

**AN EXAMINATION OF COPYRIGHT INFRINGEMENT IN NIGERIA AND CHALLENGES IN
THE DIGITAL WORLD**

BY

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2020/LW/16848**

**A PROJECT PRESENTED TO THE FACULTY OF LAW, ALEX EKWUEME FEDERAL
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(LL.B. Hons)

SUPERVISOR

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SEPTEMBER, 2025

TITLE PAGE

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DECLARATION

I, IWUOHA AMARACHI STELLA, a Student of the Faculty of Law, Alex Ekwueme Federal University, Ndufu-Alike, Ikwo, Ebonyi State, do hereby declare on my honor, that this project titled "COPYRIGHT INFRINGEMENT IN NIGERIA AND CHALLENGES IN THE DIGITAL WORLD" has been carried out by me. All information obtained from other literature has been duly acknowledged in the text and list of references provided. No part of this research project has been previously presented, either wholly or in part for the award of any other Degree, Diploma, Certificate or Publication in any University, other Higher Institutions or elsewhere.

Signed.....

IWUOHA AMARACHI STELLA

(2020/LW/16848)

Thursday, 18th September 2025.

DEDICATION

I dedicate this research work to my indomitable parents, Mr. and Mrs. B.C Iwuoha, for their unwavering support and for being the best parents anyone can wish for.

ACKNOWLEDGEMENT

I am thankful to Almighty God for His divine protection over my life and for the completion of this work and for reaching this milestone in my academic pursuit.

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LIST OF ABBREVIATIONS

A.G.....	Attorney General
ALL FWLR.....	All Federation Law Report
CFRN.....	Constitution of the Federal Republic of Nigeria
Ch.....	Chancery (Law Report)
CMO.....	Collective Management Organization
IP.....	Intellectual Property
IPLR.....	Intellectual Property Law Report
LFN.....	Laws of the Federation of Nigeria
NBA.....	Nigeria Broadcasting Authority
NCC.....	Nigerian Copyright Commission
NLR.....	Nigerian Law Report
NMLR.....	Nigerian Monthly Law Report
NWLR.....	Nigerian Weekly Law Report
PMAN.....	Performing Musicians Association of Nigeria
SC.....	Supreme Court
UCC.....	Universal Copyright Commission

WALR.....West African Law Report

WIPO.....World Intellectual Property Organization

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ABSTRACT

Copyright protection in Nigeria, particularly with regards to the challenges in the digital world, has become the cornerstone for the protection of the rights of creators of copyrightable works by providing the blueprint as well as the instruments to deal with violations of the law. This research work examines the existing legal and institutional frameworks for the protection of copyright in Nigeria. It also explains lucidly the scope, nature, evolution and qualifications involved in making a particular work eligible for copyright protection as provided under the various regimes. It also exposes the challenges posed in the protection of intellectual property in Nigeria. It has been a serious problem as there has been little or no well defined measures to bring the infringers of such intellectual properties to book. Also, as a developing country, Nigeria has been battling to find her feet economically, developmentally and most especially, digitally. Another objective of the study was to propose policy measures to address the negative effects of these infringements. Authors and owners of other literary and artistic works were particularly victimized by these violations. These resulted in economic loss, emotional and psychological stress, loss of faith and trust in the Nigerian copyright protection. Specifically, the study highlighted that there was an opportunity to highlight how recovery should not focus on putting an end to copyright infringement but also restore social services and provision of assistance to support the economic recovery of victimized authors and owners of other literary and artistic works. Strengthening mechanisms in place to protect intellectual property rights and promoting measures to achieve long-term rebuilding of faith and healthy intellectual competition, were described as essential steps in preventing further infringement as well as challenges. Overall, the research highlighted the need to respond immediately and have Nigeria stand out globally in protection of copyright protection. The recommendations include efficient measures to protect copyright, socio-economic recovery, bridging the gap between Nigeria and other nations of the world in copyright protection. These strategies, if implemented, will enable the process of healing and will go a long way to protect and promote literary works, and will serve as a catalyst for sustainable development.

CHAPTER ONE:

INTRODUCTION

1.1 Background to the Study

It is a known fact that the greatest heritage of a nation remains the creativity of its citizens, and therefore one of the primary functions of law enforcement agents and other appropriate authorities is to protect the ingenuity, resourcefulness and innovation of the citizenry. However, Nigeria has joined the league of nations that have enacted domestic legislations to protect the copyrights and creativity of its citizens against any undue infringement.

Intellectual Property Rights have gained prominence age, where the manufacture and manipulation of goods has given way to the protection of knowledge and application of same in innovation¹.

This technological advancement has had enormous impact on the world's copyright enforcement authorities and the legal systems in general, disrupting traditional modes of protection of intellectual property, and has left the law completely in a state of flux, literally gasping to catch pace with the ever changing forms of innovations.

In Nigeria, the life of every average citizen now revolves around one or more of these technologies, such as computers including palmtops and hi-tech phones, satellite and cable receivers/signals, facsimile transmissions and the perpetually growing internet.

Intellectual Property is intricately related to trade, competition, industrial growth and

¹ Y Aboki, *Economic and Cultural Basis for Copyright Protection in Nigeria*, in Ascin JO and Nwauche ES (eds), *A Decade of Copyright Law in Nigeria* (Nigerian Copyright Commission, 2002).

economic development. Nigeria arguably has a very comprehensive IPRs regime in terms of requisite laws and legislations.²

Over the years, since the country achieved independence, Nigeria has benefitted immensely from the magnanimity of copyright related products.

Section 1(1) of the Copyright Act³ provides protection and confers copyright status on the following innovative products:

- Literary works
- Musical works
- Artistic works
- Cinematograph films
- Sound recordings
- Broadcasts

Notwithstanding the above, and especially the enormous benefits which the country has derived from copyright related products, Nigeria still remains the largest piracy destination and market in the world invariably in the same products ostensibly protected by the Copyright Act, particularly computer software. This is due to a number of factors, essentially bordering on the obsolescence and inability of the Act to meet up with the contemporary challenges in the protection of copyrights of particularly new genres of innovations within the above broadly provided products. Also, though Nigeria is a signatory to various international conventions on copyright protection, these conventions are hardly enforceable in Nigeria owing to the fact that they have not been domesticated.

² Hon. Justice TA Odunowo, Nigerian Copyright Law: A juridical overview in A decade of copyright law in KGB Oguakwa, Implementing the Copyright Decree, (2005) *This Day Newspapers*, 1 (109)p. 15

³ Section 1(1) Copyright Act, Act. No. 2 LFN 2023

If Nigerians are to reap the multiple benefits of their innovations, there is need to create an environment in which the rights of creators are respected and upheld-an environment of zero tolerance for piracy.

In this regard, this study will discuss the complexity of the protection of copyright in Nigeria, its infringement and the relationship with the digital world.

1.2 STATEMENT OF THE PROBLEM

It is an indisputable fact that copyright is a monopoly of limited duration, but unlike most monopoly, it is a legitimate monopoly created by the law and enjoyed by the author of an original work.

However, digital technology in the varied forms known to us today was not expressly contemplated for protection under the Nigerian Copyright Act; most of the new digital innovations can be accommodated in some form under the copyright Act if they approximately fall under any of the intellectual property of individuals protected under the Copyright Act. For instance, take satellite and cable broadcast and computer software, how would certain digital products derived from these innovative technologies relate to the protected categories under the copyright Act. This necessitated this study on the 'Copyright Infringement and Challenges in the Digital World'.

1.3 RESEARCH QUESTIONS

1. What is the spate of copyright infringement in Nigeria?
2. What are the challenges of copyright infringement in a digital world?
3. How can copyright infringement be handled considering digital technology?

1.4 AIM AND OBJECTIVES OF THE STUDY

Aim

The aim of the study is to x-ray the challenges that are bedeviling Nigeria in relation to copyright infringement and ways to bridge the gap and advance in the protection of the intellectual properties digitally.

Objectives of the Study

The following are the objectives of this study:

1. To examine the spate of copyright infringement in Nigeria.
2. To identify the challenges of copyright infringement in the digital world.
3. To determine how copyright infringement can be handled considering digital technology.

1.5 SIGNIFICANCE OF THE STUDY

The following are the significance of this study:

1. The outcome of this study will sensitize the government, the law enforcement agents, authors of intellectual properties and the general public on the spate of copyright infringement in Nigeria considering the advent of digital technology with a view of finding a lasting solution to the issues.
2. This research will also serve as a resource base to other scholars and researchers interested in carrying out further research in this field subsequently, if applied will go to an extent to provide new explanation to the topic.

1.6 SCOPE OF THE STUDY

This study on the Copyright Infringement in Nigeria and Challenges in Digital World will cover issues of piracy and copyright violation in Nigeria considering the challenges of digital technology which have made piracy and copyright infringement difficult to tackle.

1.7 RESEARCH METHODOLOGY

This research will be based on doctrinal method of research. The study relied on both primary and secondary sources of data. The primary sources comprising the

Constitution of the Federal Republic of Nigeria 1999, the Copyright Act, subsidiary legislations and case laws.

The secondary sources include range of information obtained from concerned institutions and government departments such as WIPO, Nigerian Copyright Commission and National office for technology acquisition; whose works relate directly to copyright regulation and policy in Nigeria, through their respective websites. The researcher also makes reference to textbooks, journals, documents and other published materials providing relevant information for the study.

1.9 LIMITATIONS OF STUDY

1. **Financial Constraint:** Insufficient fund tends to impede the efficiency of the researcher in sourcing for the relevant materials, literature or information and in the process of data collection (internet, questionnaire and interview).
2. **Time Constraint:** The researcher will simultaneously engage in this study with other academic work. This consequently will cut down on the time devoted for the research work.
3. **Erratic Network:** The researcher is posed with erratic network which tends to slow down the pace of research.

Given the need to complete the research in this area of law, the researcher was able to surmount all the limitations.

1.11 ORGANIZATIONAL LAYOUT

Chapter one lays the general introduction to the research. It contains the backdrop against which the study is based, statement of the problem and scope of the study. It also contains the methodology used by the researcher, aim and objectives, justification for the research, operational definitions of terms and organizational layout.

Chapter two brings about conceptual clarification and definitions of the key terms; the concept of copyright protection in Nigeria, nature and evolution of copyright laws in Nigeria, literature review and theoretical framework and gap in literature.

Chapter three forms the basis of the research; it set forth the list and analyzed the various regimes aimed at copyright protection in Nigeria and their sources. It highlights the role of designated institutions in copyright protection like N.C.C, collecting society, copyright inspectors, and police. It defined what amounts to infringement and critically examined enforcement procedure of copyright laws in Nigeria.

Chapter four is x-rays the challenges posed to Nigeria in the protection of copyright, copyright infringement and the challenges in the digital world which include; legislative deficiency, ineffective law enforcement regimes, technological decadence and other factors.

Chapter five contains summary of the research, the research finding and recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.1 Conceptual Framework

To provide a clear understanding of the subject matter, it is essential to define key terms. They shall be elucidated below:

2.1.1 Copyright

Copyright is a type of intellectual property right that authors have over their original works. Copyright is a type of intellectual property that gives ownership to the original author. It is the right of a person to protect his ideas from exploitation. It grants the author exclusive right to reproduce, publish, sell, or distribute a form of work such as literary, musical, artistic, cinematographic works, broadcasts and sound recordings.

According to the World Intellectual Property Organization (WIPO), copyright is “a legal term used to describe the rights that creators have over their literary and artistic works”⁴.

Black’s Law Dictionary (8th edition) defines Copyright as follows:⁵

“The right of literary property as recognized and sanctioned by positive law. An intangible incorporeal right granted by statute to the author or originator of certain literary or artistic productions whereby he is vested for a limited period, with the sole and exclusive privilege of multiplying copies of the same and publishing and selling them”.

A close examination of existing scholarships on copyright shows that the purpose of this branch of intellectual property is to grant exclusive rights to authors over their

⁴ WIPO, “Copyright” available at <https://www.wipo.int/copyright/en/#:~:text=What%20is%20copyright%3F,52C%20maps%2C%20and%20technical%20drawings>. (accessed 29 August 2023).

⁵ BA Garner, *Black’s Law Dictionary*, (8th edn, West Publishers: New York) 361.

creative works.⁶

As pointed out by Cornish⁷, copyright emerges from the idea that any creative work is an extension of the author's "self" and, therefore should be protected from general use of the public. According to this scholar, copyright is "germane to continued growth of writing, performing and creating, and without copyright protection, there would be little stimulus or incentive for people to create anything, as others would be able to take the work and use it in any way they wanted".⁸

Some scholars have, therefore, maintained that the purpose of copyright law is to encourage the creativity of authors and scholars in producing new works of art, literature, science and technology.

Gervias⁹ sees copyright as an industrial right that facilitates the growth and development of key cultural industries, such as film and record production, computer software programming, book and musical publishing.

To Hoorebeek¹⁰, copyright is an exclusive property right given to copyright owner over his work, and encompasses the right to make copies of the work, sell the copies to the public or the right to give a public performance of the work. This definition is similar to that of Adewopo, who maintained that copyright is "the exclusive right to control the doing in Nigeria, of certain acts in relation to the work, the right in the use, reproduction, and exploitation of his created work".

