

Protecting the Brand of Nigerian Athletes: Rethinking IP in Sports.



Introduction

The global sports industry is a multi-billion-dollar commercial enterprise, rivaling some of the world's largest sectors in scale and influence. It encompasses everything from broadcasting rights and sponsorship deals to merchandising, digital engagement and an ecosystem where athletic performance translates directly into economic power. Stadiums, streamlining platforms, apparel companies, and advertising agencies all feed into the vast machinery of the industry, generating revenues that ripple across continents.

At the heart of this commercial engine lies intellectual property (IP), an invisible currency determining ownership, value, and profit in the business of sports. From the logo on a jersey to the face of an athlete on a billboard, IP rights particularly image rights, trade marks, copyright determine not only who profits from the spectacle of sport but also who shapes its cultural and commercial legacy.

On World IP Day 2026, themed "IP and Sports: Ready, Set, Innovate!", the spotlight falls on how athletes harness IP to secure and grow their commercial value.

For Nigeria, this is a pressing reality as Nigerian athletes must navigate the legal and commercial frameworks that govern sports to be able to transform fleeting fame into sustainable commercial success. It is therefore fitting that we examine how Nigerian athletes are faring in the race to protect and commercialize their personal brands while they continue to command global attention on the world stage. The question then is whether the Nigerian athlete can truly compete globally in protecting and monetizing their brand. Are they aware of the IP rights available to them or the extent to which they are equipped to use these rights?

The Anatomy of an Athlete's Brand

An athlete's brand is not a single, monolithic right; rather, it is a composite of several IP rights carefully put together. Understanding this architecture is the starting point for any meaningful discussion about brand protection and commercialization within the sports industry.

Trade Marks protect an athlete's name, nickname, logo, or signature phrase when registered in connection with goods or services, ensuring that a brand stays exclusive to a specific athlete and preventing unauthorized exploitation by third parties.

Image Rights relate to the right of an individual to control the commercial use of their name, likeness, photograph, voice, or other identifying characteristics. Although not expressly codified under Nigeria statutes, these rights are increasingly recognized through contractual arrangements and judicial authorities.

Copyright protects original creative works associated with an athlete's brand, such as a unique logo, promotional videos, or artistic merchandise designs, while passing off provides a common law remedy where an athlete's reputation is misappropriated without authorisation, even where formal registration is absent.

Together, these rights form the legal framework of an athlete's brand, the strength of which remains uneven in Nigeria.



The Nigerian Legal Framework: Strengths and Gaps

Trade Marks

Nigeria's trade mark regime is governed by the **Trade Marks Act, Cap T13, Laws of the Federation of Nigeria 2004**. Section 67 of the Act defines a "mark" broadly to include a device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof.¹

Under this framework, athletes can register their names, signatures, logos, and slogans as trade marks in respect of specific goods or services under the **Nice Classification, 9th Edition which currently applies in Nigeria**. For instance, **Class 25** (which covers clothing and sportswear), **Class 41** (which covers entertainment and sports services), and **Class 35** (which covers endorsement and promotional services). By registering in these or other classes, the athlete is conferred the exclusive right to use the brand in respect of the goods or services covered by the class and prevent unauthorised commercial use by third parties.

The commercial value of such registration is not a diamond in the rough, and is evident globally from international sensations such as Cristiano Ronaldo who registered "CR7" as a trade mark and went ahead to anchor an entire commercial empire on the "CR7" mark across merchandise, fragrance, and hospitality. By contrast, Nigerian athletes are yet to replicate this strategic level of trade mark protection. For most, registration is reactive rather than proactive, undertaken only after commercial value has already been established as an athlete or, in some cases, after infringement has occurred. Yet, early and deliberate trade mark registration remains one of the most cost-effective mechanisms for safeguarding an athlete's brand and commercial identity under Nigerian law. When deployed strategically, it would serve not merely as a defensive tool, but as the foundation for long-term brand commercialization.

Image Rights

The legal foundation for image rights protection in Nigeria is often traced to the **Constitution of the Federal Republic of Nigeria 1999 (as amended)**. Section 37 broadly guarantees and protects the right of Nigerians to privacy with respect to their homes, correspondence, telephone conversations and telegraphic communications¹. While this constitutional guarantee establishes an important baseline, it appears far too general to provide the specific commercial protection that a structured image rights framework would afford within the business of sports.

This limitation becomes more apparent when viewed against developments in other jurisdictions. In the **United States**, image rights are protected under the doctrine of the "right of publicity", and personalities which recognizes the commercial value of a personality's identity and protects attributes such as name, voice, signature, photograph, image, and gesture². In jurisdictions such as **Germany, France, and Hungary**, there is also express statutory protection against the unauthorised commercial exploitation of an individual's image³. In these systems, identity is not an incidental item but is expressly protected as a proprietary interest.

