

Regulatory Response to Copyright Protection in an Online and Digital Environment: A Comparative Analysis

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Abstract

The necessity to bring some sanity into the activities associated with the creation of copyright works and to address the egregious infringement of copyright in the nation is positively addressed by regulations. The current condition and difficulties with copyright enforcement in the online and digital environment are examined in this essay. It also looks at the regulatory measures taken to deal with the pervasive issue of piracy. By looking into the main issues of copyright protection, the nature and impact of copyright protection, the online and digital world, comparative analysis, and the Regulatory response to digital technology, the article places the topic in its proper doctrinal perspective. The study discovered that while Nigeria's current regulatory response regime appears to be trying its best, it falls short when compared to other jurisdictions around the world. It is advised that a framework be developed to align with global best practices.

Keywords

Regulatory, Protection, Copyright, Digital, Environment

1. Introduction

The 21st century offers a fresh platform of digital and online information that is easily vulnerable to infringement because copyright violations can occur with the click of a button. Once more, the online ecosystem encourages global copyright violation. Although Nigeria's current regulatory system appears to be trying its best, it falls short when measured against other international countries.

Regulations offer a constructive answer to the need to deal with the egregious

copyright infringement in the nation as well as the necessity to bring some rationality into the activities associated with the production of copyright works. In this regard, it has used the approach of looking inward to control local production of works as an alternative strategy, shifting the focus of control of piracy from the former emphasis on border control, which was more practical during the period of heavy reliance on importation of pirated works from foreign countries. Another benefit of the restrictions is that they promote local production because they have given illegally functioning plants a chance to register in order to make their operations legitimate rather than shutting them down.

Beyond the implementation of the Optical Disc Regulations, enforcement of the legislation, in particular to apprehend individuals operating outside the law, needs to be tightened with regard to the issue of digital technology. Significantly, violations of the Regulations' rules constitute offenses that can result in jail term, monetary fines, or both after a conviction. Indeed, it was discovered that insufficient enforcement is one of the key causes of the high rate of piracy in the nation.¹ Inadequate enforcement may result from a lack of personnel and other necessary resources on the part of the Nigeria Copyright Commission and other law enforcement agencies, such as the police.

This paper will examine regulatory reaction to copyright protection in an online and digital environment: A comparative analysis against this backdrop by placing the discussion in the appropriate context. In doing so, the article is split into six pieces after the introduction.

The nature and impact of copyright protection are examined in the first section. According to this argument, the purpose of copyright protection is to promote the spread of ideas by safeguarding the embodiment or expression of an idea in a creative work while reserving the right to the work's creator. It also guarantees the financial or economic gain of the copyright owner. These goals are at odds with one another since rigorous copyright protection, which may limit access to knowledge, is necessary for the owner or author to receive an acceptable financial gain.

The crucial aspects of copyright protection are the topic of the second section. It talks about works that qualify for copyright protection, copyright infringement, exceptions, and defenses against infringement. It argues that subject to the other provisions of the Act Section 1 of the Copyright Act, 2004 provides for literary works, musical works, artistic works, cinematography films; sound recording; and broadcast as eligible for copyright (*Copyright Act, 2004*). Additionally, it makes the case that, in accordance with Section 24 of the Copyright Act, copyright infringement is both a civil wrong and a criminal offense. Finally, it claims that the copyright system attempts to strike a compromise between protecting the greater public interest and attempting to lessen the impact of the author's absolute protection. By adding different exceptions and restrictions to

¹See Nigeria Copyright Commission and Ford Foundation Collaborative Research Survey of Copyright Piracy in Nigeria (2008), p. 31, revealing public perception that weak enforcement is partly responsible for the high rate of piracy in the country.

the rights provided by the copyright law, this balance is accomplished. The exceptions include fair dealing for research, private use, criticism or review, or reporting on current events, provided that the use is public and is accompanied by an acknowledgement of the work's title and authorship, unless the work is incidentally included in a broadcast; performing any of the aforesaid acts through parody, pastiche, or caricature; and including an artistic work in a film or a broadcast. A defendant may use general defenses like the statute of limitations, trade custom, acquiescence, and estoppels that are available in civil actions in addition to the statutory ones.

The online and digital environment is the subject of the third section. It examines file sharing, the online environment, the effects of digitization and the internet in Nigeria, as well as copyright objects, copyright objects in the modern day risk, classifications of risk, sources of risk, and circumstances of risk. It contends that since copyright's creation, the internet has been viewed as the biggest danger to it. The argument goes on to say that the internet and digital technology have made it possible to copy and spread information in ways that the printing press's creator could never have predicted. Finally, it makes the case that an appreciation of our cultural quirks is essential in creating a copyright law for Nigeria.

The fourth section emphasized comparison analysis. It looks at copyright in digital media, including how it is governed by Indian law, how it is digitized in the European Union, and how it is protected in the United States. It makes the case that while Nigeria's current enforcement system appears to be trying its hardest, it falls short when measured against other international jurisdictions.

The legislative reaction to digital technology is examined in part five. It contends that the regulations address the need to bring some sanity to the activities associated with the creation of copyright works and address the egregious violation of copyright in the nation.

Part six concludes the article with some recommendations.

2. Nature and Impact of Copyright Protection

The main goal of copyright is to expand knowledge in order to enhance public welfare. It offers incentives for creators by giving them exclusive rights to reproduce and distribute their work, specifically with the intention of stimulating the production and distribution of new works for the general public. Therefore, copyright protection is not meant to obstruct the free exchange of ideas and information. In *United State District Court v Seven-Up Company*. According to the court, the purpose of copyright protection is to promote the spread of ideas by safeguarding the embodiment or expression of an idea in a creative work while reserving ownership of it to the work's creator. A copyright artist puts some effort and talent into his work. This human intellectual work deserves to be shielded from unauthorized appropriation by anyone looking to make a profit off of someone else's hard work. The court in *Oladipo Yemitan v Daily Times &*

Gbenga Odunsanya (1980) recognized that the purpose of copyright law is to prevent the fruits of another person's labor, skill, or taste from being appropriated by other people. However, it is crucial to stress that the copyright protection rights are subject to significant restrictions or exclusions as set forth in the Second Schedule to the Act (*Copyright Act, 2004*). These restrictions/exceptions are related to the fundamental goal of knowledge advancement for society's overall well-being. It is safe to conclude from the foregoing explanation that copyright protection serves two purposes. It guarantees two things: first, the author or copyright owner will profit financially; and second, the public will receive knowledge. These two goals may frequently be at odds with one another because stringent copyright protection is necessary for the author to receive an appropriate and sufficient financial gain, which may limit access to knowledge.

