

**COPYRIGHT LAW IN THE DIGITAL AGE: AN
APPRAISAL OF THE ADMINISTRATION,
CHALLENGES AND REMEDIES**

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**FACULTY OF LAW
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BENIN CITY**

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**A LONG ESSAY WRITTEN AND SUBMITTED TO THE
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FEBRUARY, 2025

CERTIFICATION

I, **Michael ABIODUN**, with Matriculation Number **LAW1906100**, hereby certify that apart from references to other persons' works which have been duly acknowledged, the entire work is a product of my research, and this project has neither in whole nor in part been presented for another degree elsewhere.

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APPROVAL

We certify that this project was written and completed by **Michael ABIODUN**, with Matriculation Number **LAW1906100** in partial fulfilment of the requirements for the award of a Bachelor of Laws (LL.B) degree.

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DEDICATION

This Project work is dedicated to the only one who is Mighty. The owner of true knowledge – God, whose hand guided me through every challenge, and whose grace sustained me throughout.

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ABSTRACT

The digital age has fundamentally reshaped the creation, distribution, and consumption of copyrighted works, posing unprecedented challenges to traditional copyright law. This abstract explores the multifaceted difficulties encountered in protecting intellectual property in a landscape characterized by pervasive digital reproduction, global connectivity, and the rise of artificial intelligence. Existing copyright frameworks, largely rooted in the concept of fixed, tangible works, struggle to adapt to the fluid, ephemeral, and collaborative nature of digital content. A central challenge lies in the tension between the ease of digital reproduction and the need to protect creators' rights. The internet's global reach facilitates widespread infringement, making enforcement difficult and costly. Traditional legal mechanisms, such as takedown notices, are often insufficient to address large-scale piracy and cross-border infringements. Moreover, the anonymity afforded by the internet complicates the identification and prosecution of infringers. The rise of user-generated content and collaborative platforms further strains existing copyright models. Defining authorship and ownership in environments where content is constantly remixed, shared, and modified becomes problematic. The concept of "fair use," intended to balance creators' rights with public access, is increasingly ambiguous in digital contexts, particularly with the proliferation of transformative works and remixes. Technological advancements, while offering potential solutions, also introduce new complexities. Technological Protection Measures (TPMs), such as DRM, are often circumvented, and their use raises concerns about privacy and access. Block chain technology and NFTs, while promising to enhance copyright management, also present challenges regarding authentication and enforcement. Furthermore, the emergence of Artificial Intelligence (AI) generates significant legal and ethical dilemmas. AI-generated content challenges traditional notions of authorship and ownership, raising questions about liability for infringement. The use of copyrighted materials in AI training data also raises concerns about fair use and the need for compensation. This abstract argues that a comprehensive approach is needed to address the challenges of copyright in the digital age. This includes: adapting legal frameworks to accommodate the unique characteristics of digital content; strengthening international cooperation in enforcement; exploring innovative technological solutions; and fostering a culture of respect for intellectual property through education and awareness. Moreover, it is imperative that legal frameworks evolve to address the rapidly changing AI landscape. This involves clarifying liability for AI-generated works, addressing the training data problem, and ensuring that copyright holders are adequately compensated. Ultimately, a balanced approach is necessary, one that protects creators' rights while promoting innovation and access to knowledge in the digital sphere.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

It is an established fact that one of the greatest heritages of a nation's citizenry is its creativity, dexterity, resourcefulness, and ingenuity. With the advent of technological advancement in the 20th century, the world has experienced immense advances in technological and scientific innovations which have changed the face of the society. This technological and scientific advancement has brought about the term "Jet Age" as coined by many thinkers.¹

This technological improvement has made great changes positively on the copyrighted works, its enforcement, the authorities, and legal systems which has disrupted original modes of protecting intellectual property, leaving the law in a complete state of flux, due to changing forms of innovations like phones, computers and the growing internet availability. In Nigeria, the life of every average person now rotates around some of these technological tools.

Over time, Nigeria has benefited immensely from copyrighted products. The Copyright Act, 2022 expressly provides protection for copyright holders and also confers the status of right ownership on the holders covering innovative works such as musical works, artistic works, cinematographs, literary works, broadcasts, sound recordings.²

The spectrum of these products implicitly covers digital innovation like computer software, satellite, and cable broadcasts, and reprographic transmission. Thus, as at

¹ Ajirere T, (2008) "The Anniversary of the Nigerian Copyright" available at <http://www.ndunigeria-dailynews.com> (Accessed on the 10th January, 2025)

² Section 1(1) of the Copyright Act, 2022

2008, the totality of copyright-based industries operating in the country contributed about ₦1.2 trillion to the Nigerian gross domestic income, a figure publicly made known by the authorities during the 50th anniversary of the Nigerian Copyright Commission.³

The implication is that works, also in digital format, are also eligible for protection as long as they can be reproduced, perceived, and communicated into technological devices.

It is important to say that the uniqueness of digital technology makes it easier to manipulate, reproduce, and communicate copyrighted works in the digital space without a license or any form of authorization from the right holder.

However, it is quite unfortunate that detecting such infringement on works can be a burdensome task, and this can hinder the desire and passion of creators as well as sabotage the economic benefits of copyrighted works to a country.

The technological advancement which the world has witnessed over time which have also affected copyright works, pioneering a digital advancement in copyright and intellectual property as a whole has also brought about several challenges in form of various infringement practices. It is in that Nigeria joined other leagues of nations in enacting laws to combat this infringement practices.

From time immemorial, copyright law has responded to technological change because these exploiting works of authorship that copyright seems to protect are dictated by existing technologies. Before the advent of technologies which enabled inexpensive copying, the economic efficiency of creating copies made the need for copyright laws unnecessary.

³ Ayemi Ayo (2010) “Why Legal Framework for Broadcasting Industry maybe strengthening now” available at <http://www.allafrica.com>. (accessed 10th January, 2025)

The performance right for limited categories of digital audio transmissions was added with the 1995 amendment, and these categories were expanded to encompass a larger body of digital audio transmission which includes internet webcasts in the Digital Millennium Copyright Act (DMCA) of 1998.

The DMCA has brought a change in the field of intellectual property laws, bringing the electronic reproduction and distribution of creative works within the reach of copyright laws, solving a number of problems regarding the rights of owners and liabilities.

With the expansion of copyright, copyright coverage has been tied to the advent of new technological ways of making inexpensive copies of a particular type of work and a market that would likely be undermined by the exploitation of the new technologies.

