

IP PROTECTION FOR TV SHOWS AND FORMATS IN NIGERIA



LAGOS | ABUJA | CALABAR



www.advocaat-law.com



Advocaat Law Practice



advocaatlawpractice

INTRODUCTION

Nigeria's television industry has grown into a major force within the global entertainment landscape, with increasing investments in reality shows, drama series, movies, talent competitions, game shows, and other original programming that continue to shape culture and drive commercial value. As the industry expands, so too does the importance of protecting the intellectual property underlying these productions, particularly in an era where successful programme concepts and formats can easily be imitated, reproduced, or adapted without authorisation. While Nigerian law protects certain creative elements such as scripts, music, recordings, and branding, the protection of TV formats remains a legally complex and evolving area, exposing creators and producers to significant commercial risks. Against this backdrop, this article examines the scope of intellectual property protection available to TV shows and formats in Nigeria, the legal and practical challenges surrounding format protection, and the measures stakeholders can adopt to better safeguard their creative and commercial interests within the rapidly developing television industry.

A. UNDERSTANDING INTELLECTUAL PROPERTY IN TV SHOWS IN NIGERIA

The vibrant landscape of Nigerian television encompasses a rich tapestry of creative and commercial endeavours, each requiring robust legal protection. Intellectual property (IP) rights serve as the cornerstone for safeguarding the diverse elements that constitute a television production, empowering creators and producers to maintain control over their innovative work and reap the rewards of their ingenuity. In Nigeria, a framework of IP laws provides crucial safeguards for various aspects of the television industry. Below, we outline the key IP protections applicable to TV shows:

1. Copyright (Governed by the Copyright Act 2022)

Copyright stands as a fundamental pillar of IP protection for television productions, safeguarding the original expressions of creativity embedded within a show. This encompasses a wide array of elements, including:

- **Scripts and Storylines:** The literary and dramatic works form the narrative backbone of the show.
- **Music and Soundtracks:** Original musical compositions and sound recordings created for or incorporated into the production.
- **Recorded Episodes and Cinematographic Works:** The tangible embodiment of the visual and auditory elements of each episode, including filming, editing, and overall artistic direction.
- **Character Development and Dialogues:** The unique personalities, traits, and spoken words that bring the characters to life.

These copyright protections grant exclusive rights to the creators, preventing unauthorised reproduction, distribution, adaptation, public performance, and communication to the public of these elements. This legal framework ensures that the original creators retain control over how their creative works are used and exploited commercially.

2. Trademarks (Governed by the Trade Marks Act, Cap T13 LFN 2004)

Trademarks play a vital role in establishing and protecting the distinctive brand identity of a television show in the marketplace. This includes:

- **Show Titles:** The unique names that identify and distinguish a particular TV program.
- **Logos and Slogans:** Distinctive visual symbols and memorable phrases associated with the show's branding.
- **Visual Branding Elements:** Unique graphic designs, colour schemes, and other visual cues are used consistently to identify the show.

Registering these elements as trademarks prevents unauthorised third parties from using confusingly similar names, logos, or branding, which could mislead audiences and dilute the established goodwill and reputation of the original show. Trademark protection is crucial for building brand recognition and preventing unfair competition.

3. Patents (Governed by the Patent and Designs Act)

While patents have a more limited scope within the conventional creative aspects of television production, they can be relevant in specific technological domains:

- **Unique Filming or Production Technologies:** Novel hardware or software developed for capturing or manipulating audiovisual content.
- **Specialised Audiovisual Equipment:** Innovative tools or devices designed for specific filming or broadcasting purposes.
- **Innovative Broadcasting Techniques:** New methods for transmitting or delivering television content to audiences.

If a production company or individual develops a truly novel and non-obvious technical process or apparatus related to television production, seeking patent protection can grant them exclusive rights to use, manufacture, and sell that invention for a specified period, thereby safeguarding their technological advancements.

4. Trade Secrets (Protected by Common Law and Contractual Agreements)

Certain confidential and proprietary information integral to the creation and production of a television show can be protected as trade secrets. This includes:

- **Unique Show Concepts and Formats:** Novel ideas and structures for television programs that have not been publicly disclosed.
- **Unreleased Scripts and Production Strategies:** Confidential documents and plans related to upcoming episodes or production workflows.
- **Proprietary Filming Techniques:** Specialised methods or processes developed internally for achieving specific visual or technical effects.

Protecting trade secrets relies heavily on maintaining confidentiality through legal mechanisms such as non-disclosure agreements (NDAs) with cast, crew, and other involved parties, as well as implementing robust internal policies to restrict access to sensitive information. Safeguarding these valuable, non-public assets provides a competitive edge in the industry.