3. Crucial Aspects of Copyright Protection

By Order-in-Council No. 912 on June 24, 1912, the first copyright law in Nigeria was declared applicable to the nation. The British Copyright Act of 1911's restrictions were extended "to certain British Protectorates" by the Order. Under its terms, Nigerian creators, particularly musicians, received copyright protection for their works as well as financial rewards through the Performing Rights Society (PRS) of London (*Anya, 2017*).

However, Nigerian lawmakers approved their first domestic copyright law in 1970. In 1988, a more advanced and comprehensive Act was passed in place of the 1970 Act. The 1988 Act was once more updated in 1992 and 1999, and it is currently included in the Federation's 2004 edition of its legislation.

Work written or created by Nigerian citizens or those with a place of residence in Nigeria is protected by the Copyright Act. Additionally, it safeguards other people's original Nigerian publications. The Act also protects works that were initially published in a signatory nation to the Berne Convention of 1886, the Universal Copyright Convention (UCC) of 1952, the Rome Convention of 1964, or any international accords to which Nigeria is a party. Similar to publications first published by the African Union, the Economic Community of West African States, the United Nations or any of its organizations (*Copyright Act, 2004, Sections 2 and 5*).

The Act conforms with the minimum copyright protection requirements that are widely recognized. It offers the same protections for works by other nationals as it does for works by Nigerians. Protection is not made dependent on any particular steps. Additionally, the Act's protection is separate from that of the nation of origin (*Anya, 2017*).

The Works That Qualify for Copyright Protection

The content in question must be evaluated to see if it qualifies as a "work" under the Nigerian Copyright Act. Section 51(1) of the Act provides a straightforward definition of "work" for purposes of the Act, stating that it includes "translations, adaptations, new versions or arrangements of pre-existing works and

anthologies or collections of works which, because of the selection and arrangement of their content, present an original character.” This wording makes it apparent that the Act does not define what constitutes a work, just that certain criteria must be followed in order for translations, new iterations of previously published works, etc. to qualify as works (Asein, 2012).

The following are listed in Section 1 of the Act as being eligible for copyright, subject to the other Act conditions. (Copyright Act, 2004, Section 1(1))

- a) Literary works;
- b) Musical works;
- c) Artistic works;
- d) Cinematograph films;
- e) Sound recordings; and
- f) Broadcasts.

a) Literary Works

“Literary Work” includes, irrespective of literary quality, any of the following works or works similar thereto:

- i) Novels, stories and poetical works;
- ii) Plays, stage directions, film scenarios and broadcasting scripts;
- iii) Choreographic works;
- iv) Computer programmes;
- v) Text-books, treaties, histories, biographies, essays and articles;
- vi) Encyclopaedias, dictionaries, directories and anthologies;
- vii) Letters, reports and memoranda;
- viii) Lectures, addresses and sermons;
- ix) Law reports, excluding decisions of courts; and
- x) Written tables or compilations.

b) Musical Works

Musical works comprise compositions for musical accompaniment and encompass all musical works, regardless of musical quality.

c) Artistic Works

Regardless of artistic merit, any of the following works or works that are comparable thereto qualify as artistic work:

- i) Paintings, drawings, etchings, lithographs, woodcuts, engraving and prints;
- ii) Maps, plans and diagrams;
- iii) Works of sculpture;
- iv) Photographs not comprised in a cinematograph film;² (1997) (2001)
- v) Works of architecture in the form of buildings, models; and
- vi) Works of artistic craftsmanship³ (1975) and also (subject to Section 1(3) of

²See *Creation Records v News Group* (1997) EMLR 444; and see also *Antiques Portfolio Com. v Rodney Fitch* (2001) FRS 345 where it appears that the photographer must show some skill in arranging the subject.

³That is, jewelry, cutlery, furniture, toys, educational aids etc. In the English case of *Hensher v Restawile* (1975) RPC 31 the criteria which the court will apply in deciding whether an article falls within the category of works of artistic craftsmanship were discussed. See also *Burke v Spicers Dress Design* (1936) 1 Ch 400.

the Act) pictorial woven tissues and articles of applied handicraft and industrial art.

d) Cinematograph Films

A sequence of visual images that can be presented as a moving picture and be the topic of reproduction is first fixed on a cinematograph film, which also includes the recording of a sound track for the film.

e) Sound Recordings

A sound track connected to a cinematograph film is not considered a sound recording because it is the first fixation of a sound sequence that can be heard aurally and duplicated.

f) Broadcast

The term “broadcast” refers to the transmission of sound or television using wireless telegraphy, wire, both, satellite, or cable programming, including re-broadcast.

Therefore, unless a “work” fits into one of the aforementioned categories, it won’t be considered to be protected by copyright.

Infringement of Copyright

The owner of the copyright to a protected work has the sole authority to determine how that work is used and exploited in accordance with the Act, subject to the exceptions listed in the Second Schedule of the Act. Any individual who performs or permits another individual to perform any of the actions reserved by the copyright without being the owner of the copyright and without the owner’s consent, leave, permission, licence, or authorization is infringing on the owner’s copyright (1990). It should be highlighted that the right granted to the copyright owner is a right to prevent or seek compensation for another party’s exploitation of the work in issue rather than a positive authorization for him to do so (Asein, 2012).

Copyright infringement is both a civil wrong and a criminal offense.⁴ Therefore, copyright infringement can be either a civil or criminal offense. Civil infringements might be either primary or secondary. Primary civil infringement does not involve guilty knowledge or a malign intent and happens when someone violates a copyright owner’s exclusive rights without the proper license. Acts that are prohibited under the Copyright Act from being done to an infringing copy of a work are known as secondary infringements. This form of infringement is provided for in Section 15(1)(b)-(g). If done without the owner’s permission or license, the following would be considered copyright infringement under this section:

- b) importation into Nigeria of any copy of a work that, if produced there, would constitute an infringement under that law;
- c) displaying in public any article whose copyright has been violated in a direct manner;
- d) trading in or otherwise making available for any purpose that would be de-

⁴Section 24 of the Copyright Act provides for both criminal and civil actions to be taken simultaneously in respect of the same infringement.

trimental to the owner of the copyright any item with respect to which the copyright has been violated;

e) creating or having access to plates, master tapes, tools, machinery, or other devices used to copy works in violation of the law;

f) allowing the use of a public space for entertainment or business for a public performance of the work, where the performance constitutes a copyright violation of the work, unless the person allowing the use of the space was unaware and had no reason to suspect that the performance would be a violation of the copyright.

g) performing or causing to be performed any work that has copyright in it for the benefit of trade or business, or as a tool supporting a trade or company.