Copyright is a legal safeguard that crucially protects the creations of authors and artists from unauthorized reproduction, distribution, performance or display, all of which could diminish their income and deter future creative endeavors. Importantly, works are

⁶ H P Faga and O. Ngozi, "Limits of Copyright Protection in Contemporary Nigeria: re-examining the relevance of the Nigerian Copyright Act in today's digital and computer age" (2011) 2 *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 211-225; See also D.O. Oriakhogba and A.I Fenemigho, 'Development, Concept and Scope of Copyright Protection in Nigeria: An Overview' (2014) 5 *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*

⁷ GP Cornish, *Copyright: Interpreting the Law for Libraries, Archives and Information Services* (Facet Publishing: London, 2004)

⁸ *Ibid*

⁹ D J Gervais, "Collective Management of Copyright and Neighbouring Rights in Canada: An International Perspective", (August 2001) *Report Prepared for the Department of Canadian Heritage*, p.3.

¹⁰ MV Hoorebeek, *Nutshells: Intellectual Property Law* (Sweet and Maxwell: London, 2009)79.

automatically given copyright protection as long as they meet the requirements for such, without any formality required.¹¹

From the definitions examined, it is clear that copyright is the exclusive right granted to creators over their original works to exclude others from exploiting their works without lawful authorization or consent. It should be noted that the scope of copyright is broad enough to cover different types of works, including books, novels, poems, maps, plans, music, sound recordings, movies, plays, photographs, paintings, sculpture, illustrations, architectural works, advertisements, and computer programs.

2.1.2 Infringement

Infringement refers to unauthorized copying, sharing, or distribution of copyrighted content, example, software, movies, music, articles and more. It is the unauthorized use, reproduction, distribution, or adaptation of copyrighted material without the permission of the rights holder. Such infringement includes unauthorized reproduction, distribution, public performance, adaptation and broadcasting.

The activities often facilitated through torrent websites, file sharing platforms, peer-to-peer networks, and artificial intelligence systems undermines the rights of data, content creators and leads to significant financial losses for industries. Its far-reaching consequence affects both copyright holders and consumers, resulting in substantial financial losses for content creators, because pirated copies are readily available for free or at a fraction of the legitimate price.

From a legal perspective, copyright infringement can lead to lawsuits, fines, and penalties for individuals or entities caught engaging in such activities.

2.1.3 Challenges

Challenges refer to the lapses and inefficiencies faced by the Nigeria's present Copyright System in the protection of Copyright in Nigeria.

¹¹ Section 4, Nigerian Copyright Act, 2022

2.1.4 Digital World

It is defined as of or relating to computers or the Information Age. It is a historic period in the 21st century characterized by the rapid shift from traditional industry that the Industrial Revolution brought through industrialization, to an economy based on information technology. It refers to the time period in which personal computers and other subsequent technologies were introduced to provide users the ability to easily and rapidly transfer information.

Also, this is referred to as “Internet Era”. The internet connects computers worldwide, allowing us to share data and access information. Tim Berners-Lee’s invention of the World Wide Web in 1989 made it easier to navigate using web pages and links. This transformed the Internet into a vast eco-system changing how we communicate, learn, shop, and entertain ourselves. Email messaging, and video calls have revolutionized personal and professional communication. Social media connects us globally. Search engines like Google provide instant access to a wealth of information.

While the Internet facilitates the widespread distribution of digital content, it also poses risks of infringement through unauthorized sharing, reproduction, distribution, exclusive use, performance rights, and a plethora of other associated and related Intellectual Property rights. Issues like digital piracy, file sharing, and streaming online platforms have prompted copyright holders to adapt their strategies for protecting their works and seeking fair compensation.

Furthermore, copyright law has evolved to address emerging digital forms of creative expression, including blogs, social media, and digital art, ensuring that the rights of creators are upheld in the digital age. Also, internet revolution, leading to emergence of frontier technologies like AI, has significantly reshaped the landscape of content creation and distribution.

2.2 Theoretical Framework:

Having reviewed the above myriads of literature relevant to the concepts and theories of Copyright Infringement in Nigeria and Challenges in the digital world, it is discovered

that Copyright Infringement is a critical problem which endangers the economies of many countries, particularly Nigeria and, therefore, requires scrupulous appreciation and adequate repression.

Consequently, this research work discovered that most of the appraisal done to the Act are either holistic or as it relates to different subjects. Thus, to the best of the researcher's knowledge none has taken a look at the weakness of the Act specifically, hence, the gap that this work is set to fill. The digitalization of literary and artistic material is the new normal for storing and transmitting resources. Often times, one is confronted with the question why should an author have copyright in the work he creates.

This study adopts an integrative, multi-theoretical framework. Copyright in the digital age is a multi-dimensional problem: it involves legal doctrine, economic incentives, institutional capacity, technological architecture, social norms and development goals.

2.2.1 Economic Theory:

The Economic theory is also known as 'Utilitarian Theory'. The proponent of this view perceives the provisions of copyright as an attempt to promote economic efficiency by matching the consequences of enhanced protection against the desire to encourage greater creativity. The theory therefore justifies copyright as a means to incentive creativity by granting authors temporary exclusive rights, thereby benefiting society through increased production of intellectual works.

Copyright within an economic framework addresses market failure by preventing free-riding and ensuring authors receive fair reward.¹²

Furthermore, the proponent of this view perceives the provisions of copyright as an attempt to promote economic efficiency by matching the consequences of enhanced protection against the desire to encourage greater creativity. The theory therefore, justifies the conferment of exclusive rights for limited periods on right holders, during

¹² DO Oriakhogba, *Intellectual Property Law in Nigeria: Emerging Trends, Theories and Practice* (2nd edn, University of Lagos Press 2023).

which time others are precluded from utilizing or exploiting the works for commercial purposes.

During the period of exclusivity, such holders may avail themselves of market opportunities to manufacture, sell, import or license or otherwise exploit their rights and thereby recover their capacity outlay. The Nigerian Copyright Act reflects this rationale through provisions that grant both economic and moral rights to creators.¹³

The theory also supports the notion that users eventually benefit from the dissemination of works into the public domain. Copyright is a policy instrument that creates time-limited exclusivity so creators will invest labour, capital and creativity; the social gains from additional works outweigh the social cost of temporary monopoly.

2.2.2 Natural Law Theory:

The theory was put forward by the English thinker John Locke who argues that the product of the intellects of a person belongs to them, in the same manner as any tangible artifact they have labored to create out of 'the common'.

Aguda¹⁴ links copyright to social utility and cultural development, while Okoroji¹⁵ emphasizes justice for creators through recognition and remuneration. Also, considering the possibility of sustaining injuries or losing one's life in the process as well as funds expended on the entire process of creativity which makes it necessary that the author or creator be allowed to receive their dividends if creativity must be sustained.

This is in line with the divine injunction to mankind which gave the assurance to man, that a man should eat the fruit of his labour.

2.2.3. Reward/Incentive Theory:

This theory is based on the belief that creative works are extensions of the author's

¹³ RC Nwogu, *Intellectual Property Law and Practice in Nigeria* (Lagos: Malthouse Press, 2019) 12.

¹⁴ A Aguda, 'The Nigerian Copyright Law and its Relevance to Social Change' in E Uvieghara (ed), *Essays on Copyright Law and Administration in Nigeria* (Nigerian Copyright Commission/WIPO 1992).

¹⁵ T Okoroji, 'Performing Musicians and Copyright Law' in E Uvieghara (es), *Essays on Copyright Law and Administration in Nigeria* (Nigerian Copyright Commission/WIPO 1992).

personality, and thus, the author should retain inalienable rights such as attribution and the right to object to distortion.¹⁶

This theory is also based on the underlying principle that society has a moral obligation to compensate and reward the creativity exhibited by authors of intellectual work. Given the enormous advantage and society in general, inventors and creators expect a certain level of protection from their society to enhance and further to encourage others who may desire to undertake similar venture. The fact remains that nobody wants to engage in an exercise that will produce little or nothing at the end especially, when huge resources and time have been expended on the work.

Creators of intellectual work have the capacity to promote socio-economic development to the country if properly managed. This benefit can be maximizing the appropriate laws to regulate the relationship between the society and the author.

Though Nigerian law recognizes moral rights, enforcement is limited, especially on digital platforms where attribution is frequently omitted.

2.2.4 Public Domain Theory:

This theory argues that certain knowledge and information should remain freely accessible for societal development.¹⁷

The digital age has expanded access to such works, yet the tension between rights holders and users persists. Nigerian copyright law attempts to balance this via fair use exceptions, but these are often vaguely interpreted.¹⁸

2.2.5. Digital Rights Management (DRM) and Technological Protection Measures (TPM):

These frameworks apply the above theories practically by using technology to control access and copying of works. The 2022 Copyright Act introduces the protections for

¹⁶ Copyright Act Cap C28 Laws of the Federation of Nigeria 2004, ss. 5-8.

¹⁷ A Adewopo, *Nigerian Copyright System: Principles and Perspectives* (Ibadan: Ibadan University Press, 2005) 105

¹⁸ Copyright Act 2022, s.20.

DRM and TPMs in line with global best practices.¹⁹

However, the technological and infrastructural limitations in Nigeria hinder their effective application.²⁰

2.2.6 Development Theory:

In this theory, copyright must be balanced with public interest goals- education, research, cultural development and disability access- especially in developing countries like Nigeria where knowledge access is a development lever. Overly expansive enforcement can hinder education and innovation; purposive exceptions like libraries, educational copying, are critical in Nigeria's development context.

Exclusivity must be balanced with developmental needs, especially in research and education.²¹

2.2.7 Institutional Capacity and Enforcement Theory:

Enforcement outcomes are a function of institutional resources, organizational design, incentives and inter-agency coordination. Legal reform is necessary but not sufficient without capacity building. The NCC, customs, police cyber units, courts determines real enforcement. Nigeria's copyright challenge lies more in weak enforcement institutions than in statutory inadequacy.²² Weak coordination, training gaps or resource scarcity produce low detection, prosecution, and deterrence.

2.2.8 Technological and Regulatory Theory:

This theory advocates that new technologies change production and distribution and create path dependencies; early adopters and incumbents respond differently. Streaming, peer-to-peer, cloud storage, messaging apps and AI create novel distribution channels and new infringement models. Therefore, policy must be adaptive.

¹⁹ *Ibid.*, s.51

AC Onuora-Oguno, 'Digital Technology and Enforcement of Copyright in Nigeria' (2016) 2 *African Journal of Legal Studies* 45, 47.²⁰

²¹ K Ola, *Copyright Collective Administration in Nigeria: Lessons for Africa* (VDM Verlag Dr Muller 2015)

²² S Ojukwu, 'Legal Framework for Copyright Management in Nigeria: A Review of the Functions of Collective Management Organizations' (2022) 18 *Nnamdi Azikiwe University Law Journal* 63

Finally, Nigerian scholars such as Shyngle I.J, Wigwe²³ highlighted early on the challenge of regulating copyright in the face of technological changes. Wigwe argued that the law must develop modalities that respond to new technological realities such as broadcasting, audiovisual works, and later digital dissemination.

2.3 Copyright Protection in Nigeria

The advent of the internet has revolutionized various aspects of life, including the creation, distribution, and consumption of intellectual property. In Nigeria, copyright infringement has emerged as a significant issue in the digital age with the proliferation of online platforms, social media, music and video streaming services. Consequently, copyright protection has become exigent. The legal framework for copyright protection in Nigeria is provided by the Nigerian Copyright Act of 2022 (hereinafter referred to as the 'Copyright Act' or "Act"), which repealed the Nigerian Copyright Act of 2004.

The emergency of digital technology has been instrumental to societal advancement through information availability and accessibility. Digital technology and electronic networks present opportunity to advance public interest by promoting access to e-resources for academic, research and for leisure purposes. Additionally, these technologies enhances and accommodates the simultaneous use of online materials available on the internet by multiple users at the same time, as well as encourage remote search link capacity, rendering irrelevant territorial and geographical boundaries in accessing information.

Several scholars have offered different definitions to the term 'Copyright'. However, before examining these definitions, it is apt to put forward the interpretation of principal enactment, particularly, section 6 and 51 of the Copyright Act. While the section 51²⁴ defined copyright to simply mean "copyright under the Act", section 6 made it clear that copyright is the exclusive right to control, to do or authorize the doing certain reserved acts listed in paragraph (a)-(c) with respect to literary, musical, artistic and works of

²³ Shyngle I J Wigwe, 'Copyright and Emerging Trends in Technology' in E Uvieghara (ed), *Essays on Copyright Law and Administration in Nigeria* (Nigerian Copyright Commission/WIPO 1992).

²⁴ Section 51 Copyright Act 2022.

cinematography.²⁵

A copyright is a legal device that gives the creator of a literary, artistic, musical, or other creative work the sole right to publish and sell that work. A copyright owner possesses the exclusive right to own their intellectual property without undue interference from any third party.

Copyright generally is protected under the Universal Declaration of Human Rights (UDHR) 1948 (from which many modern municipal copyright statutes derive their inspiration) which provides inter alia that everyone has the right to the protection of the moral and material interest resulting from which he is the author.

