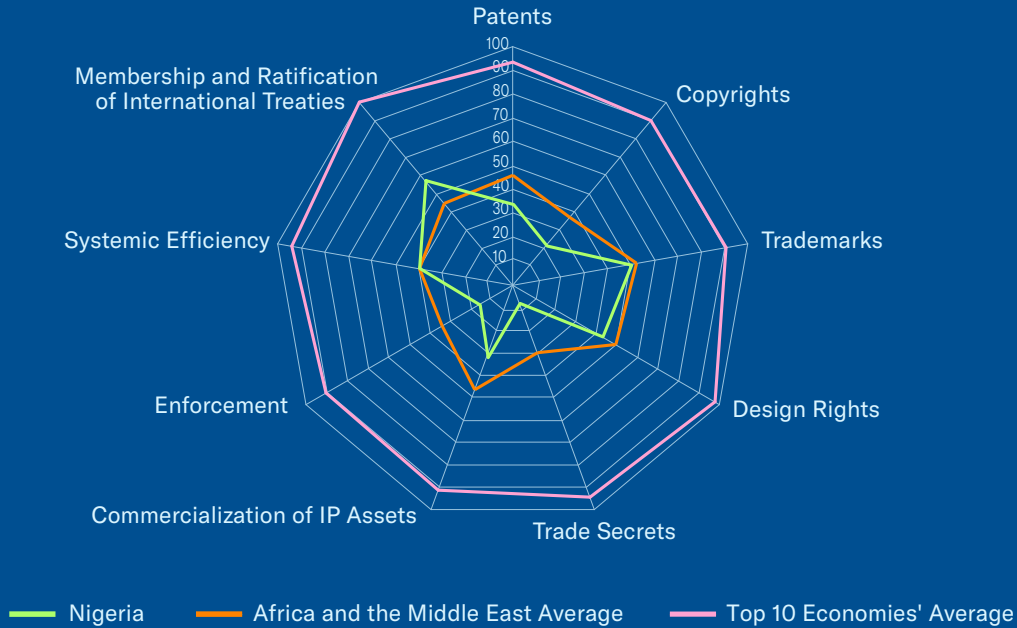
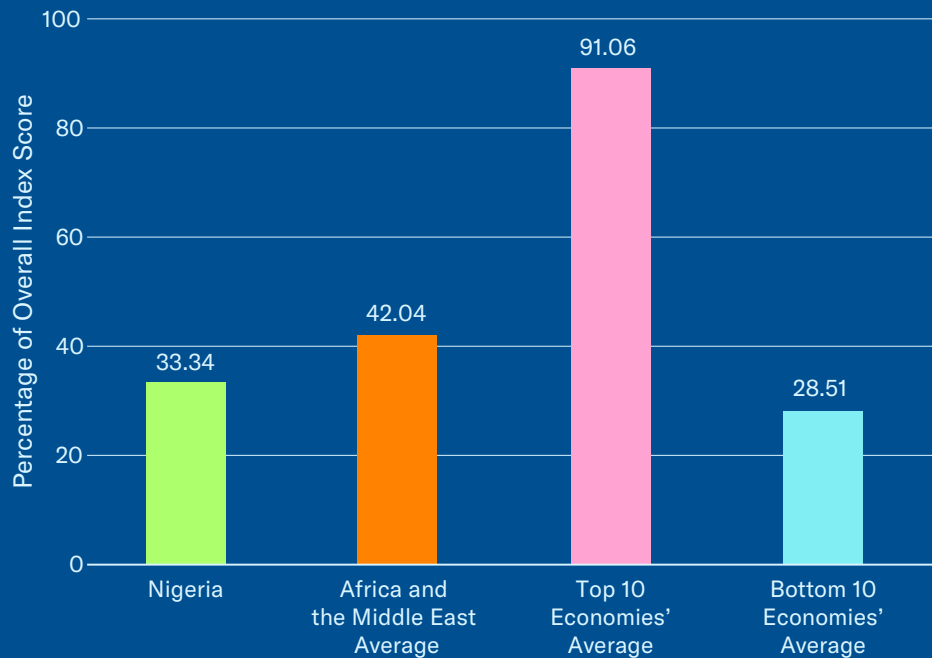
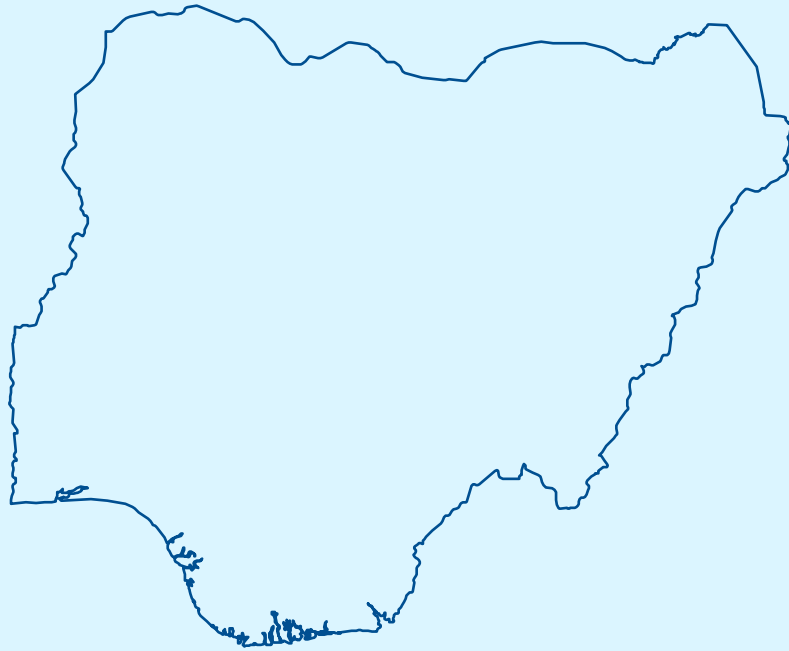