Criminal infringement is provided for in Section 20 of the Act. Anyone who commits any of the following with the necessary mens rea is guilty of an offense under the Act: [\(Copyright Act, 2004, Section 20\(1\)\(a\)-\(c\)\)](#)

a) making or causing to be made any unauthorized copies of works protected by copyright for the purpose of trade, business, or hire;

b) bringing into Nigeria, or causing to come into Nigeria, a copy of any work that, if produced there, would be an infringement copy;

c) Making, inducing to be manufactured, or having access to any plate, master tape, machine, equipment, or device with the intent to make any copy of a work that is infringing.

The penalty for this offense is either a fine of up to N1000 for each copy handled in violation of the section, a term of imprisonment not to exceed five years, or both of these penalties. A defense to any of the aforementioned offenses is that the accused person had no knowledge of or reason to suspect that the copy in question was an unauthorized reproduction of any such work, or that the plate, master tape, machine, equipment, or device in question was not used to create unauthorized copies of any such work.

Secondary criminal infringements, or the act of selling pirated copies, are covered by Section 20(2).

Exceptions and Infringement Defenses

The copyright system seeks to strike a compromise between the effects of absolute author protection and the preservation of the greater public interest. Since this need has always been acknowledged throughout the development of copyright and was specifically mentioned during the discussions leading up to the Berne Convention, the text of the convention includes provisions allowing member states to restrict the rights of authors under specific conditions. The rights conferred by copyright law are subject to a number of exceptions and restrictions in order to achieve this aim.

The Act allows for a number of exceptions, wherein, even though the specific work is protected, a particular activity that would have otherwise constituted an infringement is excused. If a defendant can demonstrate that the specifics of his behavior fit one of the exceptions, he or she will not be held accountable (1938) (Asein).

The exceptions provided under the Act by the Second Schedule⁵ include the doing any of the acts mentioned in the said Section 6 by way of fair dealing for purposes of research,⁶ (1997) (1969) (1925) private use (1983), criticism or review (1994) or the reporting of current events, (1992) (2001) subject to the condition that, if the use is public, it shall be accompanied by an acknowledgement of the title of the work and its authorship except where the work is incidentally included in a broadcast; the doing of any of the aforesaid acts by way of parody, pastiche, or caricature (1986); the inclusion in a film or a broadcast of an artistic work situated in a place where it can be viewed by the public (2003); etc. A defendant may use more broad defenses like the statute of limitations, trade custom, acquiescence, and estoppels that are available in civil suits in addition to the statutory ones.

David Bainbridge lists three additional exceptions to the rule for software (Bainbridge, 2000):

- a) “decompiling” a current software application to ensure interoperability;
- b) creating the required backup copies;
- c) includes mistake correction in copying and adaptation.

The last exception pertains to the public interest defense, such as when publishing a program listing is in the public interest. This may be true of code that “hackers” employ to break into computer systems since disclosure would help administrators of computer installations fight computer hacking (Bainbridge, 2000).

4. Online and Digital Environment

Copyright Objects

The majority of copyright items were once stored on extremely tactile items like books, journal issues, pictures, vinyl records, audio tapes, microfilm, video tapes, cassettes, diskettes, CD-ROMs, and game cartridges. This was the case until the early 1990s. The ideas behind the expressions in the media were not protected, but the expressions themselves were (*University of London Press Ltd. v. University Tutorial Press Ltd*, 1916).

A work was primarily viewed and used by purchasing or renting a tangible copy of it or paying entrance to a venue where it was being performed, played, or copied. A user might potentially gain access by travelling to a library that had already acquired and stored the specific item they desired and made it either available for loan or on-site inspection. Generally speaking, no copyright license was required of the individual. The majority of these physical storage devices can be copied in some way that duplicates the works they contain. Such replication required work and access to infrastructure, which in the majority of situations came at a significant expense. Additionally, only one user at a time may access

⁵Paragraphs (a – s).

⁶*Peter Obe v. Grapevine Communications Ltd.*, (Suit No. FHC/L/CS/1247/97). The defendant relied on *Fraser v. Evans* (1969) 1 All E.R. 8; *Hubbard v. Vosper* (1972) 1 All E.R. 1023; and *British Oxygen Co. Ltd. v. Liquid Air Ltd.* (1925) Ch. 383.

the majority of replicas.

Copyright Objects in Present Day

Ideas have traditionally been conceptualized as words, numbers, symbols, shapes, images, and sounds, and have been expressed in what we now regard to, somewhat disparagingly, as physical or analog forms. Most of these forms couldn't be moved around and were tough to transport or even duplicate. The storage forms often needed to be transformed back into a stream of impulses that humans could perceive using rigid, specialized equipment.

Over the past few decades, digital representations have all of a sudden become commonplace. A significant amount of copyrightable information has moved from the tangible to the digital realm, or as Negroponte likes to say, from atoms to bits (Negroponte, 1995). For most of the human senses, there are convenient digital storage formats that can be utilized to store information (taste and smell being the primary exceptions, to date). It is simple to translate digital shapes into impulses that fully satisfy the human eye, ear, and mind as well as the tactile and proprioceptive senses. Digital formats swiftly surpassed the quality of its fore-runners in the areas of audio, image, and moving image/video (Clarke & Nees, 1999).

The multifaceted digital revolution has made it possible for:

- the convenient and inexpensive **creation** of new data objects in digital form (e.g. using desktop publishing packages, PC-based graphic design tools, animation, and digital music generators);
- the process of transforming existing materials into digital data objects, also known as “digitization,” employing tools like scanners, OCR, digital cameras, and digital audio-recording;
- the process of transforming existing materials into digital data objects, also known as “digitization,” employing tools like scanners, OCR, digital cameras, and digital audio-recording;
- the immeasurably low marginal costs associated with the extremely quick transfer of data objects (e.g., via modem-to-modem transmission, CD-ROMs sent via mail, email attachments, FTP download, and web download);
- a wide range of settings (including the workplace, the home, public kiosks, and Internet cafes), using a variety of devices (such as PCs, PDAs, mobile phones, and web-enabled TV), and affordable and widespread access to data objects;
- data matching, profiling, data mining, and pattern recognition software are examples of computer-based data analysis methods that can be used to assemble statistics and identify instances of interest; and
- straightforward data-object manipulation (e.g. using word-processors, and sound and image editing tools) (Clarke & Nees, 1999).

