Journal of Intellectual Property and Information Technology Law (JIPIT)
ISSN: 2788-6727 – Volume 4, Issue 1 (2024) p.69-100
https:doi.org/10.52907/jipit.v4i1.503

Rights in Traditional Cultural Expressions: Weaving Intellectual Property Protections into Àdìrẹ Textiles

Temitope A. Olorunnipa, Yewande Fatoki,** & Matilda A. Chukwuemeka****

ABSTRACT

Traditional communities possess creative expressions that tell their story and embody traditional knowledge. These creative expressions also form the basis for businesses which are as unique as the cultural heritage preserved from past generations. Hence, these expressions serve as a means of livelihood for members of the communities involved in the creativity. In addition, the cultural products maintain specific standards and represent the image of the communities, thus necessitating their protection through different aspects of intellectual property law. However, rights in Àdìrẹ, a traditional Yoruba hand-dyed textile characterized by intricate patterns and cultural significance, have been infringed by the production of their counterfeits for commercial reasons, to the detriment of the community originally producing and marketing them. Using Àdìrẹ textiles as a case study, this paper argues that the laws protecting the ingenuity in heritage products need to be set in motion to ensure the moral and economic interests of the communities while not undermining the interests of the public. As a qualitative research, this paper involves a doctrinal method that adopts analysis of both primary and secondary sources of the law and finds that Àdìrẹ textile is a tangible expression within the copyright framework that is of

* LL.B (UNILORIN), B.L (NLS), LL.M (OAU) Ph.D. in view (BU). Lecturer, Faculty of Law, Lead City University, Ibadan, Oyo State, Nigeria. The author's interest is in Private and Business Law; with a passion for Intellectual Property Law. Email: olorunnipa.temitope@lcu.edu.ng

** LLB (OOU) BL, LLM (SU) PhD (BU) Lecturer at the Faculty of Law, Lead City University, Ibadan, Nigeria. The author's area of interest includes criminal law and justice and International Human rights law. The author is passionate about policy and law reforms.

*** BSc., LL.B, B.L, LL.M, Ph.D. in View. Lecturer, Faculty of Law, Lead City University, Ibadan, Oyo State, Nigeria. Email: chukwuemeka.matilda@lcu.edu.ng

great cultural and economic benefit and deserving of adequate protection. It also finds that other intellectual property laws, such as trademark and/or 'geographical indication' are integral to preserving the integrity and cultural standard of Àdìrẹ. The authors recommend, among others, that the Copyright Commission investigates and redresses the infringement of the cultural intellectual property right in Àdìrẹ as an expression of folklore as enshrined in 78 of the Copyright Act.

Keywords: *Àdìrẹ*, Cultural Expression, Copyright, Geographical Indication, Intellectual Property Rights, Expression of Folklore, Cultural Identity

TABLE OF CONTENTS

ABSTRACT 69
I. INTRODUCTION 71
II. THE BIBLICAL STEWARDSHIP THEORY 74
III. INTERNATIONAL PROTECTION OF TCEs 75
A. Challenges with Àdìrẹ as expression of folklore in Nigeria 79
IV. NATIONAL PROTECTION OF TCEs 81
A. Copyright protection of Àdìrẹ 81
B. Trademark protection 85
C. Geographical Indication 85
D. Industrial Designs 87
V. REGULATORY INSIGHTS FROM KENYA AND GHANA 89
A. Kenya *89*
B. Ghana *92*
VI. WEAVING INTELLECTUAL PROPERTY PROTECTIONS INTO ÀDÌRẸ TEXTILES 94
A. Recommendations 94
B. Conclusion 95
REFERENCES 97

I. INTRODUCTION

One of the factors that aid the growth of an economy is an enabling environment for businesses to thrive through the legal protection of products and productions. Creativity and innovation can multiply only when business sustenance and reward for labor are assured through the instrumentality of the law. This is why intellectual property law creates a reward system for innovators and creators to enjoy both the moral and economic benefits of their creations (Sharma, 2024). This reward is not limited to contemporary productions alone; it extends to creativity and innovations laden with cultural or traditional themes to the benefit of traditional communities that have preserved their culture and heritage from the past. Such products bearing cultural themes are considered to be 'integral to the cultural and social identities of indigenous and local communities, embodying know-how and skills, and transmitting core values and beliefs' (WIPO, 2015).

Traditional Knowledge (TK) is said to be 'the know-how, skills, innovations and practices developed by indigenous peoples and local communities' (WIPO, n.d.). This know-how and skills are brought to bear in creativity by individuals and groups within a cultural community in tangible and intangible forms of expression referred to as 'traditional cultural expressions' (TCEs) or 'expressions of folklore' (EoFs) (WIPO, 2023). Intangible cultural expressions lack a material or physical form, for example, folk songs, folk riddles, folk plays, poetry, and folk dances (WIPO 2023). Tangible cultural expressions, on the other hand, are expressions that manifest in tangible productions or expressions in the form of artworks. Particular examples include terra cotta, paintings, mosaics and costumes, handicrafts, and indigenous textiles (WIPO, 2023). Àdìrẹ, which is a product of tying and dyeing fabric with certain traditional knowledge imbued from southwestern communities in Nigeria, falls into the category of indigenous textiles (WIPO, 2013). Àdìrẹ is a reflection of a living culture that evolves even though it is dependent on traditional

forms and know-how that is useful for the socio-economic lives of the community.

Indigenous peoples and local communities thus possess rich expressions of folklore that have been nurtured over time and continue to be improved, produced, and commercialized as a means of livelihood by the members of the communities (WIPO, 2003). The inherent preservation, improvements and utilization of tangible cultural expressions as means of livelihood underscores their cultural and economic significance to a cultural community (WIPO, 2003).

Customary law and practice governed dealings in traditional communities protecting interests in works before the colonial powers introduced contemporary intellectual property rights (IPRs) (Sodipo, 1995; Arowolo, 2012). International agreements have been drawn at different times to ensure legal protection of these forms of creativity and innovation. For instance, the Diplomatic Conference for the Revision of the Berne Convention for the Protection of Literary and Artistic Works 1886 (the Berne Convention) held in Stockholm in 1967 was the first attempt to protect expressions of folklore (Andersen, 2010, p. 152). Similarly, there are national legislations which both protect cultural innovations and creative expressions, and the economic interest in them.

In this light, Nigeria is endowed with different creative works emanating from different cultural communities. Some of these creative works are peculiar to the particular locations or geographical environments they originate from rendering them popular for reasons of their source, quality, and heritage property. Such is the case of Àdìrẹ, popularly attributed to or reputed as having originated from Abeokuta, a city located on the Ogun river, estimated to be 78km north of Lagos and 70km from the ancient city of Ibadan in south-west Nigeria (Saheed, 2013, p. 11; Adekunle, 2017, p 348).

Nigeria regulates dealings in such cultural creativity through Intellectual Property Laws as well as other aspects of

legal jurisprudence, including customary law. An Example of Nigerian national legislation directed at protecting tangible cultural expression encompassing Àdìrẹ cultural textile includes the Copyright Act 2022, which renders counterfeiting a civil wrong and a criminal offence (s. 74). This and other intellectual property laws are discussed in more detail in the subsequent sections of this work. Notwithstanding the international agreements and the national laws operational in Nigeria, her heritage sector has been faced with the challenge of imitation of Àdìrẹ in recent times.