By contrast, Nigeria operates within a fragmented yet evolving framework. The practical consequences of the legislative vacuum in relation to image rights have been felt most acutely in the entertainment and talent sectors, with similar significant implications for sports. In an ecosystem where an athlete's likeness can be as valuable as their performance, the absence of a clearly defined legal regime leaves much to be desired.

The Supreme Court's decision in **Ubom v Globacom Nigeria Limited**⁴ is the closest Nigerian jurisprudence have come to recognising a standalone right to control the commercial use of one's image. While the case arose outside the sports context, the legal principles articulated by the Supreme Court are of broad application and are directly relevant to how Nigerian athletes' image rights are and ought to be protected.

In that case, the appellant discovered that the respondent was using her image on billboards across Nigeria to promote a new edition of a talent competition she had previously participated in, without obtaining her consent or entering into any commercial arrangement with her for that purpose. The appellant premised her claim on the unauthorised commercial appropriation of her identity and likeness, rather than the oft-deployed claim of copyright infringement. The Supreme Court, examining the totality of her pleadings, held that the claims in the matter were properly characterised as one involving contractual and personal rights rather than copyright. In doing so, the Court clarified a distinction of considerable importance: while copyright in a photograph typically vests in the photographer, ownership is entirely separate from the right of the individual depicted to control how their image is commercially exploited. In this regard, a brand that obtains a licence from a photographer to use a photograph does not thereby acquire the right to use the subject's image for commercial purposes without the subject's own consent.

1. Section 37, Constitution of the Federal Republic of Nigeria 1999 (as amended).

2. Indiana Code § 32-36-1 (Right of Publicity Statute)

3. Corinna Corrs and Peter Mezei, "Image Rights: Exploitation and Legal Control in English and Hungarian Law", ResearchGate\

4. (2025) 6 NWLR (Pt. 1985) 157

The relevance of this principle to Nigerian athletes is immediate and obvious. An athlete whose photograph is taken at a sporting event by an official photographer, a sponsor's camera crew, or a media outlet retains an independent right over how their likeness in the photograph is commercially deployed in advertising, promotions, or merchandise.

The Ubom decision provides a crucial judicial support for the jurisprudence of personality rights in Nigeria while also laying bare the limits of the current legal framework. The ruling focused primarily on jurisdiction, hence the substantive rights of individuals to control commercial use of their image remain uncodified.

In this regard, athletes seeking to enforce their image rights must still navigate a patchwork of contract law, implied terms, and nascent personality rights principles, without the clarity or certainty that dedicated legislation would provide. Until the National Assembly acts, Nigerian athletes remain commercially exposed in an area where the stakes are increasingly high.

In the absence of a standalone image rights law, common law doctrine of passing off remains the primary vehicle through which athletes may seek redress for unauthorised commercial use of their likeness. However, this is still an imperfect instrument; requiring proof of goodwill, misrepresentation, and likelihood of damages, requirements that can be onerous, particularly for athletes whose recognition may be strong within Nigeria but still developing on the international stage.

Copyright Law

Within Nigeria's IP framework, copyright offers both direct and indirect protection for aspects of an athlete's brand. The Copyright Act 2022 (No. 35 of 2022) recognizes literary, artistic works and cinematographic films as eligible for protection. The rights created by the Act subsist automatically upon creation, irrespective of registration.

In practical terms, this means that athlete's names or monikers, photographs, promotional materials, painting, sculpture, broadcast footage and other creative representations of an athlete's likeness may attract copyright protection notwithstanding that the protection may attach to the author or creator of the work, rather than the athlete as a personality. This distinction is critical as an athlete may feature prominently in a photograph or video, yet have no proprietary claim to the copyright in that work.

Section 1(1) of the Act provides that artistic works and cinematographic films qualify for copyright protection, and this protection subsists irrespective of whether the work has been registered with the Nigerian Copyright Commission. In all cases, copyright owners and/or athletes must ensure that the creative works relating to the athletes are properly documented in a fixed medium to attract protection as a copyright.

Data Protection Law

The digital age has created a particularly acute dimension to the image rights challenge for athletes. Images are routinely extracted from social media profiles, broadcast footage, and press photography, and then repurposed for commercial advertising campaigns frequently without the athlete's knowledge or consent.

The Nigeria Data Protection Act 2023 (NDPA) and the Nigeria Data Protection Commission's General Application and Implementation Directive (GAID) 2025 together provide a framework that is increasingly relevant to this problem, and which athletes and their advisers should be actively deploying.

At its core, the NDPA adopts a broad conception of personal data to include any information relating to an identifiable individual, identified directly or indirectly by reference to identifiers such as a name, identification number, location data, online identifier, or factors specific to their identity. More specifically, Section 65 of the NDPA defines "biometric data" as personal data resulting from specific technical processing of physical, physiological, or behavioural characteristics that allow or confirm the unique identification of a natural person, with facial images expressly cited as an example.