With the advent of digitization and the subsequent growth of the Internet, the impact of copyright law underwent a significant transformation. A copyright licence was not required to be purchased in order to buy a book or tune into a

broadcast station. Contrarily, the acquisition or renting of digital media frequently did. The requirement to copy a game cartridge into a computer's memory in order to play the game is an early and common example.

Additionally, the way that computers work requires them to repeatedly make duplicates of the object. The reader sees a physical item they've purchased on a screen rather than up close. This is accomplished by the workstation moving the transmitted object into its input-buffer (creating a copy under copyright law), moving it from there into its video storage or VRAM (creating a second copy), and finally displaying it on the screen (yet another copy). As the item is incrementally moved from the node's input-buffer to its output-buffer, routers also make copies as part of their operation (Clarke & Nees, 1999). The exchange of digital files is supported by several programs in the twenty-first century, some of which are Bluetooth, Xender, WhatsApp, Facebook, etc.

Risks

Organizations and people who consume content and use it to inspire the creation of new works have benefited greatly from the digitization of copyrighted works. With those advantages came significant difficulties for the creators and owners of the works. Numerous times, their operations have been based on a user-pays business model, with the resulting revenue being shared among the numerous firms in the supply chain. The Internet, the web, and digitization have undercut that business model by making it relatively simple for content to elude the authority of its owners and be used without remuneration. This piece compiles a study of the dangers that face a copyright object owner when they want to post it online. Stephen Nees is the source of it (Nees, 1999) (Clarke & Nees, 1999).

Classes of Risk

The main worry is that someone who has access to the work might do anything improperly. Any or all of the following steps could be taken:

- alteration;
- reproduction;
- adaptation;
- destruction;
- publication; and
- interference with publication (e.g. by preventing it reaching its intended destination).

Such activities may cause harm in the form of lost income and a decline in the reputation of the work, the author, or the publisher. Additionally, it's likely that unforeseen liabilities could develop, particularly in the case of a modified version, such as a claim for defamation or careless misstatement (Nees, 1999).

Sources of Risk

Every party engaged in a transaction stands in for a potential breach source. According to the situation, these include:

- a creator (the creative act may involve more than one party, particularly in

the case of multi-media works, collections like encyclopedias, and jointly written papers);

- a publisher;
- a distributor;
- a licensee, or otherwise authorized recipient of a copy of the work;
- a services provider to any of the above parties; and
- an unauthorized recipient of a copy of the work, including:
 - an interceptor of a transmitted copy of the work;
 - a “cracker” who gains access to a copy of the work in storage on the premises of any of the above parties; and
 - a party that is provided access to a copy of the work by one of the other parties (Nees, 1999).

Situations of Risk

Each party’s computer-based systems contain many locations where digital objects (files) may be vulnerable. These consist of:

- **Storage within Computers:** Individuals and smaller businesses are likely to experience server security and client security flaws more frequently than larger corporations, which is frustrating. Permanent storage, like a hard drive, including cache, and transient storage, like RAM, including cache and video RAM, are examples of points inside a computer that can be attacked.
- **Software:** This encompasses software that receives, stores, renders, dispatches, and permits access to the object in any of the aforementioned storage medium. Examples of such software include file-handlers and database managers (e.g. disk utilities and screen-scrapers).
- **Transmission:** Included in this include electronic transmissions through local and wide area networks as well as discrete media (such diskettes and CD-ROMs).

File Sharing

Currently, sharing music, movies, or software online constitutes the most egregious copyright violation. The peer-to-peer (PSP) networks and other file-sharing platforms are targets of a ferocious crackdown by the music and film industries on users who obtain these materials. Numerous other nations throughout the world, as well as the United States, have seen thousands of lawsuits filed. Students risk being sued by the RIAA⁷ or the MPAA⁸ and losing a costly case, being charged with criminal offenses, or even going to jail if they

⁷RIAA (Recording Industry Association of America) is an organization that represents the music recording industry’s intellectual property rights. The organization has taken an especially aggressive stance against Internet users who want to be able to freely copy published music, available at <<http://whatis.techtarget.com/definition/RIAA-Recording-Industry-Association-of-America>> Accessed 5th February, 2022.

⁸MPAA (Motion Picture Association of America) is an American trade association that represents the six major Hollywood studios. It was founded in 1922 as the Motion Picture Producers and Distributors of America (MPPDA) to advance the business interest of its members: Walt Disney Studios Motion Pictures; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Twentieth Century Fox Film Corporation; Universal City Studios LLC; and Warner Bros. Entertainment Inc., available at <<https://www.mpa.org/our-story/>> Accessed 5th February, 2022.

download or upload music, movies, or other illegal content via the university's Internet access.

The University is also vicariously accountable for any copyright infringement that takes place on the university's Internet service, whether it be due to file sharing or another method. Unauthorized downloading or uploading of content from the Internet is against the Electronic Publishing and Appropriate Use Policy. Any student found participating in this activity on campus will have to attend a copyright law course and could lose their Internet access (*The Internet & Copyright, 2002*).

Online Environment

The biggest threat to copyright since its establishment has been said to come from the Internet. There is a wealth of information on the Internet, much of it copyright protected to varied degrees. On the Internet, you can find copyrighted versions of news articles, software, books, scripts, graphics, photos, Usenet posts, and even email. In actuality, practically everything on the Internet is covered by copyright laws, which is a terrible truth. That may cause issues for the unfortunate surfer. The sharing of MP3 files online and the brazen disdain for the copyright owner's rights displayed by online movie piracy are recent examples of this threat.⁹ According to Biegala, 2.7 billion music were downloaded using the file-sharing application Napster in just the month of January 2001 (*Biegala, 2001*).

Regarding what is protected on the World Wide Web (WWW), links, original text, graphics, audio, video, html, and vml are among the elements that make up a Web page's distinctive underlying design.¹⁰ Other unique mark-up language sequences, list of Web sites compiled by an individual or organization, and all other unique elements that make up the original nature of the material.

Impact of Digitization and Internet in Nigeria

In the last ten years, Nigeria's creative sector has experienced substantial expansion. This is instantly obvious in the entertainment, fashion, and music industries; with the emergence of new Generation Banks and Telecoms Companies, advertising has been experiencing a new wave of expansion. Additionally experiencing consistent and strong growth is the software industry. Our creative sector is becoming more important to exporting. Globally, creativity and invention have played a major role in the evolution of technology. Creators must consider themselves as a prerequisite for socio-economic progress and national development rather than as an alternative (*Oraka*).