Thus, this paper is focused on the analysis of the legal protection of tangible expression of folklore in Nigeria with Àdìrẹ as the case study to ensure legal protection and the enforcement of rights. This paper is structured into six parts. Part I introduces the background of the paper and highlights the regulatory challenge surrounding the counterfeiting of TCEs, focusing specifically on Àdìrẹ. Part II presents the theoretical basis for protection of TCEs by adopting the Biblical stewardship theory for 'cultural property' protection. Part III discusses the historical outline of the expression of folklore, introducing Àdìrẹ as an expression of folklore—it highlights the international legal regime for the protection of tangible expression of folklore; explores the cultural and consequent economic importance of Àdìrẹ as a tangible expression of folklore and the attendant challenges in Nigeria. Part IV discusses the intellectual property law protection of tangible expression of folklore in Nigeria. Part V draws insights from Kenya's and Ghana's regulatory approaches. These African countries share similar socio-cultural contexts with Nigeria and have addressed challenges to cultural products through enhanced laws and policies. Part VI presents recommendations and concludes the paper.

II. THE BIBLICAL STEWARDSHIP THEORY

This paper is premised on the Biblical Stewardship construct or theory put forth by Okediji (2022), which centers on the need for indigenous peoples and traditional communities to be enabled to develop and protect their cultural assets, which is a 'precondition for their thriving in the present and future'. Okediji acknowledged Carpenter's earlier conceptualization of the stewardship theory (Carpenter et. al., 2009) who argued that custodial care and nurture of cultural goods is contingent on communal responsibility and stewardship as against individual ownership. Biblical stewardship theory is distinctly a theological perspective to stewardship. The theory is rooted in the *Imago Dei*—that is, the kind of duty imposed on man by God to nurture all creations and the environment without putting anyone at disadvantage according to the Abrahamic faith. The Biblical stewardship construct essentially believes that a community that has nurtured its traditional assets or goods should be allowed to enjoy a superlative interest in its yield without disruption while also applying it for the common good of humanity. It portends justice, equity, and fairness even in the face of industrialization. Therefore, the 'public domain' status of cultural goods needs to be modified to imbue in it the basic interest of the cultural community.

The Biblical Stewardship tasks governments to ensure traditional communities are not short-changed, thus advocating for laws aimed at preserving their heritage and bar the transfer of cultural assets without the community's prior informed consent, acknowledgment and, where applicable, the payment of royalties. The proponent believes that even if the theological undertone is removed, the theory presents a good ground for the protection of cultural goods. Hence, its relevance to Àdìrẹ.

According to Saheed (2013), the *Egba* people of Abeokuta predominantly nurtured the creation of Àdìrẹ. The cultural materials initially used were local white material called *teru* with dye from a particular plant known as *elu* (Saheed, 2013). Citing

the empirical study by Tomori (2011), Saheed asserts that historically, Àdìrẹ was first produced in *Jojola* Compound of Abeokuta by an *Iyalode* of Egbaland who passed on the craft to her daughters and daughters-in-law for onward oral transmission to later generations of women from the compound. Thus, the knowledge of the art was retained within the family until the 20th century when more players were involved in fashion leading to the boom in the art. Consequently, modernity led to non-members of the Jojola family; to join in the production of the Àdìrẹ textile and eventually the Abeokuta community popularized the art (Tomori, 2011).

Presently, more than one thousand five hundred women of Abeokuta are involved in the production of Àdìrẹ as part of their heritage and means of livelihood (Moses, 2024). Oshogbo, another community also joined in the production of Àdìrẹ as a heritage practice. The fabric is worn as clothe for fashion and used as decoration at different social functions (Lasisi et. al., 2022). However, Abeokuta remains the popular source attributed to Àdìrẹ (Saheed, 2013). The fame of the artistic work and sale of the textile product spread from Abeokuta to other parts of the country and West African countries as the art keeps evolving and production develops (Saheed, 2013). Like every cultural product, the community seeks preservation as well as the protection of Àdìrẹ heritage, having been nurtured by the past generations (Moses, 2024). Thus, the stewardship construct sits well with the plight of the local community regarding their folkloric expressions and products.

III. INTERNATIONAL PROTECTION OF TCES

Intellectual property law (IPL) protects contemporary tradition or culture-based or culture-inspired expression once the same is able to meet the requirement of 'originality' and 'newness' even if the creator is not a member of the cultural society (WIPO, 2013). Thus, though pre-existing or old traditional cul-

ture or heritage are placed in the public domain for contemporary development and evolution, IPL, particularly copyright, aids the protection of expressions of folklore. The public domain status of some traditional culture has been criticized as being prejudicial to the communities that have nurtured them from the past (Okediji, 2022). The public domain status of heritage materials (such as community-based works) has been attributed to the lack of cognizance of the private domain status of such heritage under customary law by IPL (WIPO, 2013, p. 14). Accordingly, public domain is a useful concept in IPL rather than an outright condemnable one. This is because some materials in the public domain may be accessible without committing infringement on private property rights of individuals or a cultural group with respect to a community or collective works (Oguamanam, 2018; WIPO, 2013).

Essentially, IPL protects contemporary expression of folklore that emanates from public domain regardless of whether the creator is or is not a local of the originating community (WIPO/GRTKF/IC/37/7, p. 30-31). IPL also covers the secrecy of some traditional knowledge-based materials in the public domain. However, the public domain status of some TK, as a reservoir to stimulate further creation, has constantly engendered complaints of exploitation, especially in developing countries (UNESCO-WIPO, 1997; Blakeney & Alemu, 2024). Conversely, it has been argued that the 'public domain' placement of heritage materials gives them the edge for safeguard and renewal to keep them alive. IP protection, with particular attention being paid to meeting the specific needs of the cultural community, is the core of stewardship (Okediji, 2022)—, that is, IP protection of TCEs that practically meets the needs of traditional communities to enjoy the benefits of their private rights over their heritage while ensuring that it is protected.

At the international level, in response to calls for protection of TCEs, an attempt at using copyright to protect folklore was made in the 1967 Stockholm Diplomatic Conference for Revision

of the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention) (UNESCO-WIPO, 1997; Blakeney & Alemu, 2024). Thus, Article 15.4 of the Stockholm, 1967, and Paris, 1971 Acts of the Berne Convention provides for publications made by unknown authors. Another international attempt at protection includes the Tunis Model Law on Copyright for Developing Countries of 1976. The Model Provisions for National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions adopted in 1982 is another crucial attempt.

In the year 2000, WIPO member states established the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, which after some enquiries, has so far been able to consider an analysis of Intellectual Property and *sui generis* measures for the protection of expressions of folklore, (WIPO, 2001, Para. 156-175). International laws have been instrumental in developing national laws, many of which are fashioned within copyright laws (Nigeria Copyright Act, 2022, Part IX – ss. 74 – 76). Thus, there is a necessity of unravelling the importance of sustaining Expressions of Folklore or TCEs.