In recent times, changes making headlines relate to digital/ technology communications such as the internet and others. Just like other innovations, these innovations are promising and also potentially harmful to various parties involved and interested in the use and exploitation of works of authorship from books and music to films and websites.

As earlier emphasized on, the greatest heritage of a nation is the creativity of its citizens hence the need for the law to protect the ingenuity of its citizens, its resourcefulness and innovations. Belgore J. in *Oladipo Yemitan v. Daily Times Nigeria Ltd*⁴ aptly stated that: “the right of a man to that which he has originally made is an incorporeal right and must be protected.”

Nigeria’s Copyright law was first governed by the Copyright Act 1911, which was made applicable to Nigeria by virtue of an order in council under Section 25 of the Act

⁴ [1980] Federal High Court Reports) 186 at 190

of 1911 of Great Britain before the emergence of the first indigenous Nigerian Copyright Act in 1970.

The 1970 Act⁵ could not protect right holders against the increasing piracy and other infringement practices, which led to the 1988 Act,⁶ which also failed to adequately cater to and protect the rights and status of copyright holders. Additionally, the 2004 Copyright Act⁷ also failed to adequately provide full protection for copyright holders in the digital space.

However, the Copyright Act, 2022, signed into law by former President, Muhammadu Buhari, ensured a new dispensation of copyright protection containing provisions which are geared towards protecting the works of creative and transform the Nigeria creative industry and to meet the demands of the digital age.

The Copyright bill (now Copyright Act, 2022) was signed into law on the 17th of March 2023, repealing the old Act of 2004, which failed to address modern realities and problems bedeviling copyright practices in Nigeria, particularly in the light of tech, social media, internet, and piracy.

Nigeria is signatory to various international conventions on copyright protection. The previous Act failed to recognize the importance of those international instruments and they weren't domesticated, making these conventions and instruments unenforceable in the Nigerian jurisdiction. However, the new Copyright Act of 2022 provides for the domestication of these conventions.

The new Act also expand rights of authors, addresses the challenges of the digital age on online content, while also increasing sanctions on copyright infringements.

⁵ Nigerian Copyright Act, 1970

⁶ Nigerian Copyright Act, 1988

⁷ Nigerian Copyright Act Cap C28, LFN, 2004

The 2022 Act is ostensibly a significant improvement to the old Act as it contains provisions which aptly addresses the inadequacies and shortcomings of copyright law.

Despite anti-infringement laws put in place, Nigeria remains one of the largest destinations where piracy and online infringement thrive. Prof. Adebambo Adewopo,⁸ SAN, stated that the major challenge to Intellectual Property protection that has given IP Piracy new architecture and meaning is digital technology. He noted that it has made it hard for right holders to regulate and control unauthorized distribution of their works.⁹

Also, the ability of users and third parties to manipulate protected works online and on digital platforms blurs the lines between the author and users of copyrighted works, as well as the authorial integrity of these works.¹⁰

Entities can now more quickly collect detailed personal data and communicate as third parties, and even profit without an authorization or consent from the original right holder/owner. These are due to lack of effective protection of copyright and administration, in addition to moral reasons against any form of enrichment, fraudulent claims, intellectual theft which characterizes digital privacy and infringement and other copyright abuses in our clime affecting individuals and industries which have the potential to contribute higher revenue to our economy.

1.2. Aim and Objectives

The following are the aims and objectives of this study:

1. To examine the prevalent menace of copyright infringement in the digital world.

⁸ Bertram Nwannekanma, "Nigeria's Intellectual Property Laws not suitable for emerging Commercial and Technological Development.

⁹ John Onyido, "Copyright in the Digital Prospects and Challenges

¹⁰ Ibid

2. To identify the challenges of copyright infringement in a digital world.
3. To determine how copyright infringement can be handled considering digital technology.
4. To examine remedial and protective methods of right holders against the backdrop of violations in the digital world.

1.3 Statement of the Problem

It is an indisputable fact that copyright is a monopoly of limited duration, but unlike most monopolies, 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 copyright infringement in Nigeria and challenges in a digital world.

1.4 Scope and Limitations of the Study

This study on the copyright infringement in digital world and age will cover issues of piracy of copyrighted works on the internet and on the various social media platforms and copyright violation of personal information of internet users on the internet vis-a-vis the challenges of digital technology which has made piracy and copyright infringement difficult to tackle.

The limitations to this study are:

1. .Financial constraint: insufficient fund tends to impede the efficiency of research. This was a challenge encountered during the course of putting this work together.
2. Serious difficulty was encountered in sourcing for the relevant materials, such as literature information, journals, articles, textbooks, even internet sources, e.t.c
3. Time constraint: Academic activities and other engagements served as a difficulty in rounding off with this work timeously.

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 agencies (National and international), authors of intellectual properties, intellectual property law, especially copyright enthusiast and the general public at large on the increasing menace of copyright infringement 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.
3. This research will also encourage relevant authorities to enact laws to meet with the changes on the cyberspace geared towards the protection of copyright owners whose works and information are on the digital space.

1.6 Research Methodology

Research methodology is the structured plan, process, and approach researchers use to carry out a study. It includes the strategies, methods, and steps used to collect, analyze, and interpret data, offering a systematic way to address research questions. This study will employ a comprehensive doctrinal research approach which includes detailed analysis of statutes, case laws, text books, articles and journals. This methodology will cover an in-depth analysis of documents and literature review will be carried out by examining primary and secondary materials. A proper appraisal of the challenges owners of copyrighted works encounter with the advent of digital technology which has made it faster and easier for works which much time and industry was expended on to bring to fruition. Also, acts which consummates this infringement are explained as well as possible solutions. This doctrinal approach is properly suited for this study given its aim as well as the ease of gathering necessary materials and rounding up information.

1.7 Research Questions

1. What is the spate of copyright infringement in the digital world?
2. What are the challenges of copyright infringement in a digital world?
3. How can copyright infringement be handled and eradicated in the digital world?
4. What is the administration of copyright in the digital world?

1.8 Chapter Analysis

This paper is divided into five chapters. Chapter one is the introduction. Chapter two examines the definition of copyright, focusing on its historical foundation and literature review. Chapter three discusses the legal frameworks governing defamation

in Nigeria. Chapter four centers on copyright infringement in the digital age, its causes and effect. Chapter five mirrors on the reform proposals for combating copyright infringement in Nigeria.

CHAPTER TWO

CONCEPTUAL FRAMEWORK, HISTORICAL FOUNDATION AND LITERATURE REVIEW

2.1 Conceptual Clarifications

This sub-chapter entails the definition and explanation of common legal issues, principles, theories and terms in the area of copyright law.