The internet and digital technologies have made it possible to copy and spread information in ways that the printing press's creators could never have predicted. It has altered commercial practices. Today, anyone with access to the internet may independently print books, music, and album art, and distribute them all around the world. Both opportunities and threats result from this. Even the creative sector and the regulations that govern it are attempting to keep up

⁹Sites like <https://www.beemp3.com/>, <https://www.youtube.com/>, <https://www.mp3skull.com/>, <https://www.mp3raid.com/>, <https://www.angryalien.com/> are epitomes of sites that provide internet file sharing programmes.

¹⁰Virtual Reality Modeling Language.

with technology since it has grown so inventive. The more modern jurisdictions have recently made an effort to catch up; examples include the Digital Millennium Copyright Act (DMCA) of 1998 and the more recent US proposed bills, SOPA (Stop Online Piracy Act)¹¹ and PIPA (Protect IP Act)¹² which if passed will have further disruptive effects on copyrights in the internet age.

Even while current copyright rules have some justification, the advent of digital technology, the industry's radical transformation (*Oraka*), and the prevalence of new business models and distribution channels have restricted their effectiveness. The Nigerian Copyrights Law must be updated to reflect modern conditions, especially in light of the expansion of new media, mobile technology, and internet accessibility.

Understanding our cultural quirks is essential to creating a copyright policy for Nigeria.

- In Nigeria, copyright infringement is widespread, and one of the main causes of this is that many people are unaware that they are breaking the law (*Anya, 2017*). The creation of widespread knowledge is essential to changing the law.
- An additional factor affecting the amount of local precedent we have for copyright issues is the propensity for copyright holders in Nigeria to ignore their rights rather than enforce them through litigation.

The ability to access previously created works and intense levels of collaboration are both necessary for creativity to flourish. Some have claimed that copyright laws as they currently exist impede innovation because they establish monopolies on copyrights that prevent the development of new forms of creation.

We must understand that creativity contributes cultural worth as well as business value; this will encourage further creativity and commercial value, and so on. Owners and users are engaged in a delicate dance. We must always strive to strike a balance between the commercial and cultural values of our creative works since we are stakeholders in the creative economy.

5. Comparison Analysis

Copyright in Digital Media...Position under Indian Law

The Copyright Act of 1957 makes up the bulk of Indian copyright legislation (The latest amendment being, Act 27 of 2012 that came into force on 21 June, 2012). The 1994 revisions were a reaction to new developments in technology,

¹¹Stop Online Piracy Act (SOPA) also known as House bill 3261, is a legislation introduced in the United States House of Representatives to enforce current laws that make stealing intellectual property and trafficking in counterfeit goods illegal. Available at <<http://whatis.techtarget.com/definition/Stop-Online-Piracy-Act-SOPA-and-PIPA>> Accessed 5th February, 2022.

¹²Protect IP Act (Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act, or PIPA) was a proposed law with the stated goal of giving the US government and copyright holders additional tools to curb access to rogue websites dedicated to the sale of infringing or counterfeit goods, especially those registered outside the U.S. The bill was sponsored by Sen. Leahy, Patrick J. (Cloture motion on motion to proceed withdrawn by unanimous consent in Senate). Available at <<https://www.congress.gov/bill/112th-congress/senate-bill/968>> Accessed 5th February, 2022.

such as computer software, as well as changes in communication methods like broadcasting and telecasting. The Copyright Amendment Act of 2012 made changes that are wide-ranging and crucial because they address and go beyond the problems caused by the Internet. The most recent revision harmonizes WCT and WPPT with the Copyright Act of 1957. With these changes, the Indian Copyright Law has evolved into a futuristic piece of legislation. With a few exceptions, the general consensus is that the updated Act can address copyright issues associated with digital technologies, particularly those of the Internet.

For copyright purposes, “publication” is defined by the Indian Act as “making a work available to the public by issuing copies or by transmitting the work to the public.” Due to its lack of restrictions, this definition might be read to include electronic publishing, which would include “publication” on the Internet. The phrase “communication to the public” has a new definition as a result of the 2012 Amendment. The previous definition only applied to “works.” It would also be regarded as public communication if the work or performance was made available, whether concurrently or at specific locations and times. Thus, on-demand services (such as video and music) will unmistakably be regarded as “communication to the public.”

The notion of limitation and exception as envisioned by Article 10 of the WCT is included in Section 52 of the Copyright Act of 1957. The fair handling of a literary, dramatic, musical, or artistic work (excluding a computer program) for private and personal use, including research, criticism, or review, as well as the making of copies or adaptations of computer programs by the lawful owner of a copy of such a program from such a copy in order to: 1) use the computer program for the purposes for which it was supplied; or 2) make copies of the program for other uses. These are acts expressly permitted under Indian law (Rafiqi & Bhat, 2013).

Digitization in European Union

Digital Culture: Online access to the holdings of Europe’s libraries, archives, museums, and audio-visual archives is beneficial for the advancement of culture, the economy, and personal fulfillment.

One of the difficulties of the Digital Single Market is to digitally preserve and make accessible the cultural heritage of Europe for future generations. Thus, the goal is to make the vast quantities of books, paintings, museum objects, archival records, periodicals, and millions of hours of film and video covering the entirety of Europe’s rich, diverse history and culture, available online through libraries, museums, galleries, archives, and audio-visual archives. Europeana, as a centralized location for the creative industries and creative repurposing of cultural assets, offers access to culture for everyone, including for education, employment, and pleasure. ICT is used by Europe thus to transform Europe’s cultural legacy into a valuable resource for people and the economy. To stop the infringement of intellectual property rights, the EU already has legal instruments including the Directive on enforcement. However, in order to increase their ef-

ficacy, the Commission is pushing for closer coordination between law enforcement agencies at all levels in the fight against intellectual property infringement. Additionally, the Commission is trying to stop illegal activity from undermining EU growth and sustainable employment.

Copyright Protection in the United States of America

The Digital Millennium Copyright Act (DMCA),¹³ a copyright law in the United States, incorporates two World Intellectual Property Organization (WIPO), treaties from 1996. Production and distribution of technology, gadgets, or services designed to get around restrictions on access to copyrighted works (often referred to as digital rights management, or DRM), are illegal. Whether or not there is actual copyright infringement, it also makes it illegal to get around on access control. Additionally, the DMCA stiffens the fines for online copyright infringement. While restricting the responsibility of online service providers for copyright infringement by their users, the DMCA amended Title 17 of the United States Code to broaden the application of copyright.

The exclusion of Internet service providers and other intermediaries from direct and indirect liability is the main innovation of the DMCA in the sphere of copyright. The European Union adopted this exception in the Electronic Commerce Directive of 2000. The WIPO Copyright Treaty of 1996 was applied in the EU with the Copyright Directive of 2001.