Strategically leveraging these intellectual property rights, stakeholders in Nigeria's television industry, from individual creators to large production houses, can effectively protect their valuable creative and commercial assets, foster innovation, and ensure a more secure and rewarding environment for their work.

B. THE UNIQUE CHALLENGE OF PROTECTING TV FORMATS IN NIGERIA

Before examining the legal challenges surrounding TV formats, it is important to distinguish between a TV show and a TV format. A TV show refers to the finished audiovisual production viewed by audiences, including its episodes, scripts, performances, music, cinematography, and other expressive elements. A TV format, on the other hand, refers to the underlying blueprint or structure of a programme, including its recurring concept, rules, sequence, style of presentation, audience interaction, and production framework that can be replicated across different territories or adaptations. In essence, the TV show is the final creative expression, while the TV format is the replicable concept upon which multiple versions of the show may be produced.

Nigeria's television industry thrives on a diverse range of programming, from reality competitions to game shows, many of which are built on distinct and recognisable TV formats. These formats encompass the fundamental structure, rules, and recurring elements that define a particular type of show. Take, for example, *Who Wants to Be a Millionaire?*, a globally recognised quiz show format. Its signature elements, such as multiple-choice questions, escalating prize tiers, lifelines like "Ask the Audience," and the high-stakes atmosphere, define its identity. Regardless of where the show is produced, these recurring features make it instantly recognisable. This demonstrates how TV formats go beyond scripts or recorded content; they create a replicable blueprint for engaging audiences.

However, protecting these innovative concepts under Nigerian intellectual property law remains a challenge. Unlike fully developed scripts, recorded episodes, or audiovisual content—which are explicitly covered under copyright law—TV formats, as abstract ideas, do not receive direct copyright protection. Copyright law safeguards the tangible expression of an idea, not the idea itself. This legal gap makes the core mechanics and structures of successful formats particularly vulnerable to imitation. Competitors can adopt essential elements of a popular show and create a similar program without technically infringing on copyrighted materials such as scripts or recordings.

In this landscape, proactive legal and contractual measures are essential for creators and producers seeking to safeguard their original TV formats. The strategic use of Non-Disclosure Agreements (NDAs) is crucial when pitching ideas to broadcasters, production companies, or collaborators, ensuring confidentiality and reducing the risk of misappropriation. Additionally, format licensing agreements provide a structured legal framework for format owners—whether domestic or international—to authorise adaptations while clearly defining usage terms, compensation structures, and ownership rights. While these contractual mechanisms do not offer the same automatic protection as copyright, they serve as critical tools in mitigating the risk of format replication and reinforcing intellectual property rights within Nigeria's television industry.

C. CASE STUDIES OF TV FORMAT PROTECTION IN NIGERIA

Examining real-world examples provides valuable insight into the practicalities and challenges of TV format protection within Nigeria.

i. Success Stories: Leveraging Established Global Formats

Nigeria has witnessed significant success through the adaptation and production of well-established **global television franchises**. Shows such as **Big Brother Naija** (based on the

Endemol Shine format¹) and **The Voice Nigeria** (based on the Talpa format) stand as prime examples.² These successes are underpinned by **formal licensing agreements** with the international format owners. These agreements grant Nigerian production companies the legal right to utilise the specific structure, rules, and branding of the original formats. This not only provides a proven framework for a successful show but also ensures that the intellectual property rights of the format creators are respected and compensated. The popularity and longevity of these licensed adaptations demonstrate the effectiveness of contractual agreements in bringing successful international formats to the Nigerian audience while adhering to IP regulations.

ii. Infringement Cases: The Shadow of Unauthorised Imitation

Conversely, the Nigerian television landscape has also faced challenges related to **infringement**, with **reports of local adaptations copying elements of both global and domestic shows without obtaining proper authorisation**. While specific details of legal battles might not always be publicly prominent, anecdotal evidence and industry discussions suggest instances where new programs bear striking similarities to existing formats, raising concerns about intellectual property theft. These situations highlight the vulnerability created by the lack of direct copyright protection for formats. When a local production develops a show that closely mirrors the core structure and recurring elements of another successful program (whether international or Nigerian-originated) without a license, it raises ethical and potentially legal questions. While proving direct infringement of copyright can be difficult in the absence of verbatim copying of scripts or recordings, such instances underscore the ongoing need for greater awareness and stronger enforcement mechanisms to protect the innovative concepts within the Nigerian television industry.

Case in Point: *University Challenge*

A landmark example of this friction in Nigeria occurred when the media company **TV Xtra Production** sued the **National Universities Commission (NUC)** and **Zain Nigeria**. The plaintiff alleged that after pitching a show titled *University Challenge*, the NUC and Zain produced and aired a strikingly similar program without authorisation or licensing. In a significant ruling for format creators, the Federal High Court (and later the Court of Appeal) found the defendants liable for copyright infringement, awarding substantial damages to TV Xtra Production.³

D. LEGAL FRAMEWORK AND ENFORCEMENT IN NIGERIA

Understanding the existing legal landscape and its enforcement mechanisms is crucial for navigating intellectual property protection in the Nigerian television industry.

The **Copyright Act 2022** represents a significant step forward in strengthening intellectual property protection in Nigeria. It provides comprehensive safeguards for various creative works relevant to television production, including scripts, music, and cinematographic works, as previously discussed.

¹ [https://en.wikipedia.org/wiki/Big_Brother_\(franchise\)](https://en.wikipedia.org/wiki/Big_Brother_(franchise))

² <https://businessday.ng/bd-weekender/article/4-international-tv-shows-adapted-for-nigerian-audiences/#:~:text=As%20the%20demand%20for%20locally,find%20a%20home%20in%20Nigeria.>

³ WIPO Decisions; *Zain Nigeria v. TV Xtra Production Ltd & National University Commission* (2021).

<https://www.wipo.int/wipolex/en/judgments/details/1621> See also *Zain Nigeria v. TV Xtra Productions Ltd., & National University Commission* (CA/A/CV/564/2020). Court of Appeal of Nigeria.

However, it is important to note that the Act **still lacks specific provisions explicitly addressing the protection of TV formats** as distinct intellectual property. This gap means that while elements *within* a format (like a specific script for an episode) are protected, the underlying structure, rules, and recurring elements of the format itself remain largely outside the direct purview of copyright law.

The **National Broadcasting Commission (NBC)** plays a vital role in the oversight and regulation of television content in Nigeria. Its regulations aim to ensure adherence to broadcasting standards, ethical considerations, and licensing requirements. While the NBC has the authority to address issues related to plagiarism and unauthorised use of content, its primary focus is on broader broadcasting compliance rather than direct and specific enforcement of intellectual property rights, particularly concerning the nuanced area of TV format infringement.

Consequently, seeking **judicial remedies** for TV format disputes in Nigeria presents considerable challenges. There is limited case law specifically addressing the imitation or unauthorised use of TV formats. This scarcity of precedent makes it difficult for creators to predict the likely outcome of legal action based solely on format copying. The burden of proof often lies in demonstrating infringement of copyright in tangible works associated with the format, rather than the format itself. This highlights the existing enforcement challenges and underscores the need for alternative strategies, such as robust contractual agreements, to protect format innovations in the Nigerian television market.

E. COMPARATIVE INSIGHTS FROM DEVELOPED JURISDICTIONS

The challenge of protecting TV formats under standard intellectual property laws is not unique to Nigeria; it is a global dilemma rooted in the classic idea-expression dichotomy. Developed jurisdictions generally do not recognize a distinct "TV format right" by statute, but their courts and industry bodies have increasingly stretched existing frameworks to address the gap.

- i. **The United Kingdom & Common Law Jurisdictions:** Historically, common law courts took a restrictive view, famously illustrated in *Green v. Broadcasting Corporation of New Zealand* (1989), where a format was deemed a mere unprotected idea. However, the UK position has evolved. In *Banner Universal Motion Pictures v. Endemol Shine Group* (2017), the English High Court confirmed that a TV format can conceptually qualify for copyright protection as a **dramatic work**, provided it features a coherent, highly specific framework of interconnected elements capable of being repeatedly applied to produce a recognizable show.
- ii. **Civil Law Jurisdictions:** In continental Europe, protection is often sought through unfair competition laws or broader author's rights. For example, while the German Federal Court of Justice (BGH) ruled in 2003 (*Quizmaster*) that TV formats are generally not copyrightable as unified works, German and French courts frequently rely on **unfair competition and passing-off principles**. They penalize competitors who engage in "slavish imitation" or exploit a competitor's significant commercial investment and "know-how" without authorization.
- iii. **Industry Self-Regulation:** Globally, the lack of uniform statutory protection has also driven the industry toward self-regulation. Organizations like the **Format Recognition and Protection Association (FRAPA)** act as registries and mediation bodies, using peer pressure and industry consensus to deter format theft where hard law falls short.

Consequently, developed markets show that while direct format laws are rare, protection is successfully achieved by combining granular copyright documentation (treating a detailed "format bible" as a dramatic work), unfair competition claims, and strict compliance with industry conventions.

F. Best Practices for Nigerian Creators and Producers

In light of the existing legal framework and enforcement challenges, Nigerian creators and producers must adopt proactive strategies to safeguard their intellectual property in television shows.

1. **Register Copyrights and Trademarks:** A fundamental step is to formally register copyrights for tangible creative works such as scripts, original music, and recorded episodes. Similarly, registering show titles, logos, and other distinctive brand elements as trademarks is crucial for establishing legal ownership and preventing unauthorised use of these identifying marks in the marketplace.
2. **Utilise Contracts Diligently:** Given the limitations in direct format protection, **contracts are paramount**. Employing **Non-Disclosure Agreements (NDAs)** when discussing format ideas with potential partners or broadcasters is essential to maintain confidentiality. For original formats, develop **format licensing agreements** that clearly define the terms under which others can produce or adapt your concept. Additionally, **option agreements** can be used to grant exclusive rights to develop a format for a specific period, providing creators with leverage.
3. For Nigerian producers adapting foreign shows, securing proper licensing is crucial. This involves:
 - i. **Identifying the Format Owner:** Conduct thorough research to determine the rightful owner of the format's intellectual property.
 - ii. **Negotiating a Formal License Agreement:** Engage in negotiations to obtain a comprehensive license agreement that outlines the terms of use, including:
 - a. Territorial rights (i.e., the geographical area in which the show can be produced and broadcast).
 - b. Duration of the license.
 - c. Specific adaptations permitted (e.g., language, cultural references).
 - d. Royalty payments and profit-sharing arrangements.
 - e. Credit and attribution requirements.
 - iii. **Ensuring Compliance:** Adhere strictly to the terms of the license agreement to avoid infringement and potential legal repercussions.
 - iv. **Seeking Legal Counsel:** Engage experienced legal professionals specialising in intellectual property and entertainment law to review and negotiate the licensing agreement. This ensures that the agreement adequately protects the producer's interests and complies with Nigerian and international laws.
4. **Meticulously Document Show Development:** Maintaining comprehensive records of the entire show development process is crucial. This includes documenting the initial concept creation, brainstorming sessions, script drafts, pitch decks, and any instances of idea-

sharing, including dates and involved parties. Such documentation can serve as valuable evidence in case of future disputes regarding the origin and ownership of a format or its elements.

5. **Actively Monitor and Enforce Rights:** Creators and producers should be vigilant in monitoring the television landscape for any unauthorised adaptations or copies of their shows or formats. When potential infringements are identified, it is essential to take appropriate legal action, which may include sending cease and desist letters or pursuing litigation to protect their intellectual property rights and deter further unauthorised exploitation.

CONCLUSION

The remarkable growth and increasing global recognition of Nollywood underscore the urgent need for a robust and effective system of intellectual property protection for its television content. While the Copyright Act 2022 offers significant safeguards for certain creative works, the unique challenges associated with protecting TV formats necessitate a multifaceted approach. Nigerian creatives and producers must be proactive in **securing their rights through diligent legal registrations of copyrights and trademarks**, and by strategically utilising **legally sound contracts** such as NDAs and licensing agreements. Furthermore, there is a compelling case for **advocacy towards stronger industry-backed protections**, potentially exploring models similar to international organisations like FRAPA (Format Recognition and Protection Association), which provide frameworks and mechanisms specifically designed for the recognition and protection of TV formats. By embracing these proactive measures and advocating for a more robust legal environment, Nigeria's vibrant television industry can continue to flourish, fostering innovation and ensuring that creators are fairly rewarded for their ingenuity.

CONTACTS



ROTIMI AKAPO

rotimi.akapo@advocaat-law.com



ADEYEMI OWOADE

adeyemi.owoade@advocaat-law.com



INIMFON EKPENYONG

inimfon.ekpenyong@advocaat-law.com



FAVOUR ODUNOWO

favour.odunowo@advocaat-law.com



AYOOLUWA ADEKOJE

ayooluwa.adekoje@advocaat-law.com

LAGOS OFFICE

13 Norman Williams Street
Off Keffi Street, Ikoyi
Lagos Nigeria

ABUJA OFFICE

Nigerian National Merit Award House Enspire
1st Floor Room 3
Plot 22 Aguiyi Ironsi Way Maitama Abuja
Nigeria

CALABAR

Akom Building
15 Murtala Mohammed Highway Calabar
Cross River
Nigeria

TELEPHONE: (LOS)+234 02014547932 (ABJ)+234 8105340496

EMAIL: info@advocaat-law.com

WEBSITE: www.advocaat-law.com