Copyright is generally regarded as a bundle of exclusive rights granted by statute to an author of a creative work to do certain acts in relation to the work and to prevent others from dealing with the work in any form or manner.²⁶

Cornish²⁷, described copyright as: “The right of a person to protect his ideas and information from commercial exploitation”. Copinger and Stone²⁸ assert that “Copyright law is concerned with the negative right of preventing copying of physical materials existing in the field of literature and the arts”.

The Black Law Dictionary define copyright as “the right to copy; specifically, a property right in an original work of authorship (including literary, musical, dramatic, cinematographic, pictorial, graphic, sculptural and architectural works, motion pictures and other audio visual works and sound recordings) fixed in any tangible medium of expression, given to the holder the exclusive right to reproduce, adapt, distribute, perform and display the work”.

By the above definition, copyright serves to control the copying of protected works by unauthorized persons. Copyright is the exclusive right to do or to control or authorize

²⁵ Section 6 Copyright Act 2022.

²⁶ Justine Pila and Paul Torremans, *European Intellectual Property Law* (Oxford University Press 2016) 299

²⁷ Cornish WR, *Intellectual Property*, (Sweet & Maxwell) (1981)Pp.1-7

²⁸ Copinger (et al) *On Copyright*, (12th ed., Sweet & Maxwell, 1980) Pp. 123-125

the doing of certain acts in relation to the work in which the rights subsists²⁹. Its major concern is with the expression of ideas rather than the ideas themselves. In *Donoghue v Allied Newspapers Ltd*³⁰, Lord Farewell said:

There is no copyright in an idea or ideas. A person may have a brilliant idea for a story or for a play and one which appears to him to be original; but if he communicates that idea to an author or an artist or a playwright, the production which is the result of the communication of the ideas to the author or the artist or playwright is the copyright of the person who has clothed the idea in form whether by means of picture, a play or a book and the owner of the idea has no right in that production...

It is however instructive to note that the Nigeria Copyright Act did not in specific terms, defined what "copyright" is, in other words, the Act did not give a clear definition of copyright. It however recognizes it as the right to stop or debar others from doing something and to restrain others from printing or interfering with others work.

It also impliedly stated that copyright involves the sole right to produce or reproduce a work or any substantial part thereof in any material form, whatsoever to perform, or in the case of a lecture to deliver, the work or any substantial part in the public, if the work is unpublished, to publish the work or a substantial part thereof. Copyright apply to creative works such as books, journal articles, research reports, novels, poems, piece of music, computer software, proceedings of a conference, artwork and so on³¹.

In addition to the foregoing, it can be deduced that copyright protection in Nigeria can only derive its force from the provisions of the Act and also, it is the exclusive right given under the law to the owner to control the reproduction of the work which is the subject of copyright³².

²⁹Section 9 (13) Copyright Act, Act. No.2 LFN 2023

³⁰ [1924]2 ALL ER 828

³¹ Section 2 Copyright Act LFN 2023

³² E E Uvieghara, "Essays on Copyright Law and Administration in Nigeria" (Ibadan) (1992) Pp. 102-104. Copyright has been defined as "right to literary property as recognized and sanctioned by positive law, an intangible, incorporeal right granted by statute to the author or original of certain literary or artistic productions, whereby he is invested, for a limited period with the sole and exclusive privilege of

Pursuant to Section 1(1) of the Copyright Act, the following are protected by copyright:

- i. Literary works
- ii. Musical works- irrespective of musical quality
- iii. Artistic works- irrespective of artistic quality
- iv. Cinematographic films
- v. Sound recordings (excluding a sound track associated with a cinematographic film)
- vi. Broadcasts

The Act further provided *inter alia*;

Copyright shall be conferred by this section on every work eligible for copyright of which the author or in the case of a work of joint authorship, any of the authors is at the time when the work is made, a qualified person.

The qualification shall be;

- i. An individual who is a citizen of or is domiciled in Nigeria or;
- ii. A body corporate incorporated by or under the laws of Nigeria

The copyright conferred on the above is in terms of seventy years after the end of the year in which the author dies. In the case of a government or body corporate, seventy years after the end of the year in which the work was first published. In the case of anonymous or pseudonymous literary, musical or artistic works, the copyright shall subsist until the end of the year in which the work was first published but the term will be calculated in accordance with the first schedule. According to the Act, reference is to be made for the country of origin for eligibility for copyright which was not conferred.

In other words, copyright production has a restricted lifespan. It applies for a specific period of time, after which the work is said to enter the public domain. The period of restriction ranges from twenty-five years to 70 years. The limitation can be justified on the basis that copyright does not look away from the ideas underlying a work.

The main purpose of copyright protection in Nigeria, is to ensure due fairness to authors and owners of work. *Article 27 of Universal Declaration of Human Rights* states that:

“multiplying copies of the same published work and selling them”.

everyone has the right to the protection of the moral and material interests resulting from scientific, literary or artistic production of which he is an author. History has shown that the enrichment of the national cultural heritage depends directly on the level of protection afforded to literary and artistic works.³³

As with all fields of intellectual property, copyright is concerned with protecting the works of the human intellect which are literary and artistic works. These include writings, music and works of the fine arts such as paintings and sculptures, and technology-based works such as computer programs and databases. Copyright protects the expression of thoughts, and not ideas³⁴. So an imaginary work is not protected³⁵.

Copyright in works comes into existence automatically upon the fulfillment of two basic conditions:

- a. Sufficient effort has been expended on the work to give it an original character
- b. The work must be in a tangible medium of expression from where it can be perceived, reproduced, or otherwise communicated³⁶.

The work must fall into the six basic categories of works mentioned in the Act.³⁷ The work must also fulfill the requirement of consanguinity as provided under section 5-8 of the Act.

However, originality does not mean inventiveness or novelty.³⁸ It means not copying verbatim, so any compilation of another person's work will suffice as original work because the person has put in his own skill, judgment, effort and labor in the creation of

³³ Marisella O, 'The Role of Copyright in Economic Development' *NIALS Journal of Intellectual Property (NJIP)*(2012) Pp 66-70

³⁴ *Donoghue v Allied Newspapers* (supra) at p. 16

³⁵ Chapter 2- Fields of Intellectual Property Protection, WIPO Publication p.43

³⁶ Section 2(2) (a)(b) Copyright Act Op. Cit.

³⁷ Section 2 (1)ibid.,

³⁸ *Yusuf Ladan v Shakallo Publication Ltd & 2 ors* (1972) NCLR 428

the compilation.³⁹

All works under copyright protection usually enjoy a wide range of economic and moral rights⁴⁰. Economic rights allow the owner of rights to derive financial reward from the use of his works by others, and “moral rights”, which allow the author to take certain actions to preserve the personal link between him and the work. This right still remains in the author even after transferring copyright to another person, thereby ensuring that the author is always acknowledged even after the sale of his economic right in the published work.

In order for a work to be eligible for protection, it must fall within these categories:

- i. Literary works
- ii. Musical works
- iii. Artistic works
- iv. Cinematographic works
- v. Sounding recording
- vi. Broadcasts

2.3.1 Literary Works⁴¹

For literary works, the Act provides that copyright in a work shall be the exclusive to do or authorize the doing of any of the acts provided under Section 9 of the Copyright Act. It must be original and fixed. It can be in form of:

- i. Novel, stories and poetic works
- ii. Plays, stage directions, film scenarios and broadcasting scripts
- iii. Choreographic works

³⁹*Plateau Publishing Ltd v Adophy* [1986] 4 NWLR (pt 34) 298. Also *University of London Press v University Tutorial Press Ltd* [1916] 2 Ch. 601

⁴⁰AO Oyewunmi, *Nigerian Law of Intellectual Property* (1st Ed) (Lagos: University of Lagos Press)

⁴¹ Section 2 (1)(a) Copyright Act

- iv. Encyclopedia, dictionaries, directories and anthologies
- v. Letters, reports and memoranda
- vi. Letters, Address and Sermons
- vii. Law reports, excluding decisions of converts
- viii. Written tables or compilations⁴²

In Nigeria, the Copyright Act provides that copyright in literary or musical works is the exclusive right to do and authorize the doing in Nigeria of any of the following acts: Reproduction of the work; Performance of the work in public; Production, reproduction, performance or publication or translation of the work; Making any cinematograph film or a record in respect of the work, by way of rental, lease, hire, loan or similar arrangement; Broadcasting or communication of the work to the public by a loudspeaker or any other similar device; Making adaptation of the work.⁴³

2.3.2 Musical Works⁴⁴

Any musical work, irrespective of the musical quality and includes works composed for musical accompaniment will be eligible for protection. The requirement of originality and fixation is also applicable for musical works, so if the musical work is in writing, it will contain the musical notes to differentiate it from ordinary literary works.⁴⁵

2.3.3 Artistic Works⁴⁶

Artistic works includes the following:

- i. Paintings, drawings, sketching, lithographs, woodcuts, engravings and prints
- ii. Maps, plans and diagrams

⁴² Adedeji A.A, 'Conceptual and Legal Framework for the Protection of Intellectual Property Rights' being a paper presented at the Nigerian Institute of Advanced Legal Studies, (July 18, 2016), p.7

⁴³ Section 9 Copyright Act.

⁴⁴ Ibid., Section 2(1)(b)

⁴⁵ J Philips, The Economic Importance of Copyright: *Common Law Institute of Intellectual Property* (1st Ed): (London) 1985 p.67

⁴⁶ Section 2(1)(c) Copyright Act

- iii. Works of sculpture
- iv. Photographs not comprised in a cinematograph films
- v. Works of artistic craftsmanship⁴⁷

The right owner has the exclusive right to reproduce the work in any material form of choice. Thus, in *Peter Obe v Grapevine Communications Ltd*,⁴⁸ the plaintiff, a professional photographer, successfully sued the defendant who had reproduced and published in its magazine, the plaintiff's photographic work without authorization.

2.3.4 Cinematograph Film⁴⁹

This is the first fixation of a sequence of visual image's capable of being shown is a moving picture and of being the subject of reproduction and with the recording of a sound track associated with the Cinematograph film. The owner of this right has exclusive rights to produce or make a copy of the film in any form he deems fit. Based on the era of digitalization and internet technology, uploading the film online is within the exclusive right of the owner.⁵⁰

2.3.5 Sound Recording⁵¹

Copyright in sound recording means the right to reproduction, broadcasting or communication to the public of the recording, as well as the distribution to the public for commercial purposes of copies of the work by way of rental, lease, hire, loan or similar arrangement. Thus, any form of unauthorized copying will constitute infringement.⁵²

2.3.6 Broadcast⁵³

Copyright in a broadcast is the exclusive right to manage the recording and rebroadcasting, as well as the communication to the general public by any of the

⁴⁷ Ibid., S. 108(1)

⁴⁸ [2003-2007]5 J.P.L.R 354

⁴⁹ Section 2(1)(d) Copyright Act

⁵⁰ Adedeji A (n19) 35

⁵¹ Section 2(1)(c) Copyright Act

⁵² Oyewunmi, (n19) 51-55

⁵³ Section 2(1)(f) Copyright Act

following means: wireless telegraph, wire or both, satellite, cable programs and rebroadcast. The broadcast may be of visual images, sounds or a combination of the two. The right owner also has the exclusive right to distribute to the public for commercial purposes or similar arrangement. Where a particular work is incorporated in an audio-visual work, the owner of the right to broadcast the work shall, subject to the provision of the Act, be entitled to an appropriate and fair compensation.⁵⁴

2.3.7 Copyright in Digital Contents

Digital technologies have played a key role in transforming the world, however, like a two-edge sword; it comes with a price to the owners of intellectual properties whose creative works in digital environment are under serious threat.

The law of copyright accords protection to computer software and this is to be found expressly in Section 108(1) of the Act,⁵⁵ which defines computer software or programs as; a set of statements or instructions to be used directly or indirectly to bring about a certain result.

Furthermore, the section defines computer software as an aspect of literary works. Hence, any provision of the copyright Act applicable to literary works is applicable to literary works is applicable to computer software.

Specifically, the Act brings significant benefits to creators, inventors and brand owners, especially those in the digital realm. It aims to balance the fair compensation of artists with the public's access to new works and information. Furthermore, the Act addresses the challenges faced by copyright holders in the digital sphere and empowers them to take legal action against online infringements.⁵⁶ Overall, the Act demonstrates a bold step in addressing the risks posed by technological advancements. More so, this is subjected to cases of computer software created as part of an employment duty in cases of contract employment, as held in *Joseph Ikhuoria v Campaign Service Ltd and*

⁵⁴ Ibid., Section 16(2)

⁵⁵ Copyright Act Op. Cit.

⁵⁶ In *NEC Corp v Intel Corp*, it was held that even though the computer programs were permanently stored in read only memory (ROM), the programs were still capable of copyright subsistence.

*Anor*⁵⁷, where the plaintiff's claim to entitlement to copyright in a work he created in the course of working for the defendant was dismissed by the court and the defendant was held to be entitled to the copyright work. The Nigerian Copyright Act confers the under listed scope of right in relation to digital works on copyright owners.⁵⁸

The right of production and reproduction, the right to control the distribution of copyrighted work and issuing of copies to the public, right of publication, and the rights to control the making of adaptation, which have been defined as the 'modification of pre-existing works from one genre to another, and consist of altering works within the same genre to make it suitable for different kinds of exploitation,⁵⁹ the right of translation, use for commercial purpose, right of public exhibition.