Online service providers (OSPs), including Internet service providers (ISPs), are protected from copyright infringement liability under DMCA Title II, the Online Copyright Infringement Liability Limitation Act (OCILLA), as long as they comply with certain standards. When OSPs learn of an allegation of infringement from a copyright holder or the holder's agent, they must follow specific prescribed safe harbor criteria, qualify for them, and quickly prohibit access to allegedly infringing material (or remove it from their systems). A counter notice provision in OCILLA further shields OSPs from liability to their users in the event that users assert that the allegedly copyrighted material is not, in fact, infringing. Additionally, OCILLA enables the issuance of subpoenas against OSPs to obtain the identities of their users.

DMCA Organizations

A DMCA agent is an organization such as APIC, APIC Worldwide, or the Association for the Protection of Internet Copyright.¹⁴ Internet piracy is estimated to cost the US economy between \$6.1 billion and \$18.5 billion annually (Bialik Carl).

Anti-copyright infringement organizations

¹³Long Title: To amend Title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and for other purposes. Signed into law by President Bill Clinton on October 28, 1998.

¹⁴Formed in 1996, APIC WORLDWIDE is an organization "dedicated to the continued education for Internet copyright law and enforcement of such law through the co-operation of international, domestic, federal, state, and local statutes, laws, and ordinances." Its membership includes photographers, distributors of images, video, film, literature and other intellectual property, movie producers, musicians, record producers and publishers, websites concerned about copyright infringement and others concerned about copyright protections.

- Business Software Alliance (BSA)¹⁵
- Canadian Alliance Against Software Theft (CAAST)¹⁶
- Entertainment Software Association (ESA)¹⁷
- Federation Against Software Theft (FAST)¹⁸
- International Intellectual Property Alliance (IIPA)¹⁹
- Copyright Alliance²⁰

¹⁵BSA, The Software Alliance is the leading advocate for the global software industry before governments and in the international marketplace. Its members are among the world's most innovative companies, creating software solutions that spark the economy and improve modern life. The BSA pioneers compliance programmes that promote legal software use and advocates for public policies that foster technology innovation and drive growth in the digital economy. Available at <<http://www.bsa.org/about-bsa>>

¹⁶The Canadian Alliance against Software Theft (CAAST) is a Canadian trade group affiliated with the Business Software Alliance. Its mission statement is to “reduce software piracy in Canada through education, public policy and enforcement.” The CAAST was established in 1990. Available at <<http://vondranlegal.com/what-is-the-canadian-alliance-against-software-theft-caast/>>

¹⁷The Entertainment Software Association (ESA) is the trade association of the videogame industry in the United States. It was formed in April 1994 as the Interactive Digital Software Association (IDSA) and renamed on July 16 2003. It is based in Washington D.C. Most of the top publishers in the gaming world (or their American Subsidiaries) are members of ESA, including Capcom, Disney Interactive Studios, Electronic Arts, Konami, Microsoft, Bandai, NAMCO Entertainment, Nintendo, Sony Computer Entertainment, Square Enix, Take-Two Interactive, Ubisoft and Warner Bros. Interactive Entertainment. Available at <<http://www.theesa.com/about-esa/overview/>>

¹⁸Federation against Software Theft (FAST) is a not for profit organization, formed in 1984 with the aim of eliminating copyright infringement of software in the UK. FAST was the world's first anti-piracy organization to work on protecting the copyrights of software publishers. Initially concentrating on lobbying parliament to revise Copyright law, FAST also prosecutes organizations and individuals for copyright infringement on behalf of its members and publicises the legal penalties and security risks. Available at <<https://www.fast.org.uk/>>

¹⁹International Intellectual Property Alliance (IIPA), formed in 1984, is a private sector coalition of seven trade associations representing U.S. companies that produce copyright – protected material, including computer software, films, television programs, music books, and journals (electronic and print media). It seeks to strengthen international copyright protection and enforcement by working with the U.S. government, foreign governments, and private sector representatives. IIPA was the principal representative of the entertainment industry in assisting the U.S. government in the World Trade Organization (WTO) TRIPS negotiations, the North American Free Trade Agreement (NAFTA) negotiations, and at the diplomatic conference leading to the completion in 1996 of the World Intellectual Property Organization (WIPO) “Internet treaties – i.e., the Copyright Treaty and the Performances and Phonograms Treaty. IIPA has also worked with the U.S. government in drafting Intellectual Property Rights Chapters of free trade agreements. It participates in policy developments in copyright and enforcement issues in bilateral and regional initiatives such as the Asia Pacific Economic Cooperation (APEC). IIPA participates in trade actions brought under trade laws like the generalized system of Preferences and other trade preference programs. IIPA is a non-governmental organization at WIPO. The seven trade associations that make up the IIPA membership include: Association of American Publishers (AAP); Business Software Alliance (BSA); Entertainment Software Association (ESA); Independent Film & Television Alliance (IFTA); Motion Picture Association of America (MPAA); National Music Publishers' Association (NMPA); Recording Industry Association of America (RIAA). Available at <<http://www.iipawebsite.com/aboutiipa.html>>

²⁰The Copyright Alliance is the unified voice of the copyright community, representing the interests of thousands of individuals and organizations across the spectrum of copyright disciplines. The Copyright Alliance's Institutional members include over forty trade organizations, associations, unions, companies, and guilds that represent millions of individual creators. The Copyright Alliance also directly collaborates with and represents thousands of creative individuals and small businesses. The creative industries represented include writers, composers, recording artists, journalists, documentarians, filmmakers, graphic artists, visual artists, photographers, and software developers. The Copyright Alliance seeks to unite creators across various disciplines, to advocate for the protection of creative works, and to promote the livelihoods of creators. Available at <<https://www.copyrightalliance.org/about>>

6. The Regulatory Response to Digital Technology

The Copyright (Security Devices) Regulation was initially introduced in 1999 as a regulatory response.²¹ The goal of this rule was to combat the chronic issue of piracy. On sound recordings and cinematograph films that are intended or offered for sale, rental, hiring, lending, or other types of public distribution to the general public for commercial reasons in Nigeria, the Regulation makes rules that specify the use of tamper-proof holographic stamps.²² Every cassette, disc, or other medium in which the sound recording or film is encapsulated must have a hologram attached that can be seen by potential customers. The hologram is made out of tamper-proof stickers.²³