These definitions are important, as an athlete's photograph or image falls squarely within the definition of personal data and, where it permits unique identification, within the heightened category of biometric data. This means that the use of an athlete's image in a commercial campaign constitutes "processing" of their personal data and must comply with the NDPA's requirements.

Processing of an athlete's data is lawful only where it falls within one of the bases set out in Section 25(1) of the NDPA 2023 namely: consent, contract necessity, legal obligation, vital interests, public interest or official authority, or legitimate interests. Section 26 further clarifies that consent must be freely given, specific, informed, and evidenced by affirmative action, and places the burden on the data controller to prove it. Silence, inactivity, or pre-ticked options do not constitute valid consent, and the data subject must be informed of the right to withdraw consent.

In practical terms, this means that a brand or sponsor wishing to use an athlete's image in a campaign must obtain a clear, documented, affirmative agreement and must be prepared to prove it. The arrangement under which an athlete participated in a past event, signed an appearance contract, or posed for a photograph will not, without express provision, constitute consent to the subsequent use of their image in a commercial advertising campaign.

This connects directly to the principle of purpose limitation. Section 24(1)(b) of the NDPA requires that personal data be collected for specified, explicit, and legitimate purposes and not further processed in a manner incompatible with those purposes. An athlete who consents to being photographed at a sponsored event does not thereby consent to those photographs being used in a subsequent national advertising campaign for an unrelated product. Any such secondary use is incompatible with the original purpose and requires fresh, specific consent.

Lessons from Global Best Practice

As the global sports industry continues to evolve into a sophisticated commercial ecosystem, the protection and commercialisation of athlete brand have become central to value creation. Jurisdictions that have recognised this reality have developed layered and deliberate frameworks to support athlete brand management. This is an approach from which Nigeria can draw important lessons.

In the **United States**, for instance, the right of publicity, combined with robust federal trade mark law under the **Lanham Act (15 U.S.C. § 1051 et seq.)**, and a mature sports agency industry regulated under the **Sports Agent Responsibility and Trust Act (SPARTA), 15 U.S.C. § 7801**, creates a comprehensive ecosystem for athlete brand management⁵. The United Kingdom provides a more comparable legal system with Nigeria in that it does not recognize a standalone statutory regime for image rights; however, athletes routinely incorporate image rights companies through which their likeness is licensed separately from their playing contracts, effectively enabling an efficient brand management with commercial advantages.



To bridge the gap between potential and protection, it is recommended that a coordinated and forward-looking approach be adopted by athletes and industry players alike:

1. **Register Trade Marks Early:** Athletes should register their names, nicknames, and associated logos as trade marks under the Trade Marks Act, Cap T13 at the earliest opportunity, across all relevant classes of goods and services.
2. **Negotiate Robust Contracts:** Every endorsement, sponsorship, and licensing agreement should be reviewed by a qualified IP or sports law practitioner before execution.
3. **Leverage the NDPA 2023:** Athletes and their advisers should actively utilise the Nigeria Data Protection Act 2023 and the GAID 2025 as tools against the unauthorised digital use of athlete images, particularly in online advertising and social media campaigns.
4. **Regulate Sports Agents & Update Nigerian IP laws:** The Nigerian government should establish a domestic regulatory framework for sports agents across all sporting disciplines, incorporating minimum legal and commercial competence requirements. Regulators in the intellectual property space should consider the inclusion of specific provisions on image right within Nigeria IP laws.
5. **Invest in Legal Literacy:** Athlete associations, sports federations, and academic institutions should invest in educating athletes about their IP rights from the outset of their careers.

⁵ Lanham Act, 15 U.S.C. § 1051 et seq.; Sports Agent Responsibility and Trust Act (SPARTA), 15 U.S.C. § 7801.

Conclusion

World Intellectual Property Day 2026, with its theme "IP and Sports: Ready, Set, Innovate!", invites us to consider how intellectual property fuels innovation and drives value within the global sport industry. For Nigerian athletes, the intersection of IP and sports is not merely an academic conversation; it is central to their ability to convert performance into sustainable commercial success.

As the foregoing analysis demonstrates, while the Nigerian legal framework offers a patchwork of laws across constitutional, statutory, and common law to provide some measure of protection for athlete rights in Nigeria, the protection remains fragmented, indirect, and inadequate for the scale of the commercial opportunities at stake. A more deliberate approach is required to fully unlock the commercial potential of Nigerian athletes.

The inclusion of image rights provision within existing IP laws, combined with greater legal literacy among athletes, more robust contract practices, and proactive use of the Nigeria Data Protection Act 2023, is one way to go. If Nigeria is to truly empower its sporting talent to reap the full commercial rewards of their brand, then there is still a long way to go.

Written in commemoration of World IP Day 2026: "IP and Sports: Ready, Set, Innovate!" - Susan Akinade.



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