2.4 Gap in Literature

Despite growing scholarship, several clear gaps remain:

1. Limited Empirical Research in Nigeria:

It is no news that much of the scholarly work is doctrinal and lacks field-based or data-driven inquiry into the enforcement and patterns of infringement in Nigeria.⁶⁰

The effect of the Post-2022 Act Impact Evidence is that many studies predate the Copyright Act, 2022 or offer doctrinal summaries. There is little empirical evaluation of how Parts VI-VII (TP,s, RMI, online intermediary regime, blocking orders, repeat-infringer policies) are working in practice, example, takedown volumes, response times, litigation outcomes, deterrent effects etc.

There is need for empirical research and studies focusing on enforcement bottlenecks, user behavior, and institutional responses.

2. Lack of Focus on Emerging Technologies:

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⁵⁸ Ibekwe & Oko: *Emergency Issues In Copyright Protection Law For Digital Innovation In Nigeria*, IRLJ 2(1) 2020 p. 8

⁵⁹ Section 9-13 Copyright Act, Op. Cit.

⁶⁰ Adebambo MA, 'The Menace of Copyright Infringement in Nigeria's Digital Environment' (2015) 3 *Nigerian Journal of Intellectual Property* 121.

While global discourse includes AI-generated works, NFTs, and digital watermarking, Nigerian scholarship rarely addresses how these innovations affect copyright law.⁶¹

The regulatory gap widens as Nigerian law and academic inquiry lag behind technological developments.

3. Judicial Responses to Digital Infringement:

This is sparse analysis of Nigerian judicial attitudes to digital copyright cases.⁶² Many judges lack technical training, and the few available case law decisions rarely address cross-border or online infringement with sufficient depth.

Few published Nigerian decisions interpret the new online provisions (notice-and-takedown, identification orders, blocking measures, dynamic injunctions). Comparative insights exist, but local jurisprudence is still thin and evolving.

4. Comparative Deficiency:

The literature lacks sufficient comparative studies with jurisdictions that share Nigeria's socio-economic and technological context, such as Kenya and Ghana.⁶³

These comparisons could reveal best practices adaptable to Nigeria's context.

5. Weak Analysis of Public Awareness and Behavioral Factors:

Currently, there are but few studies that explore how cultural attitudes, digital literacy, and informal sector dynamics shape copyright infringement.⁶⁴

Yet, these factors are central to designing effective public awareness campaigns and policies.

6. Access and Equity Audits:

⁶¹ Okediji RL, 'The International Copyright System: Limitations and Exceptions in the Digital Age' (2006) 1 *UNESCO Series on Digital Rights* 9

⁶² Nigerian Copyright Commission v Obioma [2017] LPELR-41254(CA).

⁶³ T Owuama, 'Copyright Enforcement in Africa: A Comparative Review of Kenya and Nigeria' (2019) 4 *African Law Review* 77.

⁶⁴ E S Nwauche, 'Public Attitudes and the Enforcement of Copyright Law in Nigeria' (2018) 7 *Journal of African Law and Policy* 57.

Although the Act enhances exceptions (education, libraries, disability), there is little fieldwork on whether these provisions are operationalised, example, availability of accessible format copies, library licensing practices, educational copying norms and so on.

7. Border Measures and Cross-Border Cooperation:

Empirical work on customs enforcement against cross-border digital devices and signal piracy equipment is scarce, as is analysis of cooperation with foreign platforms and rights-hol

CHAPTER THREE

LEGAL FRAMEWORK FOR COPYRIGHT PROTECTION IN NIGERIA

3.1 Copyright Laws in Nigeria

In the world of Intellectual Property, copyright is at forefront of popular cognition, lying in rank with other widely known IPs like trademark and patent.

Copyright protection provides benefits in the form of economic rights which entitle the creators to control the use of their literary and artistic material in a number of ways such as making copies, performing in public and broadcasting, use on-line, etc to obtain appropriate economic reward.

Copyright infringement has posed a serious threat against the intellectual development in Nigeria in recent years. It is therefore a major call for concern among all the stakeholders in Intellectual Property industry, the devastating state of Nigeria's quest for copyright protection and the plight of the authors in the face of the challenging economy.

This chapter discusses the much needed legal framework for copyright protection in Nigeria and deliberates on the various institutions that stake in the implementation and enforcement of copyright laws in Nigeria.

3.2 Legal Framework for Copyright Laws in Nigeria

Here in Nigeria, like many countries of the world, in addition to international laws regulating intellectual property relations amongst civilized nations at international level, there are domestic laws that regulate relationship amongst individuals with regards to intellectual property, the following are various streams of laws that account for copyright protection and enforcement.

3.2.1 Constitution (CFRN 1999)

The 1999 Constitution of Nigeria is the foundational legal document governing all laws and institutions within Nigeria, including intellectual property rights such as copyright.

Although, it does not explicitly mention copyright or intellectual property rights, the Constitution contains provisions that directly and indirectly affect the protection of copyright and the enforcement of copyright laws.

The Constitution remains the fundamental law against which every other law derives its validity. Section 1(1) of the 1999 Constitution declares that the Constitution is the supreme law of the land and any law inconsistent with its provisions is void to the extent of the inconsistency.⁶⁵

This supremacy clause ensures that copyright laws, including the Copyright Act and subsidiary regulations, must conform to constitutional provisions, especially those protecting individual rights and due process. Also, the Constitution defines the scope of legislative powers between the federal and state governments in Nigeria. Under the Exclusive Legislative List (Second Schedule, Part I), the federal government has exclusive authority to legislate on intellectual property rights, including copyright.⁶⁶ By virtue of section 251(1)(f), the Constitution confers jurisdiction relating to copyright matters to the Federal High Court.

It is interesting to note that Part IV of the Constitution guarantees fundamental rights that have implications for copyright holders, creators, and users of copyrightable works.

i. Right to Property (Section 44): While the 1999 CFRN does not explicitly list intellectual property as property, the courts have recognized intellectual property rights as proprietary interests deserving constitutional protection.⁶⁷

Section 44 protects the right to acquire, hold, or dispose of property, subject to the law. This means that copyright, as a form of property right, is constitutionally protected against unlawful deprivation or interference.⁶⁸

ii. Right to Fair Hearing: This particular provision is enshrined in section 36 of the CFRN. The enforcement of copyright laws requires adherence to due process. Section 36

⁶⁵ Constitution of the Federal Republic of Nigeria 1999, s. 1(1)

⁶⁶ Constitution 1999, Second Schedule, Part I, Item 39.

⁶⁷ *Olaleye v Attorney-General of Ondo State* [1985] 1 NWLR (Pt 3) 523.

⁶⁸ Constitution 1999, s 44(1)

guarantees that anyone charged with an offence (including copyright infringement) is entitled to a fair hearing within a reasonable time by a competent court.⁶⁹ This ensures that accused infringers receive legal protection, balancing enforcement with individual rights.

iii. Right to Freedom of Expression: This is provided for in section 39 CFRN. Copyright law must also be balanced with the constitutional right to freedom of expression and information. Section 39 protects freedom of expression, including the freedom to receive and disseminate information.⁷⁰ Courts must carefully navigate between protecting creators' rights and not unduly restricting freedom of expression or access to information, especially in digital environments.

3.2.2 Copyright Act 2022

The Nigerian Copyright Act 2022 is the extant law regulating copyright issues in Nigeria. The Act provides for the protection of various categories of works. The Act brings significant benefits to creators, inventors, and brand owners, especially those in the digital realm. It aims to balance the fair compensation of artists with the challenges faced by copyright holders in the digital sphere and empowers them to take legal action against online instruments. Generally, the Act demonstrates a bold step in addressing the risks posed by technological advancements.⁷¹

It marks a transformative era in Nigeria's Copyright regime, aligning with international standards addressing the challenges of the digital age.

The new Act contains clauses that give copyright owners the authority to send out notifications of infringement for the removal or deactivation of links to illegal content.⁷² With regard to online content that violates copyright, the legislation gives the Nigerian Copyright Commission the authority to prohibit websites.

The Act specifies the types of works that are eligible for copyright protection, including

⁶⁹ Ibid., s 36(1)

⁷⁰ Ibid., s 39.

⁷¹ Section 25, Copyright Act Op. Cit.

⁷² Ibid., ss 54 and 55

broadcasts, audio-visual works, sound recordings, and literary and musical compositions.

The Act further maintains and empowers the regulatory agency, the Nigerian Copyright Commission to make regulations aimed at further enhancement of copyright protection in Nigeria. In furtherance of the power, the Commission has made several regulations to curtail the alarming rate of copyright infringement and piracy in Nigeria.⁷³

3.2.3 Subsidiary Legislations under the Copyright Act

The source of Copyright law also includes regulations made pursuant to the provisions of the Copyright Act, which are:

i. Copyright (Reciprocal Extension) Order 1972

The Copyright (Reciprocal Extension) Order 1972 had a significant impact on the development of copyright and intellectual property law in Nigeria, particularly in the context of international protection and compliance with global standards.

The Copyright (Reciprocal Extension) Order of 1972 was an order made by the United Kingdom government that extended the protection of copyright works to foreign companies, based on reciprocal agreements with those countries. This meant that works published in the UK could also be protected in those foreign countries and vice versa. The Order helped to promote and protect intellectual property rights internationally.⁷⁴

In Nigeria, Copyright (Reciprocal Extension) Order, is also known as the Copyright (International Organizations) Order. It is pursuant to sections 8 and 97 of the Act. Also, it provides for the extension of copyright protection for works from other countries that are members of the Berne Convention, the Universal Copyright Convention, or the World Intellectual Property Organization (WIPO) Copyright Treaty, among others. This allows for the protection of copyright works originating from

⁷³ U Uguru, and M Umbong, (2022) Appraising the Impact of the Nigerian Copyright Act and Regulations in Combating Piracy in Nigeria. *Beijing Law Review*, 13, 247-264, doi: 10.4236/blr.2022.132016.

⁷⁴ Copyright (Reciprocal Extension) Order 1972, available on https://ictpolicyafrica.org/cn/document/dt9g27ddid8_page=1 accessed 10th March 2023.

other countries that are members of these conventions in Nigeria, and vice versa.

Although Nigeria had joined the Berne Convention (1971), the 1972 Order reinforced Nigeria's commitment to international intellectual property norms, serving as an enabling domestic instrument to implement obligations under treaties like the Berne Convention and the Universal Copyright Convention (UCC).

Furthermore, the Reciprocal System promoted investment and collaboration in Nigeria's creative industries (music, literature, and film), knowing that copyright would be respected abroad as it was at home.

By clearly identifying countries and works entitled to protection under Nigerian law, the Order provided legal certainty for both local and foreign creators, facilitating smoother enforcement and rights across borders.

ii. Copyright (Video Rental) Regulation 1999

This Regulation like other regulations were made by the Commission pursuant to the power conferred on it under section 78 of the Act. Accordingly, the video rental regulation is designed to provide a mechanism through which legitimate cinematograph films in the video format can be made available for hiring without infringing the copyright provisions that prohibit the rental of works without prior authorization of the owner of the copyright in the film.

Summarily, the regulation requires that producers make available a rental copy of their films to rental outlets, which are expected to pay royalties in return. It also enables the Commission to oversee the activities of the video rental outlets and provides that these outlets be registered.⁷⁵

For instance, with Nollywood rapidly expanding in the 1990s, the regulations helped safeguard the economic interests of producers and distributors, encouraging further investment in film production. Also, the regulation empowered the Nigerian Copyright Commission (NCC) to regulate video rental activities ensuring registration and monitoring of rental outlets.

⁷⁵ Uguru, Op. Cit.

iii Copyright (Security Devices) Regulation 1999

This regulation is made pursuant to the powers conferred on the Commission by section 49 of the Copyright Act. The regulation deals specifically with Technical Protection Measures (TPM) used to safeguard copyright works, particularly in a digital environment. It is another regulation that has helped, to some extent, in fighting piracy in the movie and music industry in general. The regulation introduces the use of hologram stamps in relation to sound recordings and cinematograph films intended for sale, rental, hiring, lending or otherwise distributed to the public for commercial purposes in Nigeria. The hologram should be a tamper proof sticker and must be designated by the Nigerian Copyright Commission. Affixation is to be at the point of production or importation and it should be done in a way that will be easily visible to perspective purchasers. Both producers and importers may apply to the Commission to be accredited to affix holograms on their sound recordings or cinematograph films, and upon successful consideration, they shall be issued with certificate which shall be renewable annually. The regulation further establishes a Technical Implementation Committee saddled with the responsibility of supervising the administration of hologram.⁷⁶

Furthermore, it makes it illegal to manufacture, import, distribute, sell, or advertise devices or services that are primarily designed to circumvent TPMs and it applies to all types of copyrighted works, including literary, musical, dramatic, artistic works, films, broadcasts, and sound recordings.

iv. Copyright (Optical Discs Plant) Regulation 2006

The Copyright (Optical Disc Plants) Regulations, 2006 is a Nigerian regulation made under the Copyright Act, aimed at controlling the production of optical discs such as CDs, VCDs, DVDs, and similar media formats. It was introduced by the Nigerian Copyright Commission (NCC) to combat piracy and copyright infringement, particularly in the music and film industries.

