OUTLINE

- BACKGROUND
- CONCEPTUAL CLARIFICATION
- PATENTS REGISTRATION
- CHALLENGES AND PROSPECTS
- SUMMARY
BACKGROUND

Economic Liberalism

Industrialization

Globalization

Intellectual Property Rights
BACKGROUND

➢ Law is a body of **obligatory or enforceable rules and underlying principles and standards of human conducts** made by the law making organ in a society for the **purpose of securing order and peaceful interpersonal relationship in the society**.

➢ Dean Roscoe Pound defined Law as “an instrument for Social Engineering.” He noted further that: “Law Fixes Society by Eliminating Competing Interests in Society.”

➢ Professor Tom Fox, Law reforms society by playing a Mandating, Facilitative, Endorsing and Partnership role in the Society.
CONCEPTUAL CLARIFICATION

Property

- Tangible
- Intangible

Right to use and enjoy;
  - Right to exclude others from use and enjoyment
  - Right to part with wholly partially, permanently, or temporarily
  - Right to destroy if the need arises

Intellectual Property Right refers to the exclusive legal rights given to inventors or creators for a certain period of time to protect their creations, more particularly inventions, literary or artistic works, distinctive signs and designs used in commerce.
CONCEPTUAL CLARIFICATION

Intellectual Property Rights

Copyrights
- Copyright
- Database

Trade, Business or Economic Interests
- Trademark
- Industrial design
- Confidential information

Invention
- Patents
- Topography
- Plant breeders
CONCEPTUAL CLARIFICATION

INTELLECTUAL PROPERTY RIGHTS

Registrable Rights
- Trademarks
- Patents
- Industrial Designs
- Topography Rights
- Plant Breeders

Non-Registrable Rights
- Copyrights
- Database
- Topography (US, UK)
- Confidential Information
  - Goodwill
• Letter of Patent under the Venetian Statute by the Italian province of Venice in the year 1474

• The English Statute of Monopolies 1623,

• The use of patent has gained global recognition in protecting new and inventive ideas.

• The term patent refers to a grant made by the appropriate governmental authorities within a country to protect new inventions or improvements made therein that are well thought-out to have enhanced the way(s) the earlier inventions were made or used.
PATENT CHARACTERISTICS

• granted by the national or regional patent office such as the African Regional Intellectual Property Organisation (ARIPO), and the Organisation Africaine De La Propriete Intellectuelle (OAPI).

• valid for a limited period of time, generally for 20 years from the filing date (priority date) of the patent application, provided the renewal (or maintenance) fees are paid to keep the patent in force.

• An invention must be patentable, that is to say:
  – It is new, results from inventive activity and is capable of industrial application; or
  – If it constitutes an improvement upon a patented invention, it is also new and results from inventive activity and is capable of industrial application.
• Patents are by far the most important IPRs in the pharmaceutical industry as they are of the most economic value to innovative companies that depends on IP protection to support their investments on medical research.
THE NIGERIAN PHARMACEUTICAL INDUSTRY

- multifaceted with many different stakeholders.
- Need for concerted action across stakeholders to create an enabling environment for industry to flourish and realize its full potential as an asset to economic and social development.
- Unlike in the US, UK and the EU, where the pharmaceutical industry is well advanced, that of Nigeria is developing.
- The prospect of growth in the Nigerian pharmaceutical industry is encouraging.
- The pharmaceutical market was estimated to be worth US$ 600 million in 2009 and should grow substantially at around 12 per cent year-on-year to reach US$ 717 million by 2011.
The key challenges confronting Nigeria’s pharmaceutical market include counterfeit medicines, poor healthcare infrastructure and the limited spending power of citizens.

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Nigeria remains heavily reliant on imported pharmaceuticals. The revised National Drug Policy (NDP) (2004) set a target for 70 per cent (in volume) of the country’s demand for medicines to be met by local drug manufacturers by 2008, an estimation that was not met.

The pharmaceutical manufacturing sector has experienced a steady annual growth of 10 per cent to 15 per cent since 2001 (IFC).

Furthermore, some local drug manufacturers are currently upgrading their facilities to comply with WHO prequalification and WHO cGMP requirements. If successful, this will enable them to promote the export of medicines manufactured locally in Nigeria to ECOWAS countries and beyond.

In addition, once prequalified, local manufacturers will be able to participate in international procurement tenders called by international development partners.

LEGAL FRAMEWORK FOR PATENT REGULATION

International framework

Regional framework

National framework
INTERNATIONAL LEGAL FRAMEWORK

- Paris Convention for the Protection of Industrial Property
- Patent Cooperation Treaty
- Strasbourg Agreement on International Classification of Patent
- Patent Law Treaty
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure
- TRIPS Agreement
REGIONAL LEGAL FRAMEWORK

- Designated African states
- National patent laws retained

- Obviates different national registration
- Applies within designated states

African Regional Intellectual Property Organisation (ARIPO),

Organisation Africaine De La Propriete Intellectuelle (OAPI)
**Patentable Inventions**
New, results from inventive activity (non-obvious) and capable of industrial application

**Who may apply?**
(i) Statutory inventor  (ii) Employer (iii) Persons to whom the right to an unpatented invention has been assigned

**Procedure for application**
Depository patent system (no substantive examination of patent applications)

**Duration and Renewal**
20 years from filing date of patent application; and renewable annually

**Exclusive Right and Statutory Exceptions**
Limited by compulsory licence to develop new industries; and importation of patented products vital for defence, economy and public health;
PATENTS AND THE NIGERIAN PHARMACEUTICAL INDUSTRY: PROSPECTS

- Develop a Nigerian patent legal framework
- Temporary market monopoly
- Licensing /sale
- Regionalisation

Private sector investments

- Different patents for innovation
- Composition of matter patent
- Use patent
- Process patent etc

Business tool for exclusivity

- Motivates R&D
- Innovation
- Tech advancement

Different patents for innovation

Motivates R&D

Private sector investments

Business tool for exclusivity
THE NIGERIAN PHARMACEUTICAL INDUSTRY: CHALLENGES

- Weak patent regime;
- Poor patent administration
- Lack of a coherent industrial policy
- Menace of counterfeiting drugs and other pharmaceutical products
CONCLUSION

• A globalised world intensely knowledge-driven can benefit Nigeria, if we reposition our IP laws, regulations and policy.

• Strengthen institutions – NAFDAC and the National Office for Technology Acquisition and Promotion (NOTAP)