2.1.1 Definition of Copyright

According to Copinger and Skone James, copyright is “one of the three main branches of intellectual property law which gives the owner the exclusive right to authorize or prohibit certain uses of his work by others.”¹

Copyright shares the attribute of being a non-physical intangible incorporeal personal property. Although it is embodied in physical forms such as books, compact discs and tapes, copyright exists independently of the physical embodiment of the work.

The primary function of copyright is to protect the fruit of a person’s work from the exploitation by another. This protection is of great importance to right holders such as artists, actors, playwrights, performers, composers, etc

Copyright is a type of intellectual property right authors have over their original works.

The Blacks’ Law Dictionary² defines copyright as 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 aim and exclusive privilege of multiplying copies of the same and publishing and selling them.

¹ Garnett K, Davies G and Harbottle, G Copinger and Skone James *on Copyright*, 15th ed. (London: Sweet & Maxwell, 2005)

² The Blacks’ Law Dictionary (8th Edition)

The World Intellectual Property Organization (WIPO) defined copyright as “a legal term used to describe the rights that creators have over their literary and artistic works”.³

It is however noteworthy that copyright does not grant protection to all works as not all works enjoy statutory protection. The law has however named categories of works which are eligible for copyright protection.

Firstly, the Copyright Act embraces or recognizes sound recordings, broadcasts, artistic works, cinematographs, literary musical works.⁴

For a work to be eligible for copyright, there must have been sufficient effort expended on making the work in order to give it an original character.

There are no guiding principle under the Nigeria Copyright Act to determine when a work should be deemed to have sufficient effort to bringing it into life.

Some case laws have been very instructive to this regard, one of which is the case of *Offrey v Chief S. Ola & Ors*⁵. Herein, the court held that copyright would exist in a given product if that product is the result of some substantial or real expenditure of mental or physical energies of the producer and the labour or skill was not a negligible or commonplace one. The court further held that the amount of labour, skill, judgement or ingenuity required to successfully support a claim for copyright was a question of fact and degree in every case. The court held that: “there was no evidence that the plaintiff had put into some substantial amount of effort into its production”.

By virtue of Section 2(1) Copyright Act 2022, there are 6 broad categories of work which are as follows;-

1. Literary works

³ WIPO Copyright Treaty (WCT) 1996

⁴ Section 1 (1) Copyright Act

⁵ Unreported, Suit No: HOS/23/68 decided 27th June 1969

2. Musical works
3. Artistic works

The first 3 are classified as the creative works of copyright or primary works

1. Audio-visuals
2. Sound recordings
3. Broadcast

These are the derivative works of copyright:

1. Literary works: The Act provides a guide as to the nature and scope of literary work. In general sense, all copyright works are literary in nature. A copyright work must have literary value. In a specific sense, literary work refers to the classes of works identified in Section 108 of the Copyright Act, 2022. However, the list in this section is not exhaustive on the specific meaning of literary works and when a work is deemed to have literary value. The locus classicus case on the definition of literary work is *University of London Press v University Tutorials Press*,⁶ wherein Peterson J described a literary work as covering a work which is expressed in priority and writing.
2. Artistic works: artistic works suggest works that appeals to our senses of shapes. Artistic works are used on shapes, diagrams, patterns, or designs. They include; paintings, lithographs, woodcuts, drawings, maps, photographs and so on.
3. Musical works: In *CFAO v Archibald*⁷, the Supreme Court of Ghana defined a musical work as a substance of a manuscript setting out a distinctive compilation of melody. The Nigerian Copyright Act, 2022⁸ defines musical works as musical

⁶ [1916]2 Ch.601

⁷ [1964] DLSC1885

⁸ Section 108

composition consisting of lyrics and melody. The Nigeria definition broadly encompasses the combination of sounds that make up the music as well as the works such as lyrics of the song which accompany the composition. It should be noted that if musical work accompanies an audio-visual production, it is often regarded as an audio-visual production.

4. Sound recording: It is the production of a musical work into sound. Under Section 108 of the Nigerian Copyright Act 2022, it is defined as the first fixation of a sequence of sounds capable of being perceived orally and capable of being produced. The author of a sound recording is the person that make the arrangement for the production of a sound recording.

In *CBS Incorporated v AMES Records & Tapes Ltd*,⁹ the English court held that the person that provided the necessary machinery or materials for the production of a home tape, has control over the use and enjoyment of the work he has ownership and authorship.

5. Broadcasting: It is the dissemination or combination of copyright works or other work, either through television, wireless wired networks. The person who makes for the arrangement of the broadcast work is the author and owner of the copyright in such works. It is also includes the right to rebroadcast.
6. Audio-visuals: Before now, they were tagged as “cinematographs”. It is tagged as the first sequence of pictures capable of being perceived with our sense of sight. It focuses on images and pictures, thus a silent movie is regarded as an audio-visual production.

⁹ [1982]Ch.91

Ordinarily, a person who makes arrangement for the production has authorship and ownership of the audio-visual work. However, under the UK Copyright Act 1938, it is acceptable for the producer and the director to be regarded as joint authors.

Copyright comes from the idea that a creative work is an extension of an author's person and it is expedient that it is protected from exploitation by another person and the general public at large. Also, copyright is essential as it serves as motivation to creators, providing incentives for them, as the absence of copyright and its protection might discourage them as others would be able take the work, use it in whatever manner as they please and exploit the work in different forms.

This act can also sabotage the economic growth of a country as where creative and performers are reluctant to make works due to the absence of necessary protection, a country as a whole will be equally shortchanged as they would be no economic benefits to derive.

Copyright is an exclusive property right given to copyright owner over his work, and encompasses the right to make copies of the work, sell these copies to the public or the right to give a public performance of the work.¹⁰

2.2 Historical Foundation of Copyright

As printing trade exploded the Gutenberg printing Technology in 1439, it became very easy to produce manuscript at cheaper rate. The promulgation of the Statute of Anne as the history of copyright law cannot be told without a deliberate reference to the Statute of Anne and rightly the Statue is a significant reference to the point to the legal expression of copyright but in reality copyright predates the Statue of Anne and has a longer historical origin than 1710.¹¹ The Declaration by King Diarmund while passing judgement in respect of the dispute

¹⁰ Van Hoorebeek M. "Gringras: The Laws of the Internet (Third edition), *International Journal of Law and Management*, (2009)

¹¹ Gurry Francis, "Rethinking the Role of Intellectual Property", WIPO (2013)

between Finnanin and Columcille in the 6th century in Ireland is said to have ushered copyright into the world.