Category Scores



Overall Score in Comparison





Key Areas of Strength

- Joined the Convention on Cybercrime in 2022
- Plant Variety Protection Act 2021
- Joined the UPOV 1991 in 2021
- Ratified the WIPO Internet Treaties in 2017
- Despite an overall challenging environment, ongoing enforcement efforts by NCC are encouraging

Key Areas of Weakness

- Overall weak and limited legal and regulatory framework, with no major forms of IP rights in place
- Enforcement challenges persist—no national coordination, only ad hoc efforts
- Persistently high rates of physical and growing online piracy
- Software piracy estimated at 80% by BSA
- Socialization barriers and restrictions in place on technology transfer and licensing activities—these barriers intensified in 2020
- National Office for Technology Acquisition and Promotion (NOTAP) oversees all technology transfer and licensing between Nigerian entities and foreign licensors and has the power to evaluate and approve or disapprove technology transfer agreements, including evaluating royalty amounts

Indicator	Score
Category 1: Patents, Related Rights and Limitations	3.00
1. Term of protection	1.00
2. Patentability requirements	0.00
3. Patentability of CIIIs	0.00
4. Plant variety protection	1.00
5. Pharmaceutical-related enforcement	0.00
6. Legislative criteria and use of compulsory licensing	1.00
7. Pharmaceutical patent term restoration	0.00
8. Membership of a Patent Prosecution Highway	0.00
9. Patent opposition	0.00
Category 2: Copyrights, Related Rights, and Limitations	1.49
10. Term of protection	0.74
11. Exclusive rights	0.25
12. Injunctive-type relief	0.00
13. Cooperative action against online piracy	0.25
14. Limitations and exceptions	0.25
15. TPM and DRM	0.00
16. Government use of licensed software	0.00
Category 3: Trademarks, Related Rights, and Limitations	2.00
17. Term of protection	1.00
18. Protection of well-known marks	0.25
19. Exclusive rights and trademarks	0.50
20. Frameworks against online sale of counterfeit goods	0.25
Category 4: Design Rights, Related Rights, and Limitations	0.85
21. Industrial design term of protection	0.60
22. Exclusive rights and industrial design rights	0.25
Category 5: Trade Secrets and the Protection of Confidential Information	0.25
23. Protection of trade secrets (civil remedies)	0.00
24. Protection of trade secrets (criminal sanctions)	0.25
25. Regulatory data protection term	0.00

Indicator	Score
Category 6: Commercialization of IP Assets	1.92
26. Barriers to market access	0.50
27. Barriers to technology transfer	0.00
28. Registration and disclosure requirements of licensing deals	0.25
29. Direct government intervention in setting licensing terms	0.00
30. IP as an economic asset	0.50
31. Tax incentives for the creation of IP assets	0.67
Category 7: Enforcement	1.16
32. Physical counterfeiting rates	0.21
33. Software piracy rates	0.20
34. Civil and precluded remedies	0.25
35. Preestablished damages	0.00
36. Criminal standards	0.25
37. Effective border measures	0.00
38. Transparency and public reporting by customs	0.25
Category 8: Systemic Efficiency	2.00
39. Coordination of IP rights enforcement	0.25
40. Consultation with stakeholders during IP policy formation	0.75
41. Educational campaigns and awareness raising	0.50
42. Targeted incentives for the creation and use of IP assets for SMEs	0.25
43. IP-intensive industries, national economic impact analysis	0.25
Category 9: Membership and Ratification of International Treaties	4.00
44. WIPO Internet Treaties	1.00
45. Singapore Treaty on the Law of Trademarks and Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	0.00
46. Patent Law Treaty and Patent Cooperation Treaty	1.00
47. Membership of the International Convention for the Protection of New Varieties of Plants, ct of 1991	1.00
48. Membership of the Convention on Cybercrime, 2001	1.00
49. The Hague Agreement Concerning the International Registration of Industrial Designs	0.00
50. Post-TRIPS FTA	0.00

Total: 16.67



Spotlight on the National IP Environment

Past Editions versus Current Score

Nigeria's overall score has increased from 31.34% (15.67 out of 50) in the tenth edition to 33.34% (16.67 out of 50). This reflects a score increase on indicator 48.