This is one of the finest regulations in terms of content that the Commission has

⁷⁶ Uguru, Cit p.54

come up with in the recent times. The Regulation was made pursuant to section 97 Copyright Act.

The regulation came in response to rampant piracy in Nigeria's entertainment industry, especially in the early 2000s. Nigeria was a major market for pirated CDs and DVDs, leading to significant economic losses for creators and legitimate distributors. The regulation aligns with global anti-piracy efforts and helps Nigeria meet its obligations under international copyright treaties like TRIPS and WIPO Conventions.

v Copyright (Collective Management Organization) Regulation 2007

This regulation made pursuant to the power conferred on the Commission under section 88 of the Act, addresses the issue of collective administration. It regulates the registration, supervision, and operations of CMOs in Nigeria and ensures that rights holders receive fair remuneration for the use of their works.

This regulation requires that a company obtain a license from the Commission before practicing as a Collective Management Organization (CMO). For such license to be validly issued, an application must be brought in the prescribed manner and must also comply with the requirements of section 88(2) of the Copyright Act. This license may however be revoked and it can also be renewed.

The regulation also contains provisions on how the proceeds realized by any registered collecting society should be shared up: up to 70% of the amount generated can be shared among members while the remaining 30% can be used for running the activities of the society. The regulation provides that fair and equitable formula should be used in distributing royalties to members.

Collective Management Organization must submit annual reports and audited financial statements to the NCC. The users and rights holders may also report grievances to the NCC.

vi Copyright (Levy of Materials) Order 2012

The Copyright (Levy on Materials) Order 2012 is a subsidiary legislation made under the Nigerian Copyright Act. It deals with the imposition of levy on certain materials that are capable of being used to reproduce copyrighted works- often referred to as **blank media levy** or **private copying levy**.

It was enacted pursuant to the powers conferred to the Commission under section 80 of the Copyright Act. According to section 89(1), there shall be a paid levy on any material used or capable of being used to infringe copyright in a work.

The levy payable is determined by the Minister, and different levies may be imposed on different categories of materials. The Act further provides that the sum realized from the levy should be paid into a special fund of the Commission. It also gives the Commission the power to disburse the funds among approved CMOs in accordance with a formula that may be enacted in a regulation by the Minister.

Notable Differences between the Copyright Act 2004 and the Copyright Act, 2022

Unlike the old Copyright Act, the new Copyright Act 2022 starts off differently by stating its principal objectives in Section 1. In line with this section, the Act was enacted to protect authors' rights, provide appropriate limitations and exceptions to guarantee access to creative works, ensure Nigeria's compliance with international copyright instruments, and enhance the capacity of the Nigerian Copyright Commission (NCC) for effective administration and enforcement of the Act. Under Section 2(1)(d), the new Act replaces the term "cinematograph films" previously used in the old Act with "audiovisual works". This is a welcome adjustment as the term "audio-visual works" is broader in scope and extends to all forms of mechanical or electronic media, including films, television programs, video conferencing, and even live theatre productions and broadcast services.⁷⁷

Under the old Act, the level of expenditure of effort was required to be "sufficient" before literary, musical and artistic works would be eligible for protection. However, the

⁷⁷ A. Ademola, I. Ebiseni and N. Asuk, "An Overview of the Copyright Act 2022" (8 May 2023) *BusinessDay* available at <https://businessday.ng/news/legal-business/article/an-overview-of-the-copyright-act-2022/> (accessed 29 August 2023).

new Act changes this requirement to “some effort”.⁷⁸ Although the Act does not offer any interpretation to the term “some”, it appears Courts would no longer need to focus on whether the effort expended was sufficient or not.⁷⁹ Instead, the author would only need to prove that he has made an effort to create an original literary, musical, or artistic work. The sufficiency of such level of effort may not be considered by courts anymore.

Also, the new Act is now clear on works that would not be eligible for copyright protection. Section 3(a) provides that “ideas, procedures, processes, formats, systems, methods of operation, concepts, principles, discoveries or mere data” are ineligible for copyright. Additionally, no one may have copyright over official texts, of a legislative or administrative nature and official state symbols, including anthems, coat of arms, flags, and banknote designs.⁸⁰ Although this provision was not present in the old Copyright Act, Nigerian courts have often excluded these ineligible works from copyright protection since they do not align with works eligible for copyright under Section 1 of the old Copyright Act. The Copyright Act, 2022 therefore reinforces this rule as pronounced by the courts.

Another significant distinction between the old Act and the new Act can be seen in the issue of fair dealing.

Here, the 2022 Act now stipulates specific requirements to assist Nigerian courts in assessing the fair dealing defense. These factors include “the purpose and nature of the usage, the characteristics of the work, the quantity and significance of the portion used in relation to the entire work, and the impact of the usage on the potential market or value of the work”⁸¹

There is no doubt that this provision incorporates the “fair use” doctrine which is applicable in the United States of America (USA) copyright system. In line with Nigeria’s

⁷⁸ Copyright Act, 2022, s. 2(2)(a).

⁷⁹ See Eke *et al*, ‘A Review of the Nigerian Copyright Act 2022’ (2023) available at <https://spaajibade.com/a-review-of-the-nigerian-copyright-act-2022/> (accessed 29 August 2023)

⁸⁰ *Ibid.*, s. 3(b)-(c)

⁸¹ *Ibid.*, s. 20(1)(a).

adoption of the Marrakesh Treaty,⁸² Section 26 of the new Act allows an authorized entity to, without the consent of the copyright owner, reproduce copyrighted works in formats accessible to persons with disabilities, such as those who are blind, visually impaired, or have a perpetual or reading disability, or for non-profit purposes. Under the old Act, this exception was only applicable to blind persons.⁸³

Another notable distinction between the old and the new Act is in terms of registration of copyrighted works. In contrast with the old Act which mandates the NCC to maintain a “data bank” on authors and their works,⁸⁴ the new Act requires the NCC to maintain a “Register of Works”.⁸⁵ Additionally, the new Act provides that an author must lodge their work with the NCC in order to benefit from the presumptions of registration under section 43 of the Act, in an action for copyright infringement. However, the old Act contained no provisions as to these presumptions. As specified by Section 87(4) of the new Act, the Register serves as evidence of the work and the particulars, and any certified extract from the Register by the NCC is admissible as evidence in legal proceedings without the need for further proof or the production of the original material.

Innovative Provisions of the Copyright Act, 2022 on the Protection of Copyright

The Copyright Act 2022 contains novel provisions relating to anti-piracy and the protection of creative works in the digital space. These provisions are elucidated below:

i. Protection of Online Content

One major challenge of the old Act was that it did not explicitly protect the digital works of copyright owners. However, the new Act addresses this by providing express provisions to protect creative content in the digital space. Unlike the old Act, which restrict the definition of “Copy” to a reproduction in “material form”⁸⁶ the new Act

⁸² WIPO, Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired or Otherwise Print Disabled (adopted 27 June 2013) available at <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-218.pdf> (accessed 29 August 2023)

⁸³ Copyright Act 2004, para. S of the 2nd schedule.

⁸⁴ *Ibid.*, s. 34(3)(e).

⁸⁵ Copyright Act, 2022, s. 87(1)

⁸⁶ Copyright Act, 2004, s. 51

defines the term to mean “a reproduction in any form, including digital copies”⁸⁷ This definition is broad enough to bring all forms of reproduction within the purview of the new Act, including digital copies of the work. Furthermore, by replacing the term “cinematograph film” with “audiovisual work the new Act expressly recognizes digital works, as the latter term is broader in scope and can be extended to the digital space.

Additionally, the new Act dedicates an entire part to the protection of online content by online service providers. Section 54 of the Act provides that a copyright owner may issue a written notice to a service provider to take down or disable access to an infringing content based on its network. Upon receiving this notice, a service provider shall promptly inform the person responsible for the posting of the content and shall expeditiously remove the infringing material.

Aside from the duty to take down infringing content, service providers are also legally obliged to prevent such content from being reloaded on the platform. In the event the infringing content is reloaded despite the best efforts of the service provider, it should be promptly removed without notifying the subscriber.⁸⁸

ii. Powers of the Nigerian Copyright Commission (NCC)

The Copyright Act 2022 has granted broader powers to the NCC, including the right to make regulations “specifying the conditions necessary for the operation of a business involving the production, publication, public exhibition warehousing and other dealings with a work in which copyright subsists”⁸⁹

The NCC also has the power to prescribe fees for any transactions, or fines for any breach of the Act or regulations made by the Act.⁹⁰

iii. Circumvention of Technological Measures

In light of the prevailing threats of digitalization on online content, the new Act safeguards copyrighted works by explicitly prohibiting a person from knowingly

⁸⁷ Copyright Act, 2022, s. 108

⁸⁸ Copyright Act, 2022, s 55(4)

⁸⁹ Copyright Act, 2022, s. 97(1)(a)

⁹⁰ *Ibid*, s. 97(1)(b)

circumventing a technological protection measure (TPM) that effectively protects a copyrighted work.⁹¹

According to section 50 of the new Act, a TPM is any technology, device, or product incorporated into a copyrighted work to prevent infringement. This measure effectively protects a copyrighted material if it controls access to the work or prevents acts in respect of the work which are not authorized by the copyright owner or permitted by law.⁹²

However, it should be noted that this does not extend to measures which, in the ordinary course of their operation, only control access to a copyrighted work for non-infringing purposes. Based on Section 50(3)(b) of the Act, TPM circumvention can take the form of avoiding, bypassing, removing, deactivating, decrypting, or impairing a technological measure incorporated into a copyrighted work. These actions, therefore, amount to copyright infringement when done without the consent or lawful authorization of the copyright owner.

Notwithstanding, the new Act provides some exceptions where circumventing a TPM will be lawful. For example, a non-profit educational institution that uses TPM circumvention to gain access to copyrighted material within the bounds of fair dealing will not be in breach of the Act.⁹³ Also, Section 50(6) of the Act provides that circumventing a TPM is permissible when done for a lawfully authorized investigation, information security, intelligence activity, or computer security measures. In situations where TPMs have been circumvented, the copyright owner may institute an action to seek redress for damages, account of profits, or injunction.⁹⁴

Additionally, any person found guilty for making or importing technology for TPM circumvention would be liable to a fine of at least 1,000,000 naira or imprisonment for a term of at least five years or both.⁹⁵

⁹¹ *Ibid*, s. 50(1)

⁹² *Ibid*, s. 50(3)(c)

⁹³ *Ibid*, s. 50(4)

⁹⁴ *Ibid*, s. 52(1)

⁹⁵ *Ibid*, s. 52(3)

3.2.4 International Instruments

International law is another source of copyright legal framework, which provides the legal platform for cross-border protection. Even at international level, the main purpose of copyright protection is to ensure due fairness to authors and owners of work. Article 27 Universal Declaration of Human Rights states that:

“Everyone has the right to the protection of the moral and material interests resulting from scientific, literary or artistic production of which he is an author.

Nigeria is a signatory to the following conventions and treaties on Copyright.

i. Berne Convention of 1886

The first international copyright convention held in Berne, Switzerland in 1886 and resulted in an agreement called the Berne Convention for the Protection of Literary & Artistic Works (commonly known as the Berne Convention).

Most of the major countries in the world are members of the Berne Convention and it is consequently the single most important copyright treaty.

Nigeria acceded to the Berne Convention for the Protection of Literary and Artistic Works in 1993. The Convention enshrines the principle of “national treatment”, under which foreign authors are granted the same copyright protection as domestic authors.⁹⁶

It also ensures automatic protection without the need for formal registration and introduces minimum standards for copyright duration and scope.⁹⁷

ii. Universal Copyright Convention (UCC)

The Universal Copyright Convention (UCC) is another international copyright treaty which many countries including the United States belong to. The UCC is similar to the Berne Convention except that it allows member countries to require some formalities as conditions to copyright protection.

⁹⁶ Berne Convention for the Protection of Literary and Artistic Works (Paris Act 1971), art (5)(1)

⁹⁷ Ibid, art(5)(2)

However, the UCC's importance has diminished since most member countries are also members of the Berne Convention which provides for greater protection.

iii. WIPO Treaties 1998

The World Intellectual Property Organization (WIPO) is an agency of the United Nations, which works toward increasing international legal protection for copyright and other intellectual property.

In 1998, WIPO drafted two treaties designed to ensure some degree of protection to copyrighted works in the digital environment.⁹⁸

Nigeria is also a signatory to the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). These treaties provide additional protection for digital works, including provisions against the circumvention of digital works and unauthorized distribution over the internet.⁹⁹

The treaties also introduce exclusive rights of communication to the public, reflecting the digital shift in copyright usage.¹⁰⁰

iv. Other Conventions

Another important step towards a strengthened international copyright protection was the World Trade Organization on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement). It was signed in Marrakesh in 1994.