The development of copyright began and a direct response to the changes brought about by printing technology in the 15th century. This technological innovation at the time, revolutionized the means of duplicating literary work. A significant implication, was the ability of the machine to churn out mass publication or reproduction within a short time as against the laborious manual method of production by hand. With this technology, texts were swiftly and mechanically reproduced and the ideas contained therein became readily available to the public for the first time.¹² With the invention of Gutenberg printing machine, the Queen of England, using royal prerogative, granted charter to the stationers' company in London. The stationers' company, as a craft guild, possessed and played supervisory roles over its members to the extent that before a book is printed, a license had to be first obtained. License were only granted to company's members, who accordingly had the exclusive rights to produce and distribute books. In addition, the company was also granted the power to search out and dispose of any books produced or printed contrary to law.

The technology of printing machines in trying to solve a problem if slow method of hand reproduction of books, gave rise to the issue of copyright protection and piracy, accordingly, this resulted to intensive lobbying for by the publishers for a legislature to deal with the problem.

The remedy to this problem, came in form of legislative enacted in 1709 to curb the scourge of piracy and other forms of exploitation. It was at this time the famous Copyright Act of 1709 also known as the Statute of Anne (the Act derived from Queen Anne of England was passed during her reign). It is generally recognised as the world's first copyright law enacted in England in 1710. The Act is credited for introducing the concept which stipulates that an

¹² Karapapa, S. & McDonald, L. *Intellectual Law*, 1st ed., (Oxford: England, Oxford University Press, 2019)

author of a work is the owner of its copyright.¹³ The second is that, it laid out the idea that a copyright protection should be for a fixed term.¹⁴ It conferred on the exclusive right and authority of printing books for a period of 14 years from first publication, with a further term of 14 years being available if the author was still alive at the end of the first term of protection. After which that material will fall into public domain¹⁵. For books already in print before the enactment of the Act, the period of protection was extended to 21 years without more.¹⁶ Under the Act, contrary to the Licensing of the Press Act 1662, the authors rather than the publisher is were for the first time vested with the copyright.¹⁷ Similarly, another notable provision in the Act, was the requirement for all copyrighted works to be deposited at designated libraries and registered Stationers' Hall.¹⁸ However, one major shortfall with this enactment was that it failed to recognize and protect unpublished works.

It is instructive to note however, that the Statue of Anne had tremendous influence on the provision and establishment of copyright laws in other jurisdictions, such as the United States through the enactment of its Copyright Act in 1790. Prior 1886, copyright legislations at the international scene was at its infancy. However, with the introduction of Berne Convention for the protection of Literary and Artistic Works in 1886 (Berne Convention” or “the Convention”), copyright received a booster as it introduced international standards for copyright protection as well as provide mutual recognition for copyright protection between nation states.

The Convention also jettisoned the need to register copyrighted material separately in each individual country. Berne Convention¹⁹ has been adopted and domesticated by all members

¹³ S.1 8 Ann C.19

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Berne Convention for the protection of literary and artistic works (1886)

nation including non-member nations (over 140 of the approximately 190 nation states of the world). Following Nigeria's and United States of America's adoption of the treaty on the 14th of September, 1993 and 16th November, 1988 respectively, the Convention now covers almost all major countries in the world. The Berne pact although with minor modifications, remains in force to this day, and continues to provide the basis for international copyright law. Scholars have noted that one of the major innovations introduced by the adoption of the Berne Conventions was to extend copyright protection to unpublished works, as well as to remove the requirement for registration.

2.3 Literature Review

The initial element of the mechanism of the system of international coverage of copyright is the Berne Convention – Paris Act of July 24, 1971²⁰ – on the protection of literary and artistic works and the Copyright Convention. In accordance with Article 2(1) of the Convention on the Foundation of the World Intellectual Property Organization, Intellectual Property includes the rights related to literary, artistic and scientific works; executive activity of artists, recording, the radio and television gear; inventions in all spheres of human activity, scientific discoveries; industrial designs; trademarks, servicing marks, corporate names and commercial designations; protection against unfair competition, as well as all other rights related to intellectual activity in industrial, scientific, literary and artistic spheres.²¹ The ratio of copyright protection is also regulated by the World Copyright Convention, which was adopted in 1952 in Geneva under the auspices of UNESCO. It has a consideration of the principle of the national regime and does not contain detailed material norms that fix the

²⁰ Berne Convention for the protection of literary and artistic works (1971)

²¹ Article 2(1) WIPO (1979).

minimum level of protection directly in the Convention (except for the provisions on the right to translate).²²

The Berne Convention applies to most of the “classic” copyright objects; however, for obvious objective reasons, it does not pay special attention to the most recent objects, such as computer programs. The Berne Convention does not require any formalities to provide protection (registrations, formal messages, etc.). For example, it is enough to release the work into the world. It is applied to citizens of the participating countries (or persons who are constantly residing, whether headquarters are in relation to the authors of cinematographers), for the first time released by the work into the world in the participating country or simultaneously in a participating country and a country that has not joined the Berne Convention.²³ The latter also establishes a national protection regime, guaranteeing the protection of the rights of authors at a level not less than the level of protection provided for in the internal law of the participating countries in which the protection is requested. At the same time, the Berne Convention defines the minimum level of the author’s rights (that is, containing direct material norms).

Then, it should be noted that there are two forms of copyright protection, namely jurisdictional and non-jurisdictional.

A jurisdictional form of protection is the activity of authorized state bodies to protect infringed or challenged subjective copyrights. Its essence is expressed in the fact that a person whose rights and legitimate interests are violated by illegal actions applies for protection to a state body authorized to take appropriate measures to restore the violated right and stop the offense. Within the framework of jurisdictional protection, there are also general and special procedures for the protection of violated rights. As a general rule, copyright

²² UNESCO. (1952). Universal Copyright Convention with Appendix Declaration relating to Articles XVII and Resolution concerning Article XI 1952

²³ Berne Convention for the protection of literary and Artistic works, WIPO, (1979)

protection is carried out in court. The bulk of civil law disputes on copyright issues are considered by courts. The special procedure for the protection of copyright should be recognized as the administrative procedure for their safety; it is used as an exception to the general rule in the administrative order, i.e., the method of protection is a complaint to the appropriate state body filed by a person whose rights and legitimate interests are violated.

The non-jurisdictional form of protection provides for actions of legal entities and individuals to protect their copyrights, which are carried out by them independently without recourse to state or other competent authorities.²⁴ This refers only to legal means of protection, such as notifying the infringer of the existence of copyright and a proposal to resolve the dispute through negotiations.