In the face of globalization, modernization, and growing challenges posed by new technologies, protecting and preserving cultural heritage and maintaining living culture is at the forefront of the international space. Maintaining cultural heritage and sustaining cultural diversity is paramount to the comity of nations as deducible from the preceding paragraphs. Applied to Àdìrẹ, this shows that imitating and marketing culturally artistic works negatively impacts the welfare of the communities of origin, which have been able to service the fashion and decoration sector with heritage resources. In other words, the creation and use of expression of folklore outside the community is disruptive to the community in general as it leads to heritage denial, impoverishment, and overall economic downturn. Thus, the loss of heritage property disrupts the well-being of a cultural

community, more so one that potentially yields economic benefits to individuals and groups within the community (Okediji, 2022).

Therefore, tradition-based productions are a veritable tool for economic growth through commerce, tourism, art, fashion, and so forth. The world economic terrain consists of small and medium-scale enterprises, some of which are traditional and local community's cultural expressions. Such is the case of Nigeria, where local communities contribute to the economy of the nation in different forms by engaging in unique products, some of which are peculiar in standard, look, and availability while also presenting cultural themes (WIPO, 2013). Thus, some indigenous and local communities are regarded as being specialized in producing certain cultural products, which, in effect, sustain the individuals involved in the production economically and, by extension, contribute to the building of a nation's economy. These cultural products are goods that represent the ingenuity of the people of particular local communities which have been maintained and serve as a projection of the image and representation of the community from generation to generation (Okediji, 2022).

Not only do the communities benefit from the ingenuity, the consumers of the products of ingenuity are also positively affected as their needs are met through such heritage resources. These, in turn, have formed the communities' reputation regarding the goods, attracted tourists, boosted the financial capacities of the locals, and contributed to the country's economy. Thus, some cultural locations are synonymous with certain products in some jurisdictions, for example Ghana has its *Kente*, Morocco has its argan oil, Scotch whisky is from Scotland, and Darjeeling Tea is from India.

Thus, small and medium scale enterprises benefit immensely from IP protection as it helps raise capital and access credit facilities (Komolafe, 2021). IP protection can aid the boom of Àdìrẹ as a culture-based business. As such, the loss of this cultural heritage by the community could be detrimental to the survival of the heritage system of the community (WIPO, 2003, p. 29).

For instance, an Abeokuta local involved in Àdìrẹ textile production asserts that she exports the product to other west African countries and earn one thousand two hundred and fifteen United States Dollars annually while another from Oshogbo claims she earned about five hundred United States Dollars in 2019 (Olawoyin, 2021).

A. Challenges with Àdìrẹ as expression of folklore in Nigeria

Àdìrẹ is known to be distinctive products of Yoruba people in southwestern Nigeria particularly Egba tribe of Abeokuta in Ogun State (Enaholo and Assam, n.d.) and the Oshogbo people in Osun State of Nigeria (Ojelade et al., 2018). Each of these locations have their distinctive features that differentiate them from others, thus indicating where an Àdìrẹ fabric is produced. By and large, Àdìrẹ falls into the category of expression of folklore and a great source of business for the people of Abeokuta and Oshogbo which has gone on for long and so form their heritage that narrates their stories, depicts their economic worth and cultural identity (Saheed, 2013; Lasisi et al., 2022).

Recently, introduction of imitations of the kind of Àdìrẹ produced by Egba people of Abeokuta has been perceived as heritage denial and economic sabotage of the traditional community (Ayinla, 2023; The Guardian, 18 April 2024). The importance of this paper is palpable in the recent outcry by the Abeokuta Àdìrẹ producers and marketers against imitation of Àdìrẹ which has been imported by some unidentified Chinese nationals into Nigeria for economic benefits. This call is necessary because misappropriation poses a challenge to their cultural expression, denies craftsmen their heritage which doubles as means of livelihood; indicating economic loss of income to communities and Nigeria (Fasi, 2023) which the stewardship construct aims to tackle.

The impact of such infringement on the locals as well as the Nigerian economy is evident in the analysis by Kolawole (Vanguard, 2024):

> 'Data obtained from the National Bureau of Statistics (NBS) from 2019 to 2023 revealed a steady rise in textile imports. Total textile trade within the period was N1.5 trillion, with imports totaling N1.4 trillion, representing 96.5 percent, while exports amounted to N50.7 billion (3.5 percent), indicating total textile trade deficit of N1.384 trillion and highlighting a significant reliance on imported textile products…In 2019, NBS reported that N220.5 billion worth of textile products were imported into the country; N182.5 billion in 2020; N278.8 billion in 2021, and N365.5 billion in 2022. Despite the foreign exchange crisis the figure still went up further to N377.1 billion in 2023. On the other hand, textile exports, mostly cotton and apparels, within the period was N3.3 billion in 2019; N6.0 billion in 2020; N12.3 billion in 2021; N10.3 billion in 2022; and N18.8 billion in 2023'.

While this data seems to show a rise in importation, it is also a reflection of the devastating toll of imitations on local productions and consequent hampering of sales. Kolawole (2024) stated further that the imitation presents unfavorable market competition for the *Àdìrẹ* industry in Nigeria as the imitation is offered at a cheaper price than the original and they also emanate from sources other than Nigerian communities.

Notwithstanding that market competitiveness is valuable to an economy, and is even a basis for stimulation of innovation, the position of local communities to preserve their heritage and maintain the standard of heritage product should not be undermined. Likewise, consumers' position to acquire cheaper products is not enough reason to undermine and compromise the integrity of traditional cultural expressions. It is a Eurocentric position for anyone or the government to undermine the importance of heritage to traditional communities on the altar of competitiveness, thereby using the contemporary IP phenomenon as a façade for heritage denial (Herderson, 2020). Such a stance goes against the stewardship position which a government holds in ensuring that traditional communities that have nurtured a heritage resource are not shut off from the resultant economic and moral benefits.

Besides, market competition can only be healthy or standard where the competitor presents a product of same standard

or at least something close without compromising the quality when compared to the original product. Disrupting the standard of TCEs to have a commercial edge presents unfair competition and offends the moral and economic rights of the traditional community that had nurtured and preserved the heritage. A compromise of quality gives an undue advantage—a free ride on the gains of the traditional community (Article 10bis, Paris Convention). This offends the biblical stewardship construct on which this paper views the protection of IPRs. Therefore, the authors surveys the regulatory efforts made domestically to curtail the adulteration of such TCE.

IV. NATIONAL PROTECTION OF TCES

It is deducible from the aforesaid that *Àdìrẹ* textile falls into the category of protectable, tangible cultural expression. Being a cultural product, *Àdìrẹ* is an artistic manifestation of traditional knowledge. It possesses unique and ingenious methods and very peculiar designs (Lasisi et al., 2022). As such, in furtherance of the international model, this part discusses the national legislations that afford protection to creativity.