It was clear that technology advancements had outpaced the restrictions on the usage of hologram stickers seven years following this endeavor. In order to address the new situation and the unprecedented challenges of piracy it brought about, new regulations were required due to digital technology, the new challenges posed by an unprecedented influx of optical disc producers from Asia into Nigeria, as well as the high level local production of the discs. The Copyright (Optical Discs Plants) Regulation was implemented to address this new difficulty.²⁴ The Copyright (Optical Disc Plants, 2006) Regulation improves the legal approach to the pirate issue by taking advantage of technological possibilities. In order to establish high standards of copyright practice in the pertinent industries, the Regulations, which make it easier to monitor and oversee the creation of optical discs, were put in place (Optical Disc Plants, 2006). In order to fulfill its goals, the Regulation establishes a system of mandatory registration under which anybody involved in the creation, production, or replication of copyright works must first acquire the NCC's permission.²⁵

The Regulations mandate that each optical disc and production component made by a registered company must bear the proper manufacturer's code, as may be established by the Commission. This is one of the responsibilities of registered individuals.²⁶ This code, known as the Source Identification Code (SID), is an anti-piracy tool that aids in locating the creator or source of an optical disc. It must be affixed to each optical disc made by registered individuals.²⁷ The Regulations forbid the sale or other distribution of unmarked optical discs as well as the forging of codes or other erroneous applications of codes to optical discs.²⁸ Therefore, a technological solution has been developed in Nigeria to limit replication outside of authorized channels by unambiguously associating a disc with its producer. The legal support for the technological solution then forbids the

²¹The Copyright (Security Devices) Regulation of 7th September, 1999.

²²Para. 1 of the Regulations.

²³Para. 2 of the Regulations.

²⁴See the Copyright (Optical Discs Plants) Regulation (No. 66) of 2006, hereinafter, "the Regulations", discussed in further details below.

²⁵See Pars 1, 2 & 3 of the Regulations. The provisions also prescribe the requirements and procedure for, as well as the costs and duration of registration.

²⁶See Par. 5 of the Regulations.

²⁷Par. 7.

²⁸Par. 5(2) & (3).

manipulation of these technological tools under penalty of suitable sanctions.

The Regulations also require registered persons to maintain adequate records, including records pertaining to equipment and raw materials purchased or used in the production of optical discs,²⁹ records of all works produced, records pertaining to production orders, customers' information, copyright owner information (including recording artist information), quantities of both good and reject copies, and proof of the disposition of rejected discs (*Optical Disc Plants, 2006*). Additionally, registered people have a responsibility to assist copyright inspectors who are inspecting any registered premises by granting them access to the records and facilities as needed.³⁰

The Regulations offer a constructive answer to the need to address the rampant copyright infringement in the nation as well as the necessity to bring some rationality into the activities associated with the production of copyright works. In this regard, it has implemented the approach of looking inward to control local production of works as an alternative strategy, shifting the focus of control of piracy from the former emphasis on border control, which was more practical during the period of heavy reliance on importation of pirated works from foreign countries. Another benefit of the restrictions is that they promote local production because they have given illegally functioning plants a chance to register in order to make their operations legitimate rather than shutting them down.

Beyond putting the Optical Discs Regulations in place to address the issue of digital technology, enforcement of the regulation needs to be reinforced, especially to catch individuals operating beyond the bounds of the law. Importantly, violations of the Regulations' rules are considered offenses and are punishable by jail term, a fine, or both if found guilty. In fact, a key contributing cause to the nation's high rate of piracy has been recognized as lax enforcement.³¹ Weak enforcement may be caused by the NCC's and other law enforcement agencies' lack of personnel and other necessary resources, including the police.

To support law enforcement, the public must take the initiative to report criminal acts taking place in private neighborhoods. To accomplish this goal, the NCC's publicity and awareness-raising campaigns must receive appropriate attention. Additionally, it is necessary to investigate the potential for developing an efficient technological solution, and the Copyright (*Optical Disc Plants, 2006*) Regulations' application should be expanded to include duplicating operations. This is why the NCC's creative introduction of STRAP—Strategic Action Against Piracy—with its array of initiatives aimed at launching a vigorous public campaign against piracy—is a crucial step in supporting the adoption of relevant laws and policies.

Overall nevertheless, it is safe to state that progress is being made in address-

²⁹Par. 6.

³⁰See par. 9 of the Regulations.

³¹See Nigerian Copyright Commission and Ford Foundation Collaborative Research Survey of Copyright Piracy in Nigeria (2008), p. 31, revealing public perception that weak enforcement is partly responsible for the high rate of piracy in the country.

ing the issues posed by digital technology, especially with regard to the creation of artistic works of entertainment, even though there is still room for improvement. But when it comes to online piracy, the question is whether a new right is necessary to cover the uploading, downloading, and distribution of works in the digital environment, or if already existing rights can adequately cover this scenario. In other words, do activities related to internet transmission fall inside the current exclusive rights granted to a copyright owner by the Nigerian Copyright Act?³²

In order to provide a remedy, it may be useful to examine the nature and use of current exclusive rights that may potentially include internet digital transmissions. The right of communication to the public, dissemination, and replication are some alternatives in this regard. The right of communication to the public is defined to include any kind of visual or aural display in addition to any live performance or delivery, but not a broadcast or rebroadcast.³³

As close as this right would have been to digital online transmissions, it is nevertheless constrained by its limitation of communication methods to those using “a loudspeaker or any other comparable instrument.”³⁴ The right of communication is too narrowly defined to include digital transmissions because it is obvious that digital internet transmission cannot, under any circumstances, be compared to a loudspeaker.

In contrast, “copy” refers to a reproduction in written form, in the form of a recording, a cinematograph film, or in any other material form. “Reproduction” refers to the making of one or more copies of a literary, musical, or artistic work, cinematograph film, or sound recording.³⁵ The original copy of a digital text, piece of music, movie, or other work is often kept on the transmitting computer in high-speed digital communications systems, and copies are stored in each other computer’s memory or on storage devices connected to it. Thus, the copying and distribution of the transmitted data to other computers happen as a result of the transmission.

Therefore, it could seem at first glance that a combination of the reproduction right and the right of distribution would adequately cover this eventuality. On the other hand, it would appear that the phrase “to distribute...copies of the work by way of rentals, leases, hire, loans, or similar arrangement” limits the application of the distribution right. The phrase “similar arrangement” must be *ejusdem generis*, or of the same genre as the listed ways, such as rentals, leases, hire, or loans, in order to be interpreted in accordance with this principle. This rule of interpretation seems to be stretched a little too far for comfort when applied to transmission across digital interactive networks to distribution in the context of

³²As specified by the Act, these rights include the right to reproduce the work, publish the work, perform the work in public, make any cinematograph film or a record in respect of the work, distribute copies of the work, or to broadcast or communicate the work to the public – Section 6 of the Act.