The basic rules for resolving conflicting issues of copyright are as follows:

- i. Until the emergence and termination of intellectual property right subject to state registration, the law of the state where the state registration of these rights are carried out.
- ii. When concluding contract, provisions on the application on the right to contractual obligations are applied.
- iii. Where there is a dispute bothering on legal relationship, for instance in cases of claims of damages, the parties have the right to agree to which court of which country they will apply.
- iv. Foreign decisions bothering on the existence, validity and registration of rights in this area are recognized if they are made or recognized in the state in whose territory the protection was requested.

²⁴ Geller, P. E.. "International Copyright: The Introduction." *International Copyright Law and Practice* (2018),1.web

One of the current problems of copyright protection is protection on the Internet. The most common types of violations on the Internet are illegal reproduction and copying of music, art, literature or computer programs without the prior consent of the author or copyright holder. This expresses a violation of the material rights of authors.²⁵ In addition, this type of violation, such as plagiarism, is becoming increasingly popular. Such breaches on the Internet violate the material and intangible rights of authors.

Thus, the protection of copyright and related rights on the Internet requires the development of fundamentally new legislation not only at the national but also at the international level. At the same time, such protection should not lead to the control over the use of works becoming an obstacle to the development of education, science, culture and other needs of society.²⁶ Moreover, the two famous legal cases below serve as great examples of how a copyright issue may be resolved at the court level.

Those who followed the US election campaign in 2008 should have paid attention to the unusual posters with the word HOPE that Obama's supporters brought to rallies. They were created by the artist, Shepard Fairey, also known as the creator of street art with the image of the wrestler, Andre the Giant and the owner of the Obey youth clothing brand. However, Fairey became famous all over the world precisely thanks to posters and stickers with the image of Barack Obama, which, however, together with fame, brought him big problems. We are talking about a conflict with the Associated Press news agency, which accused the artist of copyright infringement. The fact is that Fairey's creation was based on a photograph of Mannie Garcia, which legally belongs to AP.

The litigation lasted almost two years. Fairey tried to prove that the act of borrowing the photograph was "justified use" (US law allows copyrighted work to be appropriated for

²⁵ Stokes, S. "The Limits of International Copyright Exceptions for Developing Countries." *Vanderbilt Journal of Entertainment and Technology Law*, 21(3) (2019)

²⁶ Ginsburg, J.C. (2016). Overview of Copyright Law.

purely artistic purposes).²⁷ However, neither side managed to win. Instead, they entered into a cooperation agreement. AP and Fairey are set to release a series of posters and other HOPE merchandise. Moreover, the agency will provide the artist with images that he will have to use to create works of art or souvenirs. The parties also agreed on some financial compensation, but these terms of the agreement are kept secret.

The second case is related to Richard Prince, who is one of the richest and most arrogant American artists. Inspired by the ideas of postmodernism, he decided to encroach on other people's works. Prince once pocketed photographs of Rastafarians in Jamaica by photographer, Patrick Cariou. I painted them, stuck a guitar to one and goggled; the pictures sold for millions (Artist Rights, n.d.).²⁸ Patrick Cariou filed a lawsuit, and the court unexpectedly sided with the robbed photographer. Things took a tragic turn: works and catalogs had to be destroyed, and buyers were forbidden to show them. American artists, notably the Andy Warhol Foundation, have come forward with Prince's support. Photographers, on the other hand, sided with Patrick Cariou. Prince's lawyers have filed an appeal. As a result, the Supreme Court ruled that Prince was right and said that 25 of the 30 works were well-crafted by the artist and did not look like the original.²⁹ Regarding five other works, the artist managed to agree with the plaintiff, and everything ended peacefully.

Discussion

The works created as a result of creative activity serve everyone, and this, together with the ubiquity of their use, leads to the fact that the protection of copyrights within the territory of the country of origin of the works is insufficient. It is essential that the rights of authors enjoy

²⁷ Kennedy, R. (2011). Shepard Fairey and the A.P. Settle Legal Dispute. *The New York Times*

²⁸ Artist Rights. (n.d). Significance: *Cariou v Prince.web*

²⁹ *Cariou v. Prince*, 714 F3d 694 (2d Cir. 2013)

appropriate recognition and be exercised wherever their works can be used. At the same time, they forget that without the protection of copyrights, it is impossible to ensure the development of creativity, which requires appropriate incentives, or the development of the local industry of cultural values necessary for the market of national works because to attract investment and ensure their profitability.

As a result of all this, ensuring the effective protection of national works in a country necessitates similar protection of foreign works, which creates an obvious paradox: for the protection of national works, it is necessary to protect foreign works. Being deprived of protection, foreign works can be used without the permission of their author and without any costs; thus, they will be unfair competition to protected national works, which risk being displaced because their use is associated with higher costs.

At the international level, the protection of copyright was initially ensured through bilateral reciprocity agreements, which in most cases are related between European states; however, such agreements had a limited scope, were devoid of a unified character, while the internationalization of book and music markets made it necessary to harmonize the regime of protection of copyright, regardless of national borders. It is because of the lack of bilateral agreements that copyright has been one of the first areas where private international law has been codified in a multilateral treaty between European countries: the Berne conventions on the protection of literary and artistic works.

If to discuss copyright protection on the Internet, we must realize that these are not only legal but also technical issues. Under current conditions, it is very difficult to control the use of works online, so the most successful rules of copyright law will not be able to work in full force. Prospects for the development of copyright law in relation to the network largely

depend on the creation of technical means to limit and monitor the use of works on the Internet.

Of particular note is copyright infringement, such as plagiarism. One of the most important prerequisites for the spread of plagiarism today is the development of the Internet, which causes the uncontrolled movement of information, the volume of which is constantly increasing.³⁰ Plagiarism is the publication in whole or in part of another's work under the name of a person who is not the author of this work. Plagiarism is distinguished by the assignment of someone else's authorship. Piracy, for example, can distribute someone else's work without the author's permission, but the name of the real author is not hidden. That is, in this case, the non-property rights of the author are preserved, which cannot be said about plagiarism, where both property and personal non-property rights of the author are violated.