A. Copyright protection of Àdìrẹ

The first such national protection in the Nigerian system of IPL is Copyright Law, which protects the expression of folklore. The repealed Copyright Act, CAP C28, Laws of the Federation of Nigeria protected TCEs under the umbrella of neighboring rights. However, the extant Copyright Act of 2022 (the Act) simply protects TCEs in sections 74 to 76 in Part IX. Folklore is defined in Section 74 (5) of the Act as:

> ‘a group-oriented and tradition-based creation of groups or individuals reflecting the expectation of the community as an adequate expression of its cultural and social identity, its standards and values as transmitted orally, by imitation or by other means including — (a) folklore, folk poetry, and folk riddles ; (b) folk songs and instrumental folk music ; (c)

> folk dances and folk plays; and (d) productions of folk arts in particular, drawings, paintings, carvings, sculptures, pottery, terracotta, mosaic, woodwork, metalware, jewellery, handicrafts, costumes, and indigenous textiles'.

Àdìrẹ falls in the category of indigenous handicrafts and textiles being protected by the Act. Section 74 (1) of the Act protects tangible cultural expression against reproduction, distribution to the public, adaptation, translations and other forms of transformation when such expressions are made either for commercial purpose or outside their traditional or customary context. Further to this provision, section 74(3) provides that 'in all printed publications or any communication to the public of any identifiable expression of folklore, its source shall be indicated appropriately, by stating the community or place from where the expression utilized has been derived.

Thus, the Act avails copyright protection for the expression of folklore. The protection so proffered is, amongst others, against reproduction and adaptation when made outside the traditional context without recourse to the moral and economic rights of traditional communities (Copyright Act, 2022, ss. 74(1)(a) & (c)). Therefore, any form of reproduction of Àdìrẹ or its adaption for commercial purposes is against Nigerian law. The Copyright Act vests authority on the expression of folklore in the Nigerian Copyright Commission (the Commission) (Section 74(4)). The absence of the Commission's authorization for adaption of Àdìrẹ amounts to an infringement. Therefore, the Commission is the body expected to activate the law to tackle piracy of Àdìrẹ which would in turn assuage the difficulties of the Àdìrẹ makers by apprehension of the imitators who have sabotaged their cultural expression and caused economic downturn (Uguru & Umobong, 2022).

1. Civil liability under the Act

The Act further prescribes civil remedies to the locals through the Commission. In section 75, the Act provides that

anyone in breach of the provisions of the protection given under the Act 'is in breach of statutory duty and is liable to the Commission in damages, injunctions and any other remedies as the court may deem fit to award in the circumstance'. It is submitted that the Act contains a seemingly typographical error in referring to section 73 as against 74 on protected rights which calls for an amendment of that section. That notwithstanding, applying the golden rule of interpretation of the statute, the intention of the legislators is clear as to civil liability for infringement of TCEs (*Grey v Pearson,* (1857), *Re Sigsworth: Bedford v Bedford* (1935)). The section thus gives discretion to the court on the extent of remedy to be awarded in civil matters involving infringement of cultural expressions.

2. Criminal liability and punishment

In addition to the civil liability for infringement, the Act makes an infringement on criminal liability. Section 76 (1) states that a person who infringes on the right protected by the Act intentionally or for commercial purpose, without the consent or authorization of the Commission, 'or misrepresents the source of an expression of folklore, or distorts an expression of folklore in a manner prejudicial to the honor, dignity or cultural interests of the community in which it originates', commits an offence under the Act. It is worthy to note that section 73 is also erroneously referred to as the section on rights in TCEs. Therefore, the submission on the adoption of the golden rule of interpretation is also adopted here.

Section 76(2) prescribes the penalty for the commission of an infringement on EoFs. The section makes a person who commits such offence in respect of expression of folklore liable on conviction to a fine of at least one hundred thousand naira (₦100,000) or imprisonment for a term of at least one year or both if he is an individual. In a situation where the offender is a body corporate, it is liable to a fine of at least two million naira (₦2,000,000). A court that hears the matter may also order that the infringing or

offending article be delivered to the Commission (Section 76(3)). The provision of the delivery of infringing items is rendered as a discretionary order that the court may choose whether or not to make.

These are plausible provisions to safeguard the interest of traditional communities and punish infringers, although the remedy of delivery up is discretionary. It is submitted that the provision of Section 76(3) on delivering infringing articles should not have been discretionary. A delivery up is a ray of hope for assurance of right over heritage resources for traditional communities. Therefore, that section of the Act should have made delivery of infringing items a mandatory order.

Additionally, the fine prescribed is relatively low, considering the level of infringement and the financial buoyance that an importer of goods would need to attain before going into such business (Igwe, Fiel-Miranda & Mirandi Jr. 2023). In other words, it is commonplace that the importation of goods into Nigeria is a huge business (Igwe et al., 2023), and so where such business offends an expression of folklore, the prescribed fine in the Act may not be commensurate to the extent of damage occasioned by the offence which may portray the law as an avenue for evasion of justice.

Leaning on these provisions, the imitation, importation, and sale of Àdìrẹ fabric constitute an infringement that should be tried with both civil and criminal proceedings as the art and textile of cultural communities (Àdìrẹ) has been reproduced and adapted without due authorization. It has also misrepresented the source to the unsuspecting public, and as such, the art has been presented to the public in a manner that is detrimental to the cultural interest of the community in which it originates. Such infringement is against stewardship of heritage resources and the interest it represents. Thus, other aspects of IP may need to be explored to ascertain the extent to which they are applicable to TCEs in Nigeria.

B. Trademark protection

In addition to the protection afforded to TCEs under copyright law, trademarks can also be used to protect them. Trademarks are the signs that businesses use to distinguish the goods and services of one business from another (section 67, Trade Marks Act 1971; TRIPs Agreement, a. 15). These signs may be words, drawings, devices and shapes of products. Traditional communities can use collective marks provisions in the trademark law to protect their TCEs, though some communities have raised concerns about the fitness of trademark law provisions to their primary needs as traditional communities. Some countries do indeed apply trademarks to their TCEs. For example, in New Zealand, a certification trademark has been used to indicate the creators of certain goods are of Māori Descent and are the producers of that quality of work (Intellectual Property Office of New Zealand, (n.d.).

In the Nigerian jurisdiction, the cultural community can take advantage of section 43 of the Trademarks Act, which is also a geographical indicator, to register their certification mark in Àdìrẹ as a business. In other words, geographical indication presents its benefits to traditional communities in terms of origin and authenticity.

C. Geographical Indication

The TRIPs Agreement defines GI as 'indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin' (TRIPs Agreement, a. 22.1). According to WIPO, GI is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin' (WIPO, n.d.).

Article 22.2 of the TRIPs Agreement provides that concerning geographical indications, Members are to provide the legal

means for interested parties to prevent: (a) 'the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good', and (b) 'any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention (1967)'. Article 22.3 also allows a TRIPs Member to refuse or invalidate the registration of a trademark that consists of a geographical indication in respect of goods that did not originate from the territory indicated if the use of the indication in the trademark for those goods would mislead the public as to the true place of origin.'

Thus, before it can function as a GI, a sign has to identify a product as originating in a particular place; the product must, of necessity, possess peculiar characteristics, qualities, or reputation due to its origin from a particular place. For example, 'Swiss made' watches are made in Switzerland, or their technical development, assembly, and final checks are done in Switzerland, while Bashkir Honey is from the Russian Republic. Geographical indication confers a right on those who have it to prevent a third party whose product is substandard from using the term of the protected product. However, it does not preclude third parties from making the product at all. GI is usually used for wine and spirit drinks (TRIPs Agreement, Article 23), such as champagne, agricultural products, foodstuffs, handicrafts, and industrial products. Nigeria possesses quite a number of products that can be protected by GI, such as Ofada Rice, Gari Ijebu, Gboko Yam, and in relation to this paper, *Àdìré* is indicatable with Abeokuta for its origin, standard and reputation (Saheed, 2013) owing to its undisputed repute and acknowledgements.

The specific purpose that GI serves is to protect the product that emanates from a particular region, stating its origin. As an IPR, GI presents a number of advantages to locals, which include (i) stimulation of the local producers and, indeed, small and medium enterprises to produce more, as it enhances the reputation

of goods and thereby increases its value engendering more income on sale; (ii) linking goods to local heritage and reputation, which propels buyers to patronize even with higher prices; (iii) enhancement of social responsibility, as producers will be motivated to preserve local resources; (iv) ability to aid economic growth through an international profile of GI-Certified goods and also through tourism of the places of production; and, (v) prevention of fraudulent representation of origin, as use is impossible unless the required standards are met, and criminal proceedings may be commenced for unlawful representation of origin.

For clarity, GI protection is a right with respect to the sign that constitutes an indication. Àdìrẹ being a cultural product unique to traditional communities, particularly Abeokuta in southwest Nigeria, its origin, design, and quality or reputation can be protected with geographical indication. Although GI may not preclude others from imitation as copyright would, it presents a mark of authenticity to distinguish the product by origin, quality, character or reputation from imitations. There are different means by which GI can be utilized, namely through a *sui generis* system, which is a special regime using collective or certification marks, or by methods of business practices such as approval schemes and unfair competition laws.

D. Industrial Designs

The third national law is industrial design. Oftentimes, the style of cultural products is within the protective purview of copyright as artistic works. However, designs of Àdìrẹ can fit well into what is described as any combination of lines or colors, or both, and any three-dimensional form, whether or not associated with colors intended by the creator to be used as a model or pattern to be multiplied by an industrial process and is not intended solely to obtain a technical result (section 12 of the Patent and Designs Act, 1971). A design is registrable if it is new and is not against public policy (Section 13). According to Folarin Shyllon (2013):

> 'Industrial designs belong to the aesthetic field but, at the same time, are intended to serve as patterns for manufacturing industrial or handicraft products. An industrial design is the ornamental or aesthetic aspect of a useful article. The ornamental aspect may consist of the shape and/or pattern, and/or colour of the article. The ornamental or aesthetic aspect may appeal to the eye. The article must be reproducible by industrial means, which is why the design is called industrial. If this latter is missing, the creation may fall under the category of a work of art, the protection of which is assured by copyright law rather than by law on industrial property'.

Once registered, industrial designs preclude others from exploiting a design through reproduction, importation, selling or utilization for commercial purposes (section 19, Patent and Designs Act, 1971). Industrial design protection last for a duration of 10 years and is given if the design is new and capable of an industrial application under the TRIPs Agreement through Articles 25 and 26. However, in Nigeria, it lasts for 5 years, renewable for two further consecutive periods of 5 years (Patent and Designs Act, section 13). Industrial designs have been used in certain communities to protect TCEs in some climes, like in headdresses (Sakyele) and women's bracelets (Blezik) in Kazakhstan (WIPO, 2002, par. 126). Its application to TCEs is not without concerns raised by traditional communities as to its applicability. Some of the concerns are the cost of registration, the need to protect cultural designs indefinitely or perpetually, the time frame for protection before the design enters the public domain, difficulty in protecting collective rights by the community, and disclosure of secret designs (WIPO, 2003, p. 52).

Consequently, except for the desire of traditional communities to conserve heritage in perpetuity and the possibility of not meeting the requirement of newness by pre-existing designs, the provisions of the Patent and Designs Act are suitable for the protection of the designs. Alike to copyright, pre-existing designs may have the challenge of fulfilling the requirement of newness. However, since culture keeps evolving, new designs that emerge (Braide, 2016) may come under this protection. The Nigerian State can adopt the World Trade Organization's form of

assuaging the fears of traditional communities as contained in the TRIPs Agreement, Article 25.2, which states that its Member should 'ensure that requirements for securing protection for textile designs, in particular in regard to any cost, examination or publication, do not unreasonably impair the opportunity to seek and obtain such protection.' Notably, the provision also clarifies that textiles can be protected 'through industrial design law or through copyright law'(TRIPs Agreement, Article 25.2.).

V. REGULATORY INSIGHTS FROM KENYA AND GHANA

A. Kenya

Nigeria is not the only country in Africa that faces the challenges of misappropriation and importation of local products. Kenya, being a large producer of cotton and cotton fabrics, also shares a similar history (Omolo, 2006; Harrington and Deacon, 2024). In the eastern part of Africa, Kenya possesses the same socio-cultural features as Nigeria; for instance, it is a multicultural state (Worlddata, 2024). As a State that battled misappropriation of some of its TCEs, Kenya's plight to deliver its cultural heritage sector from misappropriation eventually led to the promulgation of her Protection of Traditional Knowledge and Cultural Expressions Act No. 33 of 2016, which has been rated as a leading effort at protecting cultural heritage in Africa (Harrington and Deacon 2024).

As already stated in the early part of this paper, TK cannot be divorced from cultural expression because it births the expression if used in a broader sense (WIPO, 2023, p. 42). Therefore, Kenya's law protects both traditional knowledge and cultural expression. Traditional knowledge and cultural expressions are dedicatedly protected in Kenya vide a form of IPR (*sui generis* system). The scope of the Act is quite expansive, but the provisions of parts VI-VII on the management of rights and sanctions are of particular interest, as well as the rather more comprehensive definition of cultural expression in comparison to Nigeria's

definition of folklore. Section 2 of the Act defines cultural expressions as:

> 'any forms, whether tangible or intangible, in which traditional culture and knowledge are expressed, appear or are manifested, and comprise of the following forms of expressions or combinations thereof— (a) verbal expressions including stories, epics, legends, poetry, riddles; other narratives; words, signs, names, and symbols; (b) musical expressions including songs and instrumental music; (c) expressions by movement, including dances, plays, rituals or other performances, whether or not reduced to a material form; (d) tangible expressions, including productions of art, drawings, etchings, lithographs, engravings, prints, photographs, designs, paintings, including body-painting, carvings, sculptures, pottery, terracotta, mosaic, woodwork, metalware, jewellery, basketry, pictorial woven tissues, needlework, textiles, glassware, carpets, costumes; handicrafts; musical instruments, maps, plans, diagrams architectural buildings, architectural models; and architectural forms'.

The Act also defines 'community' in Section 2 and vests rights in cultural expressions in the owners and holders (Section 16). Another interesting part of the Kenyan sui generis law is that it succinctly protects collective and individual heritage-economic, spiritual or otherwise (section 14). Section 15 provides for the registration of cultural expression by communities and also gives resolution patterns where multiple communities claim the same cultural expression.