Copyrights, Related Rights, and Limitations

11. Legal measures which provide necessary exclusive rights that prevent infringement of copyrights and related rights (including Web hosting, streaming, and linking); 12. Expeditious injunctive-style relief and disabling of infringing content online; 13. Availability of frameworks that promote cooperative action against online piracy; and 15. Technological Protection Measures (TPM) and Digital rights management (DRM) legislation:

The current Copyright Act provides rightsholders with general and basic exclusive rights; it contains only limited references to the online space in copyright and related law, including the 2015 Cybercrime Bill. For example, there is no provision in the Copyright Act or other relevant legislation instituting a notice-and-takedown mechanism, injunctive-style relief, or any copyright-specific TPM and DRM provisions. Part 3, Section 11 of the 2008 Guidelines for the Provision of Internet Service, published by the Nigerian Copyright Commission (NCC), provides some protection for copyrighted content online. These guidelines include a notice-and-takedown mechanism, safe harbor provisions for ISPs, and a general obligation of ISPs to disconnect subscribers upon notification that subscribers are using the “services contrary to the requirements of these Guidelines or other applicable laws or regulation.” However, it has never been clear what practical force these guidelines have or their effective application, as they do not carry the force of statutory law.

Similarly, Nigeria does not have in place TPM or DRM legislation outlawing the use, sale, manufacture, and distribution of circumvention devices used to infringe on copyright. Part III of the 2015 Cybercrimes (Prohibition and Prevention) Act contains language making it an offense to use or make available any “devices primarily designed to overcome security measures in any computer, computer system or network.” But these are not specific to copyright, and no evidence shows that these provisions are being used to counter copyright provisions. More broadly, piracy is widespread, and rightsholders face significant challenges in enforcing their rights. The BSA estimates that the software piracy rate in Nigeria is 80%, virtually unchanged over the past decade. With the 2017 accession to the WIPO Internet Treaties, there has been an added sense of urgency to amend Nigeria's copyright laws to bring them in line with Nigeria's international obligations. In 2018, the Federal Executive Council (Nigeria's Cabinet) approved a draft copyright bill that was subsequently sent for review to Nigeria's parliament, the National Assembly. Draft versions of this bill are available for public review and include only limited reference to copyright protection extending to the internet as well as a rudimentary notification and safe harbor regime for ISPs.

In contrast, draft legislation introduced in the National Assembly in 2021 (Senate Bill 688) contained many important updates and reforms. Specifically, the draft legislation included explicit references to copyright protection online; new copyright-specific provisions related to TPM and DRM; an injunctive-style relief mechanism by which access to infringing content can be disabled upon application; and a comprehensive notice-and-takedown mechanism that includes clearly defined safe harbors and circumstances under which legal liability arises. The draft law provided clear and unambiguous powers to the NCC to disable

access to infringing content online. The bill also recognized the need for more dynamic action and included a “stay-down” responsibility on the part of service providers to ensure that any infringing content that has been removed will not be reloaded.

Unfortunately, it is less clear that other provisions of the legislation will improve Nigeria’s copyright environment. Most notably are a long list of copyright exceptions. These exceptions contain limited references to the Berne three-step-test and some potentially broad exceptions for educational, private, and research use. In August 2022, following passage by both the lower and upper chambers, the entire Nigerian National Assembly passed the bill “Act to Repeal the Copyright Act CAP LFN 2004 and to Re-enact the Copyright Act 2022.” At the time of research, the bill had not yet become law as it awaited executive branch consent and President Buhari’s signature. Once signed into law, these legislative changes will result in score increases on indicators 11, 12, 13, and 15. The Index will continue to monitor these developments in 2023.

Membership and Ratification of International Treaties

48. Membership of the Convention on Cybercrime, 2001: In July 2022, Nigeria became a full contracting party to the Convention on Cybercrime with the treaty entering into force in November of the same year. As a result, the score on this indicator has increased from 0 to 1.

Nigeria’s score in this category of the Index has increased from 1.5, or 37.50%, in the second edition of the Index (the first year Nigeria was included) to 4, or 57.14%, of the total available score. This is notably higher than many other major emerging economies, including Brazil and South Africa. Overall, Nigeria is a contracting party and has acceded to the WIPO Internet Treaties; the Patent Cooperation Treaty; the Patent Law Treaty; the International Convention

for the Protection of New Varieties of Plants, Act of 1991; and the Convention on Cybercrime, 2001. Nigeria is not a contracting party to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks; the Singapore Treaty on the Law of Trademarks; or the Hague Agreement Concerning the International Registration of Industrial Designs.

Nigeria is a contracting party to the African Continental Free Trade Area, signed by 44 African countries in March 2018. The agreement holds the potential to fundamentally revolutionize economic activity in Africa by reducing barriers to trade and economic interaction across the entire continent. Parts of the Free Trade Area (Phase I) came into force in 2019. At the time of research, there was no official guidance or announcement regarding potential progress made on outstanding issues to be negotiated as Phase II of the agreement, including a Protocol on Intellectual Property.