The TRIPS Agreement obligates member states to adopt minimum standards for the protection and enforcement of intellectual property rights, including copyrights.¹⁰¹ It also addresses enforcement in both traditional and digital forms, requiring effective legal remedies and dispute resolution mechanisms¹⁰².

The TRIPS Agreement covers areas such as copyright and related rights, trademarks,

⁹⁸ Information provided by an AI assistant named Roboro, created by Roboro Company. Accessed 13/4/23

⁹⁹ WIPO Copyright Treaty 1996, art 11.

¹⁰⁰ WIPO Performances and Phonograms Treaty 1996, art 18.

¹⁰¹ TRIPS Agreement 1994, art 9-14.

¹⁰² Ibid, art 41-61.

geographical indications, industrial designs, and patents, among others.

3.3 Institutional Framework

3.3.1 The Nigeria Copyright Commission (N.C.C)

The Copyright Act established the body called “Nigerian Copyright Commission” in 1996 and confers on it wide mandate which includes regulation and enforcement of copyright.¹⁰³

The Nigerian Copyright Commission is the primary enforcement agency for copyright in Nigeria. Established under Section 53 of the 2022 Act, the NCC is empowered to monitor compliance, undertake investigations, prosecute infringers, conduct anti-piracy operations, and provide public education on copyright.¹⁰⁴

It also operates a voluntary copyright notification scheme, which, while not constituting proof of ownership, helps to facilitate dispute resolution.¹⁰⁵

As provided in the Copyright Act, the Commission is responsible for all matters affecting copyright in Nigeria, monitor and supervise Nigeria’s position in relation to international conventions and advise government thereon; advise and regulate conditions for the conclusion of bilateral and multilateral agreements between Nigeria and other country; enlighten and inform the public on matters relating to copyright; maintain an effective data bank on authors and their works and be responsible for such other matters as related to copyright in Nigeria as the Minister (who is interpreted as Minister responsible for culture).¹⁰⁶

In similar vein, the commission apart from regulating and enforcing Nigeria’s copyright laws works with existing law enforcement or regulatory agencies and designate individuals to act as copyright inspectors on the one hand, and collecting societies on

¹⁰³ Section 77 Copyright Act Op. Cit.

¹⁰⁴ Copyright Act 2022, s 53.

¹⁰⁵ *Ibid*, s 55

¹⁰⁶ I O Adeyemi, *Copyright Issues in Nigeria: Analysis of the Nigerian Copyright*, International Journal of Knowledge, Content Development and Technology; Chungju Vol. 10, Iss. 1, (2020): 71-82 Doi: 10.5865/1JKCT.2020.10.1.071

the other hand.¹⁰⁷

Copyright inspectors are responsible for enforcing copyright laws in Nigeria, this can involve investigating copyright infringement, prosecuting copyright violators, and educating the public about copyright laws and the importance of respecting intellectual property rights. In terms of collecting societies, the Commission works to ensure that these organizations are properly registered and comply with the requirements in the Nigerian Copyright Act.

3.3.1.1 The Nigeria Copyright Commission (N.C.C) and the Fight against Copyright Infringement

The Nigerian Copyright Commission established under the Act¹⁰⁸ is the only government agency responsible for copyright administration in Nigeria. The mandate of the Commission (NC) includes administration, enforcement and regulation of copyright activities in Nigeria, of which fight against copyright infringement and piracy is inclusive. The Nigerian government has adopted a zero tolerance for acts of copyright infringement, the copyright Act in its wisdom provides for anti-infringement measures to assist the commission effectively and efficiently to carry out its functions.

Interestingly, the commission has secured most conviction against accused persons through the court system. Such conviction include *NCC v Oba Okechukwu*¹⁰⁹ where the accused was charged with the sell and possession of local and foreign musical and cinematography films which is contrary to Section 20(2)(a) and (c) of the Nigerian Copyright Act. The Federal High Court Abuja sentenced the accused to 3 months imprisonment and a fine of 12,600 naira, and the infringing copy handed over to the NCC. Also, the same decision was given by the court in *NCC v Dominion Kalu*¹¹⁰.

The NCC in addition to proper implementation of their duty enshrined in the Act also sets out policy initiatives and strategic plans in their mission and vision of curbing copyright infringement. This can be illustrated in their bid to provide avenue for

¹⁰⁷ *Ibid.*, section 88

¹⁰⁸ Copyright Act op cit, S. 34

¹⁰⁹ [2012]55 NIPJD (FHC)

¹¹⁰ [2012]55 NIPJD (FHC)

rebranding the ideology of Nigerians towards the evil called Copyright Infringement.

There is no gainsaying that the fight against copyright infringement has not been an easy task for the NCC, it has been fraught with various challenges, hence the need for the discourse below:

3.3.1.2 Challenges of the NCC in the Fight against Copyright Infringement:

The NCC like any other body entrusted with some responsibilities, has some challenges. This is seen in its fight against copyright infringement. These challenges include:

i. Poor Financing

The NCC by its function and enforcement procedure needs adequate fund to operate and carry out its responsibilities efficiently. Sadly, and surprising too, the NCC is not adequately funded. This automatically hinders necessary and comprehensive investigations and reduces the quantum of information gathered and as a result affects the commission's optimum performance.

ii. Corruption

Some of the NCC officials who are charged with the responsibility of carrying out raids on infringed works are corrupt, so are compromised by infringers and pirates. The officers at times have private dealings and transactions with the infringers, and consequently, they deliberately refuse or find it difficult to find them out.

iii. Enforcement

Effective enforcement of intellectual property laws is a key to curbing copyright infringement, consequently, the position and role of law enforcement agencies like the police, army customs and officers of other relevant government agencies is crucial. In most developing countries like Nigeria, these personnel are faced with various challenges such as; poor understanding of the issues involved; poor training; poor funding of enforcement activities and so on. Also, delays in the judicial system and lack of transparency in the enforcement system discourage copyright litigation and enforcement. This lack of transparency is as it affects right holders, for they are

generally in the dark about the cases and ongoing investigations.

iv. Culture

Culture is the way of life of the people within a given community. Culture of the people is a strong factor or challenge militating against the enforcement of anti-infringement measures, because the way and manner people behave affect their lives and will definitely determine the extent of the behaviour of the NCC officials who are on anti-piracy raids.

For example, in the hinter-lands where the people patronize and are used to buying pirated copies of works at reduced prices, it would definitely be difficult to convince them about the negative impact of piracy.

v. Information and Communication Technology (ICT)

ICT is the world leading technology today, it includes the Internet. The Internet is a global network; it is a network of computer networks and has made the world to become a global village. The Internet by its very nature has vast information in it and various activities take place on the Internet including crimes and torts. Copyrighted works uploaded on the Internet are copied with impunity. It is always common to see surfers at the cyber cafes or in their houses or offices, with few clicks on their computer distributing a copyrighted work to the entire world. Some even download the works and sell them. This anomaly must be checked.

However, to check the above, the NCC officials must be ICT compliant. The commission should train their officers on ICT, so as to use their expertise to curb copyright infringement and piracy on the net. Most of the NCC officials are not computer literate. Each of them should have a functional computer connected to the globe network, the Internet, so as to go through the Internet from time to time detecting infringers.

vi. Favoritism

This is a cankerworm that has eaten deep into the fabrics of the Nigerian society. A competent official who is good in a particular area of fighting infringement may be left

out and the incompetent official sent, because he or she is related to a high ranking person in the government of Nigeria. This definitely hinders successful raids. The NCC and its officers, including the government must be firm in this fight and do it without fear or favor.

3.3.2 Nigerian Police Force

The role of the Nigerian Police as a regulatory institution of copyright is the area of enforcement of laws. The role is particularly relevant as it relates to the provision of the Copyright Act in respect of criminal liability for copyright infringement.¹¹¹

The Copyright Act provides for criminal offences in respect of copyright. It also provides for criminal liability in respect of performer's rights. The Nigerian Police Force has the power to investigate any complaint of infringement that is criminal in nature and institute a criminal proceeding against such infringer.

The power of the Police to prosecute is derived from Section 23 of the Police Act and has been upheld by the courts. In *Federal Republic of Nigeria v Osahon*¹¹², the Supreme Court upheld the power of the police officers under Section 23 of the Police Act to prosecute in superior courts so long as they have right of audience in such a court as legal practitioners by virtue of being called to the bar. In *Olusemo v Commissioner of Police*,¹¹³ it was held that the Police had powers to institute criminal proceedings notwithstanding the powers of the Federal and States Attorneys Federal under the Constitution.

The enforcement of copyright law also involves cooperation with the Nigerian Police Force and the Nigerian Customs Service, particularly in raiding piracy hubs and intercepting infringing materials at ports and borders.¹¹⁴ These agencies work in conjunction with the NCC and have legal authority under the Copyright Act to arrest and prosecute infringers.

¹¹¹ Ibid

¹¹² (2006) 5 NWLR (Pt 973) 261

¹¹³ (1998) 11 NWLR (Pt 575) 547

¹¹⁴ Ibid, s 54

3.3.3 Nigeria Custom Service

The continued importation of pirated materials into Nigeria will obviously throw both creators and those working in the creative and entertainment industry out of job. The Nigerian Custom Service can act to prevent the importation of infringing copies of Copyright works in Nigeria. One of the pre-emptive measures a copyright owner may take to forestall the entry of infringing materials into the market is to have such infringing copies stopped at the point of entry into the country.

Regulations were made towards giving of notice about entering Nigeria towards the ports. The last Regulation made was the Customs and Excise (Copyright) Regulation 1973.¹¹⁵ The Regulations are saved as subsidiary legislation.

¹¹⁵ The Regulations were made pursuant to Section 15(5) of the 1970 Copyright Act

CHAPTER FOUR

CHALLENGES FACING THE PROTECTION OF COPYRIGHT IN NIGERIA

The general problem with copyright law is that in spite of its existence, the incidence of copyright infringement continues to be the order of the day. Copyright protection faces many challenges in Nigeria, just like in many other countries.

This chapter undertakes an in-depth review of existing challenges posed to the protection of copyright in Nigeria.

4.1 Crucial Internet and Digital Challenges Confronting Nigeria's Copyright System

4.1.1 Copyright Piracy

Copyright piracy has been recognized globally as constituting a serious threat to creative arts and creativity generally. It involves unauthorized copying, sharing, or distribution of copyrighted digital content.

The activities often facilitated through torrent websites, file-sharing platforms, peer-to-peer networks and artificial intelligence systems, undermine the rights of data, content creators and leads to significant financial loss for industries.

Its far-reaching consequence affects both copyright holders and consumers, resulting in substantial financial losses for content creators and writers, because pirated copies are readily available for free or at a fraction of the legitimate price.

Copyright piracy can also lead to decreased investments in innovation and new content creation, ultimately harming the overall quality and diversity of digital content. From a legal perspective, copyright infringement through digital piracy can lead to lawsuits, fines, and penalties for individuals or entities caught engaging in such activities.

The damaging effect of piracy is visible all around us; the waning zeal for creativity; the death of well-researched textbooks and reading materials in the education sector; the diminishing of the artistic and literal quality of our stage performance and the increasing colorless and uninspiring products in the visual arts. Expectedly, investors

are way and the younger generation is no longer encouraged to pursue careers in the arts and entertainment industry. We all are confronted by an attack on our culture and future as a people. We are faced with the reality of a decline in economic resources as a nation. It is in recognition of the importance of creative arts, intellectualism, and the negative and damaging effect of piracy that the Nigerian Copyright Commission (NCC) seeks to fight piracy and other forms of copyright infringement to a halt.¹¹⁶

Combating copyright piracy should be a significant focus for governments, organizations and creators and requires an efficient framework that combats the challenges faced by copyright in Nigeria.

4.1.2 Digital Alteration and Manipulation:

The seamless transformation of digitalized content poses potential challenges in upholding moral rights, particularly concerning issues such as failure to attribute the correct author, false claims of authorship, and maintaining the integrity of the original work.

Addressing concerns about alterations to a work is complex; especially regarding preserving the original creator's integrity. The moral right against derogatory treatment is pivotal here.

Digital manipulation, while encouraging innovation, also holds the potential to harm an altered content's quality.

4.1.3 Downloads and Uploads of Works:

The digital and internet revolution has introduced a substantial challenge to copyright through the widespread practices of downloading and uploading content. Downloading refers to the act of obtaining digital files (which may be copyrighted) onto a personal device. Illegal downloading can severely impact the income and control of content creators and authors, as their works are distributed without compensation or

¹¹⁶ KE Ikenga Oraegbunam, *'Literary Work and Enforcement of Copyright in Nigeria'*, Business Law Review, Nigerian Journal of Business and Corporate Law, Vol 1, No.3, October 2010, pp. 48-71.

permission. Thus, in *A&M Records Inc v Napster Inc*¹¹⁷, the court ruled that a file sharing and download platform facilitated widespread and copyright infringement and held the company accountable for contributory and vicarious copyright infringement.

Uploading on the other hand, involves placing content from a personal device onto the internet. This process, while often associated with sharing personal content, can lead to copyright violations when individuals share copyrighted materials without the permission of the original creators or copyright holders.

Blog owners frequently upload various content such as pictures, music, videos, articles and books, much of which may be copyrighted¹¹⁸.

4.1.4 Frontier Technologies:

Frontier technologies such as Artificial Intelligence (AI,) block chain, VR, and IOT are quickly reshaping the digital landscape but also introducing challenges for copyright infringement. These innovations, while transforming content creation and sharing, pose great concerns due to potential copyright infringement in the digital realm.

One pressing issue is determining whether AI should be patented or copyrighted. Additionally, there are problems encountered while addressing ownership challenges as identifying the owner of AI-assisted work-whether the data provider, AI model developer, or AI owner- is crucial. The concept of a “person skilled in the art” might also change due to widespread AI use.

Therefore, current Intellectual Property rights provisions must adapt to AI-generated inventions, especially concerning copyright duration when the author is AI. Another concern involves potential IP risks linked to data used to train generative AI, the AI’s innovative process, and its outputs. For example, where these data were sourced online without proper copyright licenses or simply repurposing datasets for AI training, then such involves unauthorized copying of copyrighted works; such as *Getty Images (US), Inc. v Stability AI, Inc*¹¹⁹ where Getty Images claims that Stability AI copied photographs

¹¹⁷ [2001] 9th Cir 239 F.3d 1004

¹¹⁸ CS Kian & RY Meng, *E-Commerce Law* (Singapore: Time Book International, 2001) 45

¹¹⁹ [2023] D. Del 1:99-mc-09999 <https://docs.justia.com/cases/federal/isrict->

from its website and used over 12 million images and associated metadata to train Stable Diffusion.

Generative AI users may also depend on an AI developer's training process, which can sometimes be flawed. In a noteworthy legal case involving Microsoft, GitHub (a Microsoft subsidiary), and OpenAI, the plaintiff anonymous programmers collectively alleged that the defendants' AI system inadvertently replicated their code repositories during its operations.¹²⁰ AI-generated outputs produced in response to user prompts may also infringe upon intellectual rights, especially when trained on limited datasets.

4.1.5 Scanning:

This involves converting physical documents or images into digital formats, potentially including copyrighted text, images, or content.

While scanning itself is not copyright infringement, sharing or reproducing scanned copyrighted material without permission can lead to infringement. Unauthorized distribution or reproduction of copyrighted content obtained through scanning, especially when shared online or used without appropriate authorization may violate the rights of the original creators or copyright holders.

4.1.6 File Sharing:

Peer-to-peer file sharing involves the transfer of digital files between computers using the internet or data.

Earlier storage methods like floppy discs, pen drives, CDs and DVDs offered various storage capacities.

However, contemporary digital and internet file sharing networks allow direct exchanges among computers, enabling speedy copyright infringement via platforms like BitTorrent and LimeWire. Legal and technological efforts like Digital Rights Management (DRM) aim to curb this issue, but the evolving internet nature poses an ongoing challenge in

[courts/delaware/1:2023cv00135/81407/1accessed](https://courts.delaware/1:2023cv00135/81407/1accessed) 27th August 2023

¹²⁰<https://githubcopilotlitigation.com/pdf/06823/1-0-github_complaint.pdg>

balancing content access and creators' rights.

4.2 Challenges Faced by the Nigerian Copyright System in the Protection of Copyright

Despite the revision of Nigeria's extant 2022 copyright framework, there still exist notable gaps and criticisms in the way the framework addresses modern digital challenges. More so, relating to cross-border copyright infringement, there is need for unanimity on applicable treaty that binds countries over multi-jurisdictional infringements.¹²¹

4.2.1 Poor Financing:

Insufficient funding hampers the Nigerian Copyright Commission (NCC) in executing effective duties, impacting investigations, technology adoption, and combat against digital infringement, limiting its operational efficiency. The funding constraints impede the development of advanced systems required to counter emerging piracy methods, affecting investigation depth and scope, and hindering the adoption of modern technologies to rack various digital infringements.

Budgetary constraints limit the NCC's ability to acquire and employ advanced tracking technology. Consequently, in a case dealing with a site streaming copyrighted movies, their restricted resources impede swift action against such infringements. Hindered by funding limitations, the commission struggles to develop effective investigative tools, hampering their fight against such infringements.

Nigeria's Nollywood arguably, is the third biggest in the world and the lucrative nature of Nigeria's music industry means the government needs to increase its budgetary allocation to the Commission to allow it act as a regulator in the creative industry, thereby creating conducive environment for entertainers to generate wealth, which the government can in turn tax.¹²²

¹²¹ A Bennett & S Granata, *When Private international Law Meets Intellectual Property Law: A Guide for Judges* (WIPO and the HCCH, 2019) p 15

¹²² Genevieve Nnaji ranks the top richest Nollywood actress in 2024 with net worth of \$15 million, followed by Funke Akindele's \$11 million net worth, made from their blockbuster movies in the cinemas and on Netflix.

4.2.2 Indirect Digital Infringement:

Digital and internet infringements frequently occur indirectly because of the intricate and expansive nature of the internet.

Users might not directly commit the infringement themselves but may facilitate it by sharing, distributing, or allowing unauthorized access to copyrighted materials, leading to indirect involvement in the infringement.

Unfortunately, Nigeria's current copyright framework does not expressly make any imposition of crime on any person other than a direct infringer.¹²³

4.2.3 Lack of Recorded Progress in Combating Online Infringement:

In Nigeria, little progress is observed in tackling online infringement, a notable shortfall in addressing digital copyright challenges.

Despite efforts and laws, weak enforcement persists, and this is evident in widespread online piracy with unauthorized content available. This hampers creators' rights and the growth of Nigeria's creative industry. Actress Toyin Abraham stumbled on a movie titled 'Malaika' she shot with close to five hundred million naira on a social media platform shortly after it was released to the cinema on December, 2023. Imagine the trauma, and she was hospitalized owing to that ugly experience.¹²⁴

4.2.4 Tracing Digital Copyright Infringers:

In Nigeria, the lack of tools to track digital infringers poses a significant challenge, hindering swift and effective action against online piracy. Operating virtually and anonymously, infringers make it hard to identify and enforce copyright laws online.¹²⁵

For online copyright enforcement to be effective there should be a system in place to

¹²³ N Iguh and O Anyanor, 'The Impact of Technology and the Use of the Internet on Copyright Enforcement in Nigeria' [2023] 14(2) *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 7

¹²⁴ <https://www.scrollreport.com/2024/01/actress-toyin-abraham-landed-in-hospital-after-movie-leaked-online/> accessed 27th August 2025.

¹²⁵ B Lehman *et al*, *Intellectual Property and the National Information Infrastructure: The Report of the Working Group on Intellectual Property Rights* (Information Infrastructure Task Force, 1995) 131

link each infringing account to a specific physical location or jurisdiction.¹²⁶ This would aid law enforcement in acting against infringers and discouraging future violations, needing substantial collaboration between governments and internet providers. In legal cases on internet infringements, challenges arise in identifying infringers and gathering evidence to prove their involvement. Obtaining digital evidence is essential for court proceedings, although it usually stays in digital form until admissible in court.

4.4.3 The Problem of Digital and Electronic Evidence:

The Evidence Act 2011 requires a certificate of authenticity for computer-generated evidence to be accepted in court.¹²⁷

The certifier for digital evidence needs personal knowledge about the data fed into the computer. Both the accuser and the accused often lack information on who uploaded the copyrighted content, making the Author or Publisher a crucial witness. Testifying becomes challenging if the Author resides in another country. The witness' physical presence is necessary, creating hurdles in proving the cases based on evidence.

The problem with technological evidence subsists. In the case of *FRN v Senator Ndume*,¹²⁸ the Judge ruled that DVDs, recorded from a device, are considered secondary evidence. This means that the usual rules for certifying public documents may not apply to electronic evidence like DVDs, as they are not ordinary documents.

Also, the case of *FRN v Abdul*¹²⁹, highlighted the challenges in dealing with emails found in cyber cafes. The court acknowledged the complexity of email technology, emphasizing the need for an expert witness to explain how it was and concluded that traditional definitions of possession might not adequately cover situations involving electronic mailboxes and documents.

Finally, in *Dr. Imoro Kubor & Anor v Hon. Seriake Henry Dickson & Ors*¹³⁰, the Supreme

¹²⁶ WIPO, 'The Impact of Technology on Copyright Enforcement' WIPO Seminar for Asia and Pacific on the Internet and the Protection of Intellectual Property Rights 1998.

¹²⁷ Nigeria Evidence Act 2011, Section 84.

¹²⁸ [2022] LPELR-58272 (CA)

¹²⁹ [2007]5 EFCLR 204 at 228

¹³⁰ [2012] LPRLR-SC 369/2012

Court emphasized that to present a computer-generated document as evidence, it is necessary to provide detailed evidence on how the computer was used, aligning with the conditions specified in Section 84(2) of the Evidence Act, 2011.

However, concerning these challenges, certain provisions of the Evidence Act 2023 have taken care of issues related to Computer-Generated Evidence in that there are now inserted provisions into the Evidence Act, 2011 which introduces electronic records, digital signatures, electronic oath taking, electronic gazettes, and also provisions on admissibility of digital records.

Nevertheless, there are lingering concerns regarding the practical enforcement of the outlined provisions. The ICT proficiency of judicial officers and public awareness poses potential obstacles to achieving the intended outcomes of the recent amendments. It is important to recognize that having a law in place is only one aspect; the critical factor lies in the capacity to effectively implement and enforce the stipulations it entails.

4.4.5 Poor Enforcement Mechanisms:

Widespread ¹³¹ access to unauthorized content, lack swift action against infringers, and unregulated platforms continue to compromise creator's rights and stifle industry growth. In developing countries like Nigeria, law enforcement faces issues such as limited understanding, inadequate training, funding and essential tools¹³²

There is also a troubling perception among the public and sometimes within the judiciary and law enforcement agencies that piracy is a minor offence with few genuine repercussions. According to the International Intellectual Property Alliance (IIPA), the police show limited commitment and the Economic Financial Crimes Commission (EFCC) tends to view copyright issues as secondary to their primary mandates. This apathy hampers further move into enforcement of digital anti-piracy measures.

4.4.6 Poor ICT Knowledge:

¹³² NCC, *Survey of Nigerian Copyright Piracy* (Abuja : Nigerian Copyright Commission & Food Foundation, 2008) 3

Limited digital literacy presents a critical vulnerability in protecting IP. Judicial officers' lack of understanding in digital technologies complicates the adjudication of copyright infringement cases. Copyright owners also struggle with a lack of digital expertise, making them vulnerable to online exploitation and infringement of their content.

Lack of ICT expertise in copyright commissions hinders efforts against copyright infringement. This gap affects tracking online piracy, leading to difficulties in handling new platforms and cyber forensics, impacting their ability to counter copyright infringement effectively.

4.4.7 Inadequacy of Digital Anti-Piracy Implementation Tools:

Nigeria's Copyright Act addresses digital piracy and copyright infringement, but its implementation lacks effective technological tools to combat online infringement. Unauthorized sharing of a local artist's music on various platforms without proper licensing is an example of the system's limitation.¹³³

Current anti-piracy methods while useful in some cases are inadequate for the vast digital landscape. Strengthening digital tools is essential for better protection of creators and their work in the online sphere.

4.4.8 Liability of Service Providers:

Nigeria's copyright framework largely shields service providers from liability, conditional upon their expression of good faith¹³⁴. This places a significant burden on the copyright owner, as non-compliance by service providers carries few severe consequences or legal penalties.

Furthermore, the prescribed procedure for reporting violations to the service provider, as outlined in the Act, is complex and discouraging, and would compel copyright owners to

¹³³ Example is Actress Toyin Abraham experience, stumbling over her 500 million naira worth of movie over the internet.

¹³⁴ Nigeria Copyright Act, Section 58

seek resolution through the legal system¹³⁵. It has been advocated that creating a dedicated committee within the Commission or establishing a specialized agency under the Minister's oversight could proactively monitor service providers in the digital technology sphere.¹³⁶

4.4.9 Other Factors:

Other factors include inadequate financial empowerment of agencies and their collaborators especially government parastatals are grossly inadequate.

The agencies are mostly starved of funds to purchase vehicles and other equipment for smooth operation.

Again, there is limited public awareness. Many Nigerians are not aware of the importance of copyright protection; the level of ignorance about the copyright system is not only prevalent among users and right owners but also along enforcement agencies.

On a final note, corruption is a cankerworm that has eaten deep into the fabric of protection of copyright in Nigeria. This is one of the major challenges being faced by the Nigerian Copyright Commission. Copyright cases are often delayed in court, and offenders can easily bribe officials to avoid punishment.

All these challenges need to be addressed if copyright protection in Nigeria is to be efficient.

¹³⁵ *Ibid.*, Section 54(2)

¹³⁶ N Iguh & O Anyanor, 'The Impact of Technology and The Use of the Internet on Copyright Enforcement in Nigeria' (2023) 14(2) *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 7

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Summary

The research has analyzed literature comprising books, periodicals, court cases, enabling laws and institutions relating to administration of copyright, the origin, purpose and enforceability.

Domestic laws have herein been scrutinized to evaluate their efficacy and potential pitfalls. It further examined the international scenario and its impact on the Nigerian Copyright development.

The purpose of intellectual property rights generally, is to promote creativity, innovation and to expedite technology transfer by rewarding the inventor for his travails else no one would invest time and huge sums for research and development. Essentially, copyright seeks to ensure that no one unlawfully annexes the fruits of his labor to another person's labor.

Awareness of this area of the law will obviously contribute to reduce considerably not only the ever-rising trend of piracy, particularly in the book, music and film industries, but also encourage creativity and research.

The concept of copyright, nature and origin were examined critically. The sources of copyright laws in Nigeria, the principal legislation (Copyright Act 2022); and other subsidiary regulations were also discussed. Also, functions of the Nigerian institutional framework, such as the Nigerian Copyright Commission, the Nigerian Police Force, the Nigerian Customs and Excise are critically examined in relation to the enforcement of the copyright legal framework. At international level, bodies such as the World Intellectual Property Organization (WIPO), for example, Trade Related Aspect of Intellectual Property Rights (TRIPS) under World Trade Organization (WTO), and legal instruments were also analyzed.

The research highlighted some of the apparent short-comings faced by the

administration of copyright laws in Nigeria and identified the feasible measures to be taken in order to address the rampant cases of piracy and other violations of copyrights.

Finally, the research suggests some recommendations for the general administration of copyright legal framework in Nigeria.

5.2 Findings

In addition to the distressing challenges identified under chapter four of this research, the research finds that one of the most irresistible factors that account for the prevalent cases of copyright violations is lack of knowledge on privacy by the general public.

Interestingly, many of the law enforcement agencies have little to no knowledge of the existing copyright laws either. It is difficult to implement what you do not have knowledge of.

The key findings include:

5.2.1 Pervasiveness of Piracy:

Copyright piracy remains the most visible threat, particularly in Nigeria's film, music, and publishing industries. Despite statutory prohibitions, pirated works are still widely accessible due to weak enforcement and public tolerance.

5.2.2 Digital and Internet-Based Challenges:

Practices such as unauthorized downloads, uploads, file sharing, scanning of materials, and digital manipulation continue to undermine copyright holders' rights. Frontier technologies like Artificial Intelligence and Blockchain create novel complexities regarding authorship, ownership and enforcement.

5.2.3 Institutional Weaknesses:

The Nigerian Copyright Commission suffers from poor financing, lack of modern investigative tools, and limited ICT expertise. This cripples its ability to address online infringements, trace digital offenders, and implement effective anti-piracy mechanisms.

5.2.4 Judicial and Evidentiary Barriers:

Courts struggle with admissibility of digital evidence owing to outdated judicial training and technical deficiencies. Although the Evidence Act 2023 introduced progressive provisions on electronic records, enforcement remains hindered by inadequate technological literacy among judges and practitioners.

5.2.5 Poor Enforcement and Public Apathy:

Enforcement agencies such as the police and EFCC often treat copyright as a minor offence. Corruption, bureaucratic bottlenecks, and inadequate training further diminish the credibility of enforcement. At the societal level, widespread ignorance of copyright laws fuels tolerance for piracy.

5.2.6 Social Provider Liability:

The current framework largely shields internet service providers and digital platforms from liability, thereby placing the burden of monitoring infringements on copyright owners. Who often lack the capacity to enforce their rights.

5.2.7 Socio-Economic Implications:

The cumulative effect of these challenges has been the erosion of revenue in creative industries, discouragement of investment, loss of cultural heritage, and the weakening of Nigeria's global competitiveness in the knowledge and creative economy.

It is also found that NCC is facing a series of challenges in enforcing the laws of copyright in Nigeria often due to lack of professional manpower and inadequate running cost. The challenges of enforcing copyright infringements hinder optimal performance of the Commission and had frustrated creative efforts of legitimate business investors.

Finally, it was found that, although the Act was amended to accommodate improvements in technology and scientific knowledge, the intended flexibility and broadness are hampered by the other eligibility requirements and parameters for copyright protection stipulated in the Act.

New technological advancement has really exposed the lacunas of copyright protection in Nigeria. There is inadequate provision under the Act for the protection of some kind of works, for example, social media contents. Also, the concept of fixation on a stable material or medium seems difficult to sustain as a pre-requisite for the qualification of a creation as a copyright work since intangibility and a transitory nature are common features of works places on the internet. The social media and digital space in general, is an avenue which promotes intellectual creativity and a minefield of ideas which can be deployed important works.

5.3 Contribution to Knowledge:

This research has contributed to the existing body of knowledge in several ways:

5.3.1 Contemporary Insight on Nigerian Copyright Law:

It provides an updated scholarly analysis of the Nigerian Copyright Act 2022 within the context of digital and technological disruptions.

5.3.2 Bridging Law and Technology:

By highlighting challenges arising from Artificial Intelligence, Blockchain and peer-to-peer sharing networks, this work expands the conversation on how emerging technologies intersect with copyright law in developing countries.

5.3.3 Policy Relevance:

The findings expose institutional and enforcement weaknesses in Nigeria's copyright regime, thereby offering a framework for policy reform, especially in funding, ICT training, and regulatory oversight.

5.3.4 Judicial Application:

The analysis of evidentiary challenges and case law offers practical guidance for judicial officers and lawyers handling copyright disputes involving electronic and digital evidence.

5.3.5 Socio-economic Contextualization:

By linking copyright challenges with their cultural, economic, and educational impacts, the research demonstrates the broader consequences of weak copyright protection on national development.

5.3 Recommendations

Having examined critically, the challenges facing our copyright legal framework, this research makes the following recommendations:

5.3.1 Legislative Measures:

Various legislative measures should be enacted to cater for the increasingly new species of digital innovations. Wide consultations, especially with experts in the field of information technology, copyright and computer technology should be made while making these enactments in order to effectively acquire the technical knowledge that would expose the intricacies involved in copyright violation of digital technology. There should be effective administrative enforcement mechanism for the protection of copyright especially in digital works.

There is a pressing need for the domestication of the various international instruments on copyright protection in line with section 12 of 1999 Constitution especially considering the fact that the provisions of our law in this area is grossly inadequate. The Copyright Act should be amended to expressly provide for take down procedures.

The Nigerian Copyright Commission (NCC) should be adequately funded to acquire advanced investigative tools and recruit ICT experts capable of tracking and prosecuting digital infringements.

Also, specialized copyright enforcement units should be established within security agencies.

5.3.2 Social Measures:

These measures encompass all those measures to be adopted that involve that involve the populace. The foremost of these measures is enlightenment and awareness campaigns ringlets and advertisements in radio and television broadcasts in a way that

a layman on the street would understand.

It is therefore recommended that authors and creators of creative media content in Nigeria should in addition to these legal frameworks, adopt independent modern technological measures such as block chain and watermarking technology to protect their work and prevent undue exploitation.

5.3.3 Administrative Measures:

A good law without an effective administrative enforcement mechanism is an effort in futility. Consequently, because the enforcement of copyright remains the basis of the protection for the varied hybrid of digital and computer technologies, the Nigerian Copyright Commission (NCC) should adopt adequate administrative measures for the protection of copyright works. The Nigerian government should work assiduously with various international organizations concerned with copyright protection as well as the market authorities and trade unions to ensure that the enforcement, administration, regulation and enlightenment efforts for the protection of copyright such as confiscation and burning of infringing materials, prosecution of offenders, introduction of security devices and so forth are put in place.

Regular training of judges, prosecutors, and law enforcement officers in ICT and digital forensic should be institutionalized. The judiciary should adopt flexible approaches to the admissibility of digital evidence in line with international best practices.

5.3.4 Establishment of Special Intellectual Property Tribunal:

Creating a specialized Intellectual Property (IP) Tribunal with experts is crucial for handling copyright matters in the digital age. The complexity of IP law, especially with digital evolution, needs a dedicated tribunal to address nuanced challenges effectively in Nigeria. It is advocated for the expansion of the number of Federal High Court Judges with additional court rooms that would be exclusively reserved for IP matters across the federation.

In other words, owing to the convoluted nature of copyright, the federal government should set up an administrative tribunal or an arbitration panel, or even a separate court that would be saddled with the responsibility of discharging urgent issues relating to copyright infringement. Arbitration should also be seriously considered as it would allow for faster dispensation of justice, and the invitation of experts to arbitrate areas of copyright that require special knowledge.

5.3.5 Encouragement of Access Control and Copy Control Software:

This software serves as essential tools that allow creators to actively monitor and curb the unauthorized use or reproduction of their work. These technologies act as digital gatekeepers, enabling creators to ascertain the legitimacy of the usage of their content.

Notably, the WIPO Copyright Treaty (WCT) establishes that individuals who attempt to circumvent these protective measures may be held legally accountable for copyright infringement. This underscores the significance of technological safeguards in upholding the rights of creators and maintaining the integrity of Intellectual Properties (IP) in the digital landscape.

The NCC and other agencies should deploy technological anti-piracy tools such as digital watermarking, fingerprinting, and block-chain based copyright registration.

Also, partnerships with tech companies should be fostered for real-time monitoring of digital platforms.

5.3.6 Education of Copyright Stakeholders:

Combating digital copyright infringement in Nigeria requires more than robust laws; education is crucial. Prioritizing educational initiatives for stakeholders like authors, creators, judges, lawyers, and the public is key- a well-informed judiciary ensures fair decisions, legal experts provide informed counsel, content creators can successfully navigate copyright issues, and educating the public fosters respect for IP, reducing

inadvertent infringement. Overall, educating stakeholders is vital for successful law implementation and tackling online copyright challenges in Nigeria.

5.3.7 Harnessing Technology to Combat Online and Digital Infringement:

Embracing technology is key in fighting online infringement. Algorithms and AI help detect and prevent unauthorized use of copyrighted content, acting as a proactive defense. DRM tools also let creators monitor distribution of their works in the digital space. Blockchain ensures transparent, tamper-proof records of ownership and usage rights.

Technology also provides legal platforms for content distribution and monetization, like streaming services and digital marketplaces.

5.3.8 International Collaboration:

Similar to terrorism, digital piracy is a cross-border issue, emphasizing the imperative need for collaboration among nations. Recent piracy surge in Nigeria is linked to tightened copyright policies in neighboring countries.

Given the borderless nature of digital infringements, addressing and curbing these challenges necessitate regional and international cooperation. Therefore, it is recommended to globally harmonize copyright policies as a crucial step in mitigating this menace.

Nigeria should strengthen cooperation with other jurisdictions to combat cross-border online infringement.

Active participation in international treaties and harmonization of copyright laws across African states should be prioritized.

5.3.9 Creation of Designated Departments:

There is need to establish a department focused on specific aspects of digital enforcement to work within the Commission. This approach ensures a specialized effort in addressing the multifaceted challenges posed by the digital landscape, and

Nigeria can bolster its capacity by providing a robust framework for the protection of IP in the online sphere.

Therefore, a creation of dedicated and well-funded departments within the NCC, exclusively reserved for policing infringement of digital contents may be a better approach.

5.3.10 Addressing Corruption and Bureaucracy:

Anti-corruption measures should be mainstreamed into copyright enforcement agencies. Transparent processes in investigations and prosecutions should be mandatory.

5.4 Areas for Further Studies:

While this research has addressed major challenges, certain areas still require deeper academic exploration:

- i. **Comparative Studies:** Further research should compare Nigeria's copyright enforcement mechanisms with those of other jurisdictions, particularly other countries that have successfully tackled online piracy.
- ii. **AI and Copyright:** More focused research is needed on the legal implications of Artificial Intelligence-generated works in Nigeria, especially in determining authorship and ownership rights.
- iii. **Economic Cost of Piracy:** Quantitative studies should be undertaken to estimate the precise financial loss incurred by Nigeria's creative industries due to piracy.
- iv. **Judicial Training in ICT:** Empirical research can assess the level of ICT literacy among judicial officers and the impact on adjudication of copyright disputes.
- v. **Role of Service Providers:** Studies can further explore how Nigerian internet

service providers can be effectively integrated into copyright enforcement without stifling internet freedoms.

- vi. **Public Perception Studies:** Sociological research could investigate Nigerians' attitudes toward piracy and copyright infringement, thereby shaping targeted sensitization strategies.

5.4 Conclusion:

Emerging digital infringements driven by technological advancements pose challenges to traditional copyright frameworks and its administration.

Online piracy and unauthorized use of copyright material on the internet have intensified due to the ease of replication and borderless online environment.

Copyright Act 2022 incorporates essential digital provisions, aligning the Act with international standards and contemporary measures to effectively tackle online related issues, and beefing up the administrative powers of the Commission.

Despite improvements in Nigeria's Copyright Act, loopholes still persist being that digital copyright challenges demand a comprehensive approach for swift administration. The work scrutinized those measures taken to address it and exploded persisting challenges that will endure despite these regulatory changes.

Globally, the exploitation of intellectual property rights such as copyrights remain a big source of revenue for individuals and governments alike. For any nation, including Nigeria to progress economically, it must not play down the development of its intellectual resources. The only way to ensure the protection of original intellectual works is by tightening provisions for the safeguard of copyright products and especially, liberalizing provisions in the extant copyright laws of the country to be able to accommodate products derived from the rapidly growing technology in the world.

To ensure the protection of the numerous economic and other associated benefits therein, the government and relevant stakeholders must rise to the occasion by doing the needful, as recommended above.

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