In this situation, it is necessary to actively find ways to solve problems in the field of protection and enforcement of intellectual property on the Internet at the interstate level, with the involvement of the widest possible range of states. It is important to introduce additional mechanisms aimed at improving the legal regulation of protection and enforcement of intellectual property rights on the Internet in less developed countries, including developing countries.³¹ It is also necessary to raise the technical level of protection of websites from unauthorized access and from use for criminal purposes. The solution to the problems of protection of intellectual property on the Internet should be, first, specialized legislation in the state. Then the authors would not be afraid of such negative phenomena as plagiarism, piracy, and electronic libraries could fully and properly operate properly, without compromising anyone's rights. In this case, users will be able to find the information they

³⁰ Adam, P.M. (2020). Good v Evil: attribution or plagiarism

³¹ Okediji, R.L. "The limits of International Copyright Exceptions for Developing Countries." *Vanderbilt Journal of Entertainment and Technology Law*, 21(3) (2019).

need in a way convenient for them and without violating the law, and the authors will be at ease for their copyright.

Copyright is an important and integral part of any legal framework that aims to regulate in a fair manner the civil conduct of authors and users and thus to ensure the universal protection of the interests of all. Given the rapid development of information technology in recent decades, it is clear that this development is accompanied by certain problems in the legal regulation of the use of this information technology. Improper use of the Internet can cause both relatively minor damage (for example, in the case of copyright and related rights by illegally distributing audio or video materials) and more serious (cyber attacks on secure servers to extract confidential information that may lead to a threat to the national security of states, etc.).

The analysis of the current problems in the field of protection and enforcement of intellectual property rights allows coming to the conclusion that it is necessary to improve both domestic legislation and international law in this area. First, the WIPO treaties need to be updated, which can be implemented by revising the existing treaties, as well as the adoption of new provisions that should close the current gaps. Second, it is necessary to carry out the proper implementation of such agreements by all states without exception, which will facilitate the international legal regulation of copyright and related rights and contribute to a faster resolution of existing problems in this area. The presented legal cases show that the parties are likely to negotiate copyright issues on their own in the aftermath, given, again, the absence of the necessary extent of regulation.

2.4 Digital Age

The digital age is otherwise referred to as the information age which is a historic period in the 21st century. It is characterized by a paradigm shift from the traditional industry that accompanied the industrial revolution in the 18th century to an information technology-based economy. This period refers into the period wherein computers and other technologies were ushered in to provide users with the ability to easily share and disseminate information through the internet space.

2.5 The Concept of the Internet

The Oxford Dictionary defines the internet as a global computer network producing a variety of information and communication facilities, consisting of interconnected networks using standardize communication.³²

The internet connects worldwide allowing the sharing of information and data. With the invention of the World Wide Web in 1989, navigation of the web became easier transforming the internet into a vast ecosystem and changing how we communicate, learn, shop and entertain ourselves.

Social media helps us connect globally; search engine like Google provide instant access to a wealth of information. Also, online platforms offer education through resources. It also made shopping online and streaming services easy with apps such as Amazon, Jumia, Youtube, Netflix etc.

It is worthy to note that while the internet help facilitate the distribution of data and information, it is poses the risk of infringement of third parties through unauthorized distribution, sharing, exclusive use, performance with intellectual property rights.

Internet revolution which has led to the emergence of frontier technologies like AI has significantly reshaped the landscape of context creation and distribution.

³² Oxford English Dictionary, 2nd ed., (Oxford University Press, 1989)

2.6 Copyright Infringement and Challenges on the Digital Space

The Nigeria Copyright system just like every other system faces challenges in the digital sphere relating to intellectual property rights protection, emerging technological and digital technologies copyright enforcement and administration. Some of the common challenges and infringement associated with the copyright system in the digital space shall be discussed subsequently;

1. Remote Linking: this is also known as inline linking or hot-linking and it involves direct linkage of a site to another web resource hosting the content.
2. Derivation and Adaptation: this entails the act of digitizing or transferring content, even if incorporating pre-existing works in their original form constitutes reproduction within the ambit of copyright.
3. Scanning: Scanning includes the conversion of physical documents into digital formats which include copyrighted content. Although, scanning itself is not a copyright infringement, sharing distribution and reproduction of the scanned document or material without the consent of the owner may lead to serious copyright infringement.

Unauthorized distribution of such material especially when shared online can result to the violation of the rights of original creators or copyright holders.

4. Mirroring: this involves improving service for internet users by duplicating website globally and across various services, making available important information and content to all users.

A mirroring site is an exact duplicate of another site which provide sources of the same information, raising copyright concerns, especially when used for artistic and literary works.

5. Illegal streaming of content: this is a form of digital Piracy which involves the unauthorized viewing of copyrighted works online without downloading. It involves the sharing, distribution of copyrighted files online without authorization or permission of the right holder through different channels which infringes on the right of the owner and can lead to serious legal consequences.
6. Cyberlocking: a cyberlocking is a third-party online service that provides file storing and file sharing services for various types of media files and data. Cyberlockers often provide storage for these copyrighted materials. Due to their easy access to unauthorized materials, they lack search features this makes it difficult for infringing materials to be traced and this contributes to digital and online piracy.
7. Downloading and uploading of works: downloading literally refers to the act of obtaining digital files from the internet on to a personal space or device. Illegal and unauthorized download of copyrighted materials can have a severe consequences on the income of content creators because their works are being distributed without their permissions and due credit given to them. In the case of *A & M Records Inc v Napster Inc*,³³ the court ruled that a file sharing and download platform facilitated widespread copyright infringement and held the company accountable for contributory and vicarious copyright infringement.

On the flipside, uploading involves sharing or distributing of a content or material on to the internet, from one's device. This process can lead to severe copyright infringement where persons share copyrighted materials or content of another person without the authorization and permission of that other person who is the copyright holder.

³³ [2001] 239 F.3d 1004

This trend is mostly associated with blog owners and operators as well as internet content creators who upload contents of other individuals on their page and blogs without crediting the original creator of such content.

8. Buffering: This is a method derived from the French word 'caching' which means 'to hide' which is commonly used in computing to store and retrieve recently assessed information locally, minimizing the need for additional network access time and reducing the burden on network traffic.

This practice of buffering conflicts with authors' rights and the public's interest in maintaining internet's functionality.

Caches store data from web servers, including copyrighted content raising copyright concerns by potentially duplicating and sharing protected works.

9. Digital Alteration and Manipulation: The transformation of digitized content easily poses another potential challenge in uploading moral rights as it particularly pertains to failure to attribute to the original author of a work false claims of authorship.

Digital alteration and manipulation of a work is a complex one especially regarding the protection and preservation of the original author's integrity. Also, while encouraging innovation, it also leads to the potential to harm an altered contents quality.

10. File sharing: this involves the transferring of data and information with the computer via the internet or data. Contemporary digital file sharing networks, which outplacd earlier storage methods such as floppy discs, DVDs, CDs, etc allow for direct and speedy exchanges among computers. However, it also enabled quick copyright infringement.

Legal and technological efforts like Digital Rights Manage (DRM) aim to eradicate this menace. However, the evolving internet nature poses a challenge in an attempt to balance content access with that of creator's right.

CHAPTER THREE

LEGAL FRAMEWORKS FOR COPYRIGHT IN NIGERIA

3.1 International Agreements and Treatise for the Protection of Copyright and Intellectual Property

The international legal frameworks governing copyright are essential in facilitating the protection of intellectual property rights across borders, promoting creativity, and fostering cultural and economic exchange. These frameworks are established through a series of treaties and agreements that set minimum standards for copyright protection and enforcement, while allowing countries to tailor their domestic laws to their specific needs and contexts.

3.1.1 The Berne Convention for the Protection of Literary and Artistic Works

The Berne Convention, adopted in 1886, under the leadership of Victor Hugo to protect literary and artistic work, is one of the cornerstone treaties in the international copyright system. It has more than 160 member nations, and is administered by the World Intellectual Property Organization (WIPO), an organization of the United Nations.

The Berne Convention is based on the principle of "national treatment," which requires member countries to provide foreign authors with the same level of protection as they do their own nationals. This principle is crucial in ensuring that creators receive adequate protection for their works in foreign markets.

The Berne Convention also introduced the concept of automatic protection, meaning that copyright protection is granted without the need for formal registration or compliance with other formalities. This provision simplifies the process for authors and ensures that their rights are recognized internationally. The Convention sets out minimum standards for the protection of literary and artistic works, including the duration of copyright, which is

generally the life of the author plus 50 years, although many countries have extended this to 70 years.

3.1.2 The Universal Copyright Convention (UCC) 1952

The Universal Copyright Convention, established in 1952 under the auspices of United Nations Educational Scientific and Cultural Organization (UNESCO), was designed to provide an alternative framework for countries that were not members of the Berne Convention, and countries with systems of registration for copyright works and shorter copyright periods. This applied to the United States and the then USSR at the time (although both are now member states of Berne).

The United Copyright Conventions provides that copyright notices should be put on works showing the copyright owner's name and date, and also for national treatment.

The UCC further aims to harmonize copyright protection globally and included provisions similar to those in the Berne Convention, such as national treatment and minimum protection standards. However, the UCC allowed for some formalities, such as registration, which were not required under the Berne Convention.

3.1.3 Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) 1994

Negotiated from 1986-1994, the TRIPS Agreement, which is a part of the World Trade Organization (WTO) framework, represents a significant advancement in the international copyright regime. TRIPS established minimum levels of protection that member countries must give to fellow WTO members. Computer programs must be protected as copyrighted literary works, and countries must prevent misuse of geographical names such as Roquefort or Champagne.

3.1.4 The World Intellectual Property Organization (WIPO) Treaties

The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), both adopted in 1996, address the challenges posed by digital technology and the internet. These treaties build on the Berne Convention and introduce new provisions to protect the rights of authors, performers, and producers of phonograms in the digital environment.

The WCT and WPPT emphasize the importance of technological measures and rights management information in protecting copyright in the digital age. They require member countries to provide legal protection against the circumvention of technological measures used to protect copyrighted works and to ensure the integrity of rights management information.

3.2 Legal Frameworks Governing Copyright in Nigeria

The legal framework governing copyright in Nigeria has undergone significant evolution, reflecting the country's efforts to adapt to changing technological landscapes and international standards. From its colonial roots to contemporary legislation, Nigeria's copyright laws have been shaped by both domestic needs and global influences.

3.2.1 Historical Context and Early Legislation

Initially, Nigeria's copyright framework was not indigenous but rather an extension of British legal principles. This was due to Nigeria's colonial history under British rule, which saw the imposition of British laws and legal systems.

The foundation of Nigeria's copyright law can be traced back to the colonial era, specifically the English Copyright Act of 1911, which was extended to Nigeria through an order-in-council, a legislative tool that allowed British laws to be extended to its colonies. This Act

was comprehensive for its time, covering various forms of creative works and providing a framework for the protection of intellectual property. However, it was primarily designed to serve the interests of the British Empire, with little consideration for the unique cultural and economic contexts of its colonies, including Nigeria.

3.2.2 The 1970 Copyright Act

Following Nigeria's independence in 1960, there was a pressing need to establish a legal system that reflected its own societal values and economic realities. This led to the enactment of the first indigenous Nigerian Copyright Act of 1970. The 1970 Act was a significant milestone as it represented Nigeria's attempt to assert its sovereignty and adapt international copyright norms to its local context. However, despite its importance, the 1970 Act was soon found to be inadequate. The rapid technological advancements and the proliferation of new forms of media in the latter half of the 20th century posed challenges that the 1970 Act was ill-equipped to handle. Piracy, particularly in the music and film industries, became rampant, undermining the economic interests of creators and the cultural industries.

The inadequacies of the 1970 Act were not only in its inability to address piracy but also in its lack of stringent penalties and remedial measures for copyright infringement. The Act did not provide sufficient deterrents against infringement, nor did it offer adequate remedies for rights holders whose works were unlawfully exploited. This situation necessitated a more robust legal framework that could effectively protect intellectual property rights and promote the growth of Nigeria's creative industries.

3.2.3 The 1988 Copyright Act and Subsequent Amendments

In response to these challenges, the Nigerian government introduced the Copyright Act of 1988. This Act marked a significant improvement over its predecessor, expanding the scope of protected works and introducing more stringent penalties for infringement. It also aligned

more closely with international copyright standards, reflecting Nigeria's commitment to participating in the global intellectual property system.

However, the rapid advancement of digital technology in the late 1990s necessitated further amendments to the 1988 Act. The first amendment to the Act in 1992 was an attempt to address some of these challenges. This amendment sought to enhance the enforcement mechanisms of the Act, providing more robust tools for combating piracy and other forms of copyright infringement that were becoming increasingly prevalent with the rise of digital media. The amendment also aimed to align Nigeria's copyright laws more closely with international standards, reflecting the country's commitment to participating in the global intellectual property system.

Nevertheless, despite these efforts, the rapid pace of technological change continued to outstrip the legal framework. By 1999, another amendment was necessary to further refine the Act. This second amendment focused on strengthening the legal provisions related to digital rights management and the protection of digital content. It recognized the need to protect the rights of creators in the digital environment, where unauthorized copying and distribution of works could occur with unprecedented ease and speed. The amendment also addressed issues related to the liability of internet service providers and the need for more effective enforcement measures in the digital realm.

The culmination of these efforts led to the Nigeria Copyright Act Cap C28 (LFN) 2004, which consolidated previous amendments and introduced new provisions to better address the challenges posed by digital technology. This Act represented a comprehensive overhaul of Nigeria's copyright law, incorporating international best practices and addressing the unique challenges faced by the country's creative industries. It provided clearer definitions of

protected works, expanded the scope of copyright protection to include digital formats, and introduced more stringent penalties for infringement.

3.2.4 The Nigerian Copyright Act, 2022

The most recent development in Nigeria's copyright law is the Nigerian Copyright Act, 2022.¹ The enactment of a new legislation for copyright protection became necessary primarily since the Old Act failed to address the challenges introduced by digital technology as it pertains to copyright protection. Among others, there was a similar lacuna in the Old Act on the regulation of copyrighted works in the digital environment and the enforcement of rights in these digital spaces. Interestingly, the Copyright Act, in addition to other landmark provisions now contain new provisions that address the protection of copyrighted works in the digital space.

It is important to realize that while the Copyright Act, 2022 does not explicitly define copyright, it is understood as the legal protection granted to creators of original works, including literary, musical, artistic, and cinematographic works, as well as adaptations of these works. This protection confers upon the originator an exclusive and assignable right to control the exploitation of their work for a specified period.

The 2022 Act introduces several important features aimed at strengthening copyright protection in Nigeria.

- a. It enhances the legal framework for the protection of digital content, recognizing the challenges posed by the internet and digital technologies. This is as provided in Part VII of the Act.

¹ On March 17 2023, President Muhammadu Buhari signed the Copyright Act, 2022 into law. The Act repeals the Copyright Act, Cap C28, Laws of the Federation of Nigeria, 2004 and provides for the regulation, protection, and administration of copyright in Nigeria.

- b. The Act also provides for more stringent penalties for infringement. Unlike the Old Act where the sanctions were minimal and in no way deterring to infringers, the new provision is laudable.² There is also an expansion as to amounts to a copyright offence. With the introduction of the right of a copyright author to communicate his work through wire or wireless means, the Act criminalizes any person other than author who does such.³ The Act also confers liability on any person who aids or procures another to commit a copyright offence.⁴
- c. The Act establishes fair hearing which in setting out the acts that amounts to fair dealing precedes the list with the words “such as” with the import that the purposes so listed are not exhaustive and as such, other purposes may be permissible if it is shown that there is the element of fairness in dealing with the work.
- The Act also qualifies non-commercial research and private study as one of the purposes where fair dealing may be inferred. The Act also sets out the factors to be considered in determining fair dealing when seeking to apply the exceptions to copyright. These are that the (a) purpose and character of usage (b) nature of the work (c) amount and substantiality of the purpose used in relation to the work as a whole and (d) effect of the use upon the potential market or value of the work to be considered.⁵
- d. The Act introduces special exceptions to the use of copyrighted works. It permits protected works being used by the blind, visually impaired or other print disabled persons. It refers to them as beneficiary persons and allows them have access to copyright works without the permission of copyrighted owner.⁶

² Section 44 of the Act

³ Section 44(7) of the Act

⁴ Section 45 of the Act

⁵ Section 20 of the Act

⁶ Section 24 of the Act

- e. In advancing anti-piracy measures, the Act requires publishers and any other persons who engage in the reproduction of copyrighted works to keep a record of works so dealt with and makes it an offence where such record is not kept, or the records are falsified.

In Nigeria today, the Nigerian Copyright Commission (NCC) is the agency saddled with the responsibility of the monitoring, administration and enforcing copyright laws.⁷ The commission is a corporate body with perpetual succession, a common seal and can sue and be sued in its corporate name.

The NCC also has zonal offices in some states of the Federation for the purposes of decentralized administration of copyright matters. A governing board is further established under the Act for the effective management of the commission, which is headed by a Director-General, who is responsible for the day to day administration of the commission.⁸

⁷ The NCC was first established under the Section 34(1) of the Copyright Act, 1990. Today, it is still incorporated in the subsequent amendment of the Copyright Act, 2022.

⁸ Section 79 of the Copyright Act, 2022

CHAPTER FOUR

COPYRIGHT INFRINGEMENT IN THE DIGITAL SPACE: CAUSES AND EFFECT

A creator of a literary, artistic, musical or any other work eligible for copyrighting has exclusive rights to the work and a third party can only make use of such work with the authorization of the right owner or holder. The right holder has the exclusive rights to copy, distribute and display his work as he so deems fit. Where another party displays, distributes, copies or does anything with the work in a manner that is unauthorised by the right holder, such a person becomes liable, criminally and civilly.

Copyright infringement basically involves an unauthorised person using another person's original work without due authorization from the owner of the original or copyrighted work. This involves the exclusive rights of a right owner to use his works being breached by a person who isn't the author of the work. These rights allow the person author to preserve both his economic and non-economic interests in his works, which in turn promotes creative benefits for the public welfare.

With the advent of the internet, sharing data has become rampant and habitual to many internet users. Such a sharing process makes it possible for everyone to have access to another person's data online giving rise to some of the most unending legal issues, also making it essential to formulate and implement laws for the protection of rights against this unsolicited sharing of information.

Changes in digital space and online platforms have made copyright to become of the most critical intellectual property rights available with context creation, musical artists, literary artists and normal internet users becoming apprehensive of anonymous and untraceable infringements on the online space due to how their materials or works are copied, disseminated, transformed or distributed on the cyberspace, while the perpetrators pose to be someone else. This situation has indeed caused economic and financial setback for the original owners or holders of the work due to the loss of sustained stemming from the unscrupulous act of the infringers.

The internet has been one today the threats to copyright protection and prosecution for quite a long time. The information available on the internet have varying degrees of copyrighted protection. Some of the copyrighted works on the internet includes: videos, images, news, stories, graphics, screenplays, e-books and other information and materials.

The myriad of duplicated works and information on the internet makes it extremely difficult to so determine and distinguish between original works and duplicated works. There is the belief that information accessed online on a public space can be copied freely. This however, is a myth and is not so, unless the copyright tenure has expired and it has entered a public domain; the information was made available by government or the copyright owner has relinquished his rights.

The ever changing digital landscape has brought progress on the issue of digital rights and copyright legislation but challenges confronting copyright protection continues to linger. Particularly, safeguarding copyrighted work on the online space remains a difficult task. The worldwide reach of the internet poses difficulties in effectively monitoring and enforcing copyright Infringement, leaving copyrighted owners short-changed.

Also, the issue of inadