the creator. A doctrine of constructive authorship could be judicially recognized, assigning ownership to the person or entity directing AI operations. Similarly, the Registrar of Trade Marks should interpret sections 9 and 11 flexibly to accommodate non-traditional marks such as algorithmic patterns or dynamic visual identifiers.
3. The Trademarks Registry should undergo digital transformation through AI-enabled filing, examination, and conflict detection systems. Practice Directions on AI-related applications modeled on the EUIPO Guidelines and UKIPO AI Consultation Report should be issued. Capacity building for examiners, policymakers, and judges in AI and IP law is essential to enhance competence and administrative efficiency.
4. The Federal Ministry of Industry, Trade and Investment should establish a National Policy on Artificial Intelligence and Intellectual Property (NPAIIP) promoting ethical AI use, innovation, and collaboration between academia, industry, and regulators. Active engagement in WIPO and ARIPO dialogues will ensure alignment with global and regional best practices.

5. Law faculties and research institutes should integrate AI and IP law into their curricula and foster interdisciplinary collaboration between legal scholars, technologists, and policymakers. This will build expertise, support evidence-based reforms, and ensure Nigeria's IP framework evolves with technological change.