³³See Section 51 of the Act.

³⁴See Section 6(1)(a) (vii).

³⁵*Ibid.*

that provision.

Therefore, it is not quite apparent, under the law as it stands, what constitutes a distribution or communication within the meaning of the Act in terms of an interactive transmission or other kind of making available through an interactive network. In any case, one is of the opinion that a better option would be to make the situation very clear by establishing a specific right that covers digital communications in order to provide certainty.

Options in this regard include explicitly including a new right of public communication, as provided for in the WIPO Internet Treaties and put into effect by Australian law (*Australian Copyright Amendment (Digital Agenda) Act, 2000*). According to the legislation, the right to communicate is the ability to “make a work or other subject matter available online or electronically transmit (whether across a path, or combination of paths, supplied by a material substance, or otherwise)”. (*Australian Copyright Amendment (Digital Agenda) Act, Section 10(1)*)

Another choice is provided by Japanese law, which establishes a new transmission right that applies to both the new technology of interactive Internet networks and the traditional broadcasting methods already in use.³⁶ The author also has the right to publicly communicate his work that has been made available for public transmission using a receiving device.³⁷ By doing this, the distribution right’s definition may be altered to explicitly acknowledge that copies of works may be transmitted to the general public and that doing so is covered by the copyright holder’s exclusive distribution right.

Regarding enforcement, worldwide answers show a trend towards focusing on the requirement that the court have jurisdiction over the defendant rather than basing jurisdiction on the location where the infringement occurs (*Andre, 2001*) (*Graeme, 2001*). In the US, this type of jurisdiction is known as “personal jurisdiction,” and it depends on how closely the defendant is connected to the forum (*Andre, 2001*). Therefore, personal jurisdiction may apply to a defendant who lives in the forum or who only occasionally or insignificantly interacts with it (*Andre, 2001*). The court may be thought to have wide jurisdiction over a defendant who resides in the forum, in which case jurisdiction may be presumed even with regard to activities committed outside the forum (*Andre, 2001*). This strategy, it is said, is more suited to address online infringement.

Initiatives for law change have emerged in Nigeria as a result of the need to address some of the challenges mentioned above. One of these is the Copyright (Amendment) Bill of 2009, which contains provisions banning certain actions like the creation, importation, sale, and distribution of technological protection measure circumvention devices that are used or likely to be used to violate copy-

³⁶See Art 23 of the Japanese Copyright Act, 1971, as amended severally in 1984, 1988 and more recently in 1997, 1999 and 2002, to bring the law into touch with technological developments, and to comply with the WCT and the WPPT. The English version of the Act is available at the Copyright Research and Information Centre (CRIC) website, at http://www.cric.org.jp/cric_e/elj/elj.htm/, accessed on 6th February, 2022.

³⁷Art 23(2).

right in a work protected by technological means.³⁸ Furthermore, it is forbidden to remove or modify any copyright management data that is integrated into or related to a work.

The problem of infringement of entertainment and other creative works through the circumvention of DRMs will be greatly reduced by these rules, which will also protect moral rights to paternity and integrity. The extension of exclusive rights in the digital environment, however, is not effectively addressed by the Bill. Concerns about enforcement are also left out. Contrarily, the Ghanaian response explicitly states that the economic rights granted to copyright holders also include the right to perform and communicate the work on the Internet. (Ghanaian Copyright Act, 2005, Section 5, 28(1)(f) and 76)

The Cyber Security and Data Protection Agency Bill³⁹ should also be mentioned because it makes it illegal to use computers to breach any intellectual property rights that are protected by local laws or international treaties. If found guilty, the act will result in a fine and/or jail sentence.⁴⁰ Similar to this, anyone who intentionally uses a name, business name, trademark, domain name, or other word or phrase on the Internet that is registered, owned, or in use by any individual, body corporate, or belonging to either the Federal, State, or Local Governments in Nigeria without authorization or right, or for the purpose of interfering with the use of the name by the owner, or by a legitimate prior user, commits an offense that is punishable on conviction by payment.⁴¹

Once more, this Bill is a positive step that resolves some concerns about the legal protection of entertainment works in the digital sphere. But it is obvious that not all of the problems are addressed. In fact, the Bill merely seems to touch the surface of the problems. This is so because the clause just makes it illegal to violate intellectual property rights that are already protected by Nigerian law and international treaties. Nigeria, however, has not domesticated or approved any WIPO Internet treaties. Additionally, the nation has not yet changed its copyright rules to explicitly include online exploitation as a new type of exploitation made feasible by improvements in digital technology. Thus, it could be argued that the Bill's usefulness is seriously diminished by the fact that online exploitation does not always constitute a violation of intellectual property rights, as is the case currently under Nigerian law, necessitating inclusion of such an act within the ambit of the Cyber Security and Data Protection Agency Bill.

7. Conclusion

To ensure the promotion of innovation investment and to prevent commercial-scale intellectual property rights violation that causes economic harm, an

³⁸Sections 7 & 8.

³⁹Titled a Bill for an Act to Provide for the Establishment of the Cyber Security and Information Protection Agency Charged with the Responsibility to Secure Computer Systems and Networks and Liaison with the Relevant Law Enforcement Agency for the Enforcement of Cyber Crime Laws, and for Related Matters of 2008.

⁴⁰See Section 21 of the Bill.

⁴¹See Section 19.

effective intellectual property infrastructure must be in place. Copyright law has served as the fundamental regulatory framework for the publishing business since the early eighteenth century. The worldwide web, the internet, and digital storage devices in general have upended accepted wisdom and the judicial system.

The profusion of creative talent in Nigeria is one of its richest resources. Such creativity, as it appears in the creation of copyrightable works, can more effectively contribute to socioeconomic development and growth if properly exploited. Digital technology has a significant impact on achieving this goal, both as a hurdle that makes the issue of infringement worse and as an opportunity for economic exploitation through e-commerce. These problems need to be solved with requirements pertaining to online copyright owners' rights. Although Nigeria's current regulatory response system appears to be trying its best, it falls short when measured against other jurisdictions around the world.

As a result, the study urges the creation of a better regulatory framework that complies with global best practices and establishes an effective system for upholding such legally established rights. Similar to every other legal right, when intellectual property rights are poorly or never enforced, it is as if no other legal rights exist. To address the current problem that the country is currently facing, a great deal of cash is lost due to copyright infringement, the government should establish copyright laws that are consistent with the WIPO Treaties.

By putting in place some of these measures, Nigeria will be better positioned to support socio-cultural and economic development and progress while also providing the necessary legislative response to copyright protection in an online and digital context.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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