There is an express prohibition on any person who intends to 'misappropriate, misuse, abuse, unfairly, inequitably or unlawfully access and exploit traditional knowledge and cultural expressions' in Section 18. A form of copyright and trademark protection of cultural expression is contained in the section, which also saddles the government with the responsibility of setting up mechanisms to ensure protection. The section prohibits obtaining IPR on cultural expression in a manner that is derogatory to the community. There also is a provision for exceptions to the rights in TCEs, such as prior consent, acknowledgement, fair use, non-commercial use amongst others (section 19). This gives a pride of place to traditional communities in respect of traditional knowledge and expressions as heritage products. Owners

are also allowed to grant authorization for exploitation with due notification to the Cabinet Secretary (Section 25).

Infringement of the rights conferred amounts to an offence. Section 37 spells out the offences and provides for penalties attached to the offences. Part of the provisions include failure to acknowledge the source of traditional knowledge or cultural expression which makes the offender 'liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a term not exceeding five years or both' (Section 37(3)). It is also a punishable offence for a person to distort, mutilate or do other modification or derogatory action that is prejudicial to the cultural interests of a community.

A culpable person is liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a term not exceeding five years or both (Section 37(4)). 'False, confusing or misleading indications or allegations which, in relation to goods and services that refer to, draw upon, or evoke the traditional knowledge or cultural expressions, in a way that suggests an endorsement or linkage with the holders' also amounts to an offence liable to imprisonment for a term not exceeding ten years or a fine or both (Section 37(5)).

Furthermore, it is an offence that attracts the punishment of fine, ten years imprisonment or both for a person to acquire an IPR over cultural expression without authorization or disclosure and later use IPR over secret cultural expression (Section 37(6)). Section 37(8)-(9) states clearly that a person who imports an article relating to cultural expression or without authorization exports an article, whether or not for commercial purposes, commits a crime and is liable on conviction to a fine imprisonment or both. (Section 37 (10) – (14)).

According to section 38 of the Act, an infringement may also lead to civil proceedings. Section 39 provides for civil remedies in the form of injunction, cost, damages, order of public apology, order of delivery up, order of forfeiture of profits, order of revocation or invalidation of intellectual property rights inappropriate-

ly acquired over traditional knowledge or cultural expressions or derivatives. It also provides for alternative dispute resolution (Section 40).

The scope of the Kenyan law is evidently broader and stricter than the Nigerian Copyright Act and the Trademarks Act. It gives a more extended look into the needs of traditional communities as regards their traditional knowledge and product thereof as heritage resource. The range of protection is well defined and wide; giving preference to the needs of traditional communities while also allowing government to intervene where there are uncertainties. Liability and punishment for all varieties of infringement are well spelt out in the Kenyan statute.

According to Nakitare et al. (2024), the Kenyan statute is one of the milestones in TK commercialization. Nigeria can borrow a cue from the Kenyan Law to pay more attention to culture and cultural rights as contained in Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of the Constitution of the Federal Republic of Nigeria. Without discrediting the present provisions on heritage protection in Nigeria, the Kenyan statute is more compact as against the staggered and lax legislations on TK products in Nigeria.

B. Ghana

Ghana also shares a multicultural feature as Nigeria (Briggs & Connoly, 2017; Udo, 2023). Like Nigeria, Ghana has made efforts over the years to protect her culture-based textile from imitation. For instance, the Textile Designs (Registration) Decree Accra, 1973 (N.R.C.D. 213), an industrial property statute, excludes individual and corporate ownership of cultural fabrics. It also improved copyright law protection over the years, and as such, the Ghanaian Copyright Act 2005 specifically incorporated Ghanaian culture-based fabrics in its definition of folklore (Agyei, 2020, p. 403). Although the Act has been criticized as inadequate in matters of folklore, the Ghanaian Act is more detailed in its

provisions and useful in curbing misappropriation as compared to the Nigerian experience (Agyei, 2020, p. 404).

Ghanaian cultural communities, specifically *Asante*, are involved in producing textile named *Kente* which also been faced with imitation and economic prejudice like Nigeria. To tackle this problem, the Ghanaian Copyright Act 2005 was promulgated. The Act provides that folklore means:

> 'literary, artistic and scientific expressions belonging to the cultural heritage of Ghana which are created, preserved and developed by ethnic communities of Ghana or by an unidentified Ghanaian author, and includes *kente* and *adinkra* designs, where the author of the designs are not known, and any similar work designated under this Act to be works of folklore' (s. 76).

Section 4(1) protects folklore against reproduction, communication, adaptation and other forms of transformation. Further, it vests right in folklore in the President of Ghana who holds same on trust for the people (section 4(2). Section 59 established the National Folklore Board to administer, monitor and register expressions of folklore; maintain a register of expressions of folklore at the Copyright Office; preserve and monitor the use of expressions of folklore; provide members of the public with information and advice on matters relating to folklore; promote activities that will increase public awareness on the activities of the Board; and, lastly, promote activities for the dissemination of expressions of folklore within Ghana and abroad.

According to section 64 (1) of Ghana's Act, it is mandatory for a person who wishes to use folklore, for purposes other than those permitted for copyright uses in section 19 of the Act, to apply and obtain the permission of the Board. Sections 44 and 45 make it an offence to imitate folklore without the required permission, and is liable, on conviction, for a fine and/or imprisonment. Section 46 allows for court to order that the victim of imitation be compensated from the proceed and also for forfeiture of the infringing material and disposal thereof as the court may direct.

Therefore, it is clear that the Ghanaian Copyright Act of 2005 is more detailed than the Nigerian Copyright Act, but notwithstanding, imitation of *Kente* has yet abated as the country also faces the same challenge of imitation as Nigeria (Okyere & Denoncourt, 2021; Phea, 2023). Nonetheless, this does not invalidate the effort of the legislator as the challenge shifts to the proper enforcement of the laws.

VI. WEAVING INTELLECTUAL PROPERTY PROTECTIONS INTO ÀDÌRẸ TEXTILES

A. Recommendations

The Kenyan and Ghanaian laws are unique to each of them, and so are the Nigerian IPRs laws on cultural goods to Nigeria. Having found that Nigeria possesses intellectual property laws that protect the culture-based textile *Àdìrẹ,* and against the backdrop of the enunciated theory of law grounding protection of such cultural product, it is recommended that:

i.) The Copyright Commission investigates and redresses the infringement of the cultural intellectual property right in Àdìrẹ as an expression of folklore as enshrined in 78 of the Copyright Act.

ii.) The Commission should enlighten the general public on expressions of folklore and its legal protections through different effective means.

iii.) The Ministry of Industry, Trade and Investment, under which trademark and designs are operational, should liaise with the National Orientation Agency to introduce an awareness campaign targeted at traditional communities on the existence of the laws in respect of cultural goods and the merits thereof.

B. Conclusion

Traditional communities across the world are endowed with knowledge systems which, when imbued into physical materials, generate certain products for them that they are able to nurture and hand over to subsequent generations. These collective or group materials also serve as great sources of livelihood for the people and as a revenue booster to contemporary society. Additionally, they stimulate more production within the traditional community. Protection of heritage rights in cultural expressions have been negatively impacted from the standpoint of some traditional communities that have been hit by industrialization and misappropriation of TCEs. Such is the case of Abeokuta, Nigeria's traditional communities producing and dealing in the *Àdìrẹ* textile that have kept the expressions alive from the past and so need to be insulated against further heritage exploitation and economic impoverishment.

The imitation of Àdìrẹ has led to hardship outcry from the community. The imitation brought a nosedive to the production and sales of authentic Àdìrẹ. Hence, there is a need to reinforce the protection to ensure that TCEs nurtured by Nigerian communities are not misappropriated so as to deny the community the benefits that should ordinarily accrue to them in consonance with the Biblical stewardship construct. The Biblical construct proposed a moral and just approach to the utilization of traditional knowledge-based products.

This paper finds that there are both international standards and national laws that provide protection of the same and govern the protection of IPRs and/or *sui generis* system respectively. It further finds that Nigeria's protective laws are not in a single statute but rather in different intellectual property laws, unlike Kenyan law. Most prominent among the available laws in Nigeria is the Copyright Act, which saddles the Nigerian Copyright Commission with the responsibility of authorizing the use of TCEs and seeking remedies and sanctions on behalf of the com-

munities involved when infringement occurs. Other IPRs, such as trademark certification marks, are also available. Despite the available laws, the Nigerian community, and in this particular context, *Àdìrẹ* producers, continue to face infringement on their TCEs., This contravenes the stewardship of heritage resources, yet there has been no known remedy pursued by the Commission whether in criminal or civil light.

This study finds that Kenya and Ghana are more intentional in their protection of cultural goods. The Kenyan law gives culture and cultural rights a prideful place. The Ghanaian law also targets specific protection for cultural textiles. The authors also finds that the Nigerian legal protection afforded to *Àdìr*□ has not been fully explored and implemented by the relevant authority. Therefore, the authors recommend an implementation of the law that would lead to apprehension of the imitations. The authors further recommend a sensitization and enlightenment campaign by the Copyright Commission to communities on expressions of folklore. Lastly, this paper recommends awareness campaigns by the Ministry of Industry, Trade and Investment on the provisions of the industrial property law that are beneficial to cultural goods.

REFERENCES

2024 from https://cipit.strathmore.edu/wipos-new-treaty-implications-for-kenyas-intellectual-property-genetic-resources-and-associated-traditional-knowledge/.

Adekunle, C.P., Ashaolu, O.F., Sanusi, R.A., Akerele, D., Oyekale, T.O. & Ogunrinde, F, (2017). Economics of Occupational Health in Resist Dyed Fabrics (Adire) Production in Abeokuta, Ogun State, Nigeria. *Conference Proceedings of The 18th Annual National Conference of the Nigeria Association of The Nigerian Agricultural Economists, Federal University of Agriculture, Abeokuta, Nigeria, 347-355.*

Agreement on Trade-Related Aspects of Intellectual Property Rights.

Agyei, D. A. (2020). Bridging the International Gap in the Protection of Folklore: Analysis of the Ghanaian Approach Against Comparative Experiences from Selected African Countries Texas Intellectual Property Law Journal 28, 393.

Andersen, M. J. (2010). Claiming The Glass Slipper: The Protection of Folklore as Traditional Knowledge. *Journal of Law, Technology & the Internet,* 1(2), 148.

Arowolo, A. (2012). *Intellectual Property Rights, Traditional Knowledge Systems and Jurisprudence in Africa.* Ababa Press Limited.

Ayinla R. (2023, November 5). FG Moves to Cut Capital Flight on Chinese Àdìrẹ with Local Production. *BusinessDay.* Retrieved May 13, 2024. from https://businessday.ng/news/article/fg-moves-to-cut-capital-flight-on-chinese-Àdìrẹ-with-local-production/.

Bankole, S. (1995). *Piracy and Counterfeiting: The Freedom to Copy vs Intellectual Property Rights.* PhD Thesis, University of London, Queen Mary and Westfield College.

Blakeney, M. & Alemu, G. M. (2024). Preserving Africa's Culture. *African Free Trade Agreements and Intellectual Property* 244.

Bouchoux, D. E. (2013). *Intellectual Property: the law of trademarks, copyrights, patents and trade secrets* (Delmar Centage Learning, 4th edition).

Braide, O. O. (2016). Stylistic Features of Contemporary Àdìrẹ in Nigerian Textile Practice. *Journal of Humanities, Social Sciences and Creative Arts,* 11 (1 & 2), 104 - 116

Briggs, P., & Connolly, S. (2016). *Ghana.* Bradt Travel Guides.

Carpenter, K. A, Katyal, S. K. & Riley, A. R. (2009). In Defense of Property, Yale L.J. (118). 1022.

Copyright Act, 2022,

Enaholo P. & Assam D. (n.d.) Àdìrẹ: The Art of Tie and Dye, Traditional and Modern Fashion Expressions of the Egba People of Yorubaland. *The Centenary Project.* Retrieved May 3, 2024 from https://artsandculture.google.com/story/adire-the-art-of-tie-and-dye-pan-atlantic-university/QVxsVP8AxQtIw?hl=en.

European Union. (n.d.) Geographical Indication. Retrieved May 4, 2024 from https://europa.eu/youreurope/business/running-business/intellectual-property/geographical-indications/index_en.htm#:~:text=Geograph-

ical%20indications%20protect%20your%20products,as%20certain%20requirements%20are%20met.

Fasi, M. A. (2023). A review of the Practices Related to the Protection of Indigenous Designs and Traditional Property Law in Canada and India. *International Journal of Intellectual Property Management* 13(3-4) 446.

Foster v Mountford (1976) 29 FLR 233.

Grey v Pearson [1857] 10 E.R 1216; 6 HL Cas 61,

Harrington, J. & Deacon, H. (2024). Traditional Knowledge and Culture Expressions Act 2016. *Kabita Institute*. Retrieved May 4, 2024 from https://katibainstitute.org/traditional-knowledge-and-culture-expressions-act-2016/.

https://www.wipo.int/wipo_magazine/en/2021/03/article_0008.html#:~:text=IP%3A%20Repositioning%20Nigerian%20SMEs%20for%20economic%20prosperity&text=has%20shown%20that%20SMEs%20that,Trade%20Area%20(AfCFTA)%20agreement.

Igwe, O. I., Fiel-Miranda, J. L., & Miranda Jr, A. T. (2023) Impact of Importation on Business Performance of the Textile Industries in Nigeria. 4(12) Retrieved 5 August 2024. From https://doi.org/10.46652/pacha.v4i12.200 or https://revistapacha.religacion.com.

Intellectual Property Office of New Zealand. (n.d.). Māori Advisory Committee and Māori trademarks. Retrieved November 21, 2024, from https://www.iponz.govt.nz/get-ip/trade-marks/practice-guidelines/current/maori-advisory-committee-and-maori-trade-marks/.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations.

Komolafe, O. (2021). Intellectual property, SMEs and Economic Recovery in Nigeria. *WIPO Magazine*. Retrieved May 3, 2024 from https://www.wipo.int/web/wipo-magazine/articles/intellectual-property-smes-and-economic-recovery-in-nigeria-55919.

Koros, C., & Kitili, J. (2024, June 10). WIPO's New Treaty: Implications for Kenya's Intellectual Property, Genetic Resources and Associated Traditional Knowledge. Retrieved August 6,

Lasisi, L.A, Oligbinde, S.R, Akinyemi D.S & Adetona, S, A. (2022). Cultural Significance of Àdìrẹ Fabrics for Contemporary Nigeria Interior Design. *EPRA International Journal of Multidisciplinary Research* 8(7), 232-235.

Lemi, L.D.M. (2024), Commemorative Textiles: An African Narrative of Identity and Power. *Humanities and Social Sciences Communications* 11(1), 1.

Merchandise Marks Act, 1916.

Mike, J. H. & Uloko, G. (2022) *Modern Approach to Intellectual Property Laws in Nigeria* (2nd Edn, Princeton)

Moses, P. (2024, March 8). Àdìrẹ: How Ogun Women Preserve Handmade Fabrics. *Daily Trust*. Retrieved August 3, 2024 from https://dailytrust.com/adire-how-ogun-women-preserve-handmade-fabrics/.

National Intellectual Property Policy and Strategy, 2022, paragraph 4.2.

Oguamanam, C. (2018). Tiered or Differentiated Approach to Traditional Knowl-

edge and Traditional Cultural Expressions: The Evolution of a Concept. *CIGI Papers No. 185.*

Ogunnaike, O. O. (2017). Àdìrẹ Textiles: From traditional craft to contemporary fashion. *Journal of African Cultural Studies*, 29(2), 145-160

Ojelade L. O., Bashir M. O. & Oyeniyi T. F. (2018). Àdìrẹ in Osogbo Nigeria: Its Uniqueness, Technology and Significance. *The International Journal of Humanities & Social Studies* 6(11), 132

Okediji, R. L. (2022). Is the Public Domain Just?: Biblical Stewardship and Legal Protection for Traditional Knowledge Assets. *Columbia Journal of Law & the Arts,* 45(4), 461-524.

Okyere, M. & Denoncourt, J. (2021) Protecting Ghana's Intellectual Property Rights in Kente Textiles: the Case for Geographical Indications. *Journal of Intellectual Property Law & Practice* 16, 415-425.

Olajubu, O. (2017). Àdìrẹ textiles: Cultural heritage and contemporary trends. *Journal of African Cultural Studies*, 29(3), 210-225.

Olawoyin, O. (2021, July 9). Nigerian Women 'Dyeing' to Boost Nigeria's Forex Earnings: The Egba Women of Nigeria are Keeping the Craft of Àdìrẹ Making Alive, and in Doing So, Earn Modest Forex for Nigeria. *Premium Times.* Retrieved August 5, 2024 from https://www.premiumtimesng.com/features-and-interviews/472443-nigerian-women-dyeing-to-boost-nigerias-forex-earnings.html?tztc=1.

Olorunlomeru, A. (2023 November 12) Nigerian Àdìrẹ, Going, Going…. *The Guardian.* Retrieved May 3, 2024 from https://guardian.ng/art/revue/nigerian-adire-going-going/.

Omolo J.O. (2019) The Textiles and Clothing Industry in Kenya. In H. Jauch & R. Traub-Merz (Eds.) *The Future of the Textile and Clothing Industry in Sub-Saharan Africa* (Bonn: Friedrich-Ebert-Stiftung), 133-164

Paris Convention for the Protection of Industrial Property, 1883, as amended in 1979, Articles 10bis

Patent and Designs Act, Cap P2, Laws of the Federation of Nigeria 2004, section 13.

Phea, G. (2023). Culturally Respected but Not Legally Protected: Legal Case Disparities and Intellectual Property Rights In Contemporary Ghanaian Textile Design (Doctoral dissertation) p 38.

Re Sigsworth: Bedford v Bedford [1935] Ch 89

Saheed, Z. S., (2013) Àdìrẹ 'Textile: A Cultural Heritage and Entrepreneurial Craft in Egbaland, Nigeria' *International Journal of Small Business and Entrepreneurship Research* 1(1), 11.

Sharma, M. (2024). The Power of Intellectual Property Right: A Catalyst for Innovation and Growth retrieved May 24, 2024 from www.khuranaandkhurana.com.

Shyllon, F. (2003) Intellectual Property Law in Nigeria. In Gerhard Schricker and Joseph Straus (Eds), *Studies in Industrial Property and Copyright Law* (Verlag C. H. Beck Munchen) 7.

The Guardian. (2024, April 18). Protecting Àdìrẹ, Kampala and other Local Industries. *The Guardian.* Retrieved May 3, 2024 from https://guardian.ng/opinion/editorial/protecting-Àdìrẹ-kampala-and-other-local-industries/.

The Publication of Arts Council of New Zealand Toi Aotearoa, 'Rules Governing the Use By Artists of the Toi Iho ™ Maori Made Mark', Rule 5.3

Tunis Model Law, sections 1 & 6.

Udo, R. K. (2023) *Geographical regions of Nigeria.* (University of California Press)

Uguru, U. & Umobong, M. C. (2022). Appraising the Impact of the Nigerian Copyright Act and Regulations in Combating Piracy in Nigeria. Beijing Law Review 13(2) 247-264.

WIPO Performances and Phonograms Treaty, Article 2(a).

WIPO-UNESCO Model Law, 1982.

WIPO. (1997) UNESCO-WIPO World Forum on the Protection of Folklore: 1967, 1982, 1984: Attempts to Provide International Protection for Folklore by Intellectual Property Rights. UNESCO-WIPO/FOLK/PKT/97/19. Retrieved May 3, 2024 from https://unesdoc.unesco.org/ark:/48223/pf0000220179.

WIPO. (2001) WIPO Intergovernmental Committee on Intellectual Property And Genetic Resources, Traditional Knowledge and Folklore Report of First Session, Geneva. WIPO/GRTKF/IC/1/13 para 156-175

WIPO. (2001). Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore: Traditional Knowledge and the Need to Give it Adequate Intellectual Property Protection. WIPO/GRTKF/IC/1/5

WIPO. (2002). Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore: Final Report on National Experiences With the Legal Protection of Expressions of Folklore. WIPO/GRTKF/IC/3/10

WIPO. (2003) Consolidated Analysis of the Legal Protection of Traditional Cultural Expressions/Expressions of Folklore, P. 13.

WIPO. (2015). Traditional Knowledge and Intellectual Property – Background Brief No 1.

WIPO. (2017). Protect and Promote Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities.

WIPO. (2018) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore: The Protection of Traditional Cultural Expressions: Updated Draft Gap Analysis. WIPO/GRTKF/IC/37/7.

WIPO. (2023) Special Session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore: Glossary of Key Terms Related to Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions. WIPO/GRTKF/IC/SS/GE/23/INF/4. Retrieved May 5, 2024 from https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_ss_ge_23/wipo_grtkf_ic_ss_ge_23_inf_4.pdf.

WIPO. (n.d.). Geographical indications. Retrieved November 21, 2024, from https://www.wipo.int/web/geographical-indications..

WIPO. (n.d) What is Intellectual Property. Retrieved May 3, 2024 from https://www.wipo.int/about-ip/en/.

Worlddata. (2024, July) retrieved from https://www.worlddata.info/country-comparison.php?country1=KEN&country2=NGA#google_vignette.