

## PATENTS AND DESIGN

Every country requires technological improvements as a means to generate solutions to the adverse needs of the society. It is this need to encourage advancement that patents aims at achieving. Unlike other intellectual properties such as copyright and trademarks, patent is a property right from the government to the inventor in which the inventor is not obliged to practice his invention but is empowered upon due diligence to prevent the exploitation of his/her invention in the country or countries of registration without his/her consent. An invention can be exploited through the manufacture, use or sell of the invention among others. The government in exchange for patent protection requires the inventor to lodge a full disclosure of the invention with the designated office. Patent is sustained by the inventor through the payment of a certain fee at a stipulated time as may be laid down by law. It is important to note that the invention must be such that a specific problem in the field of technology; product or process is solved.

Patent enables an inventor derive substantial material benefits for his invention as reward for his intellectual creation and value to society. The medium of enforcement varies in jurisdictions as stipulated under national laws. Whatever the medium of enforcement, an inventor is required to be vigilant to bring actions of infringement against infringers.

Conditions of patentability and patentable subject matter as also subject to national laws, however, the threshold is provided by Article 27 of the World Trade Organisation's (WTO) TRIPS Agreement which states that WTO member states should make patents available for invention in all fields of technology provided that they are *new*, involve an *inventive step* and are capable of *industrial application*. TRIPS Agreement also provides the minimum protection for patents in WTO member states as twenty (20) years. However, because of the extreme nature of the patent rights and to enable the invention fall into public domain for the public to use and improve on it without the fear of infringement, countries have adopted the twenty years requirement as the maximum duration of protection obtainable.

The requirement of industrial application has led a number of countries such as Nigeria into categorising patents and industrial design as one field of intellectual property. Industrial design refers to the creation of a formal or ornamental appearance for mass-produced items. This is aimed at protecting the original *ornamental* and *non-functional* features of an industrial article resulting from design. This is because visual appearance influences the decision of a consumer to purchase a product over another performing the same function. This protection and reward encourages innovation and creativity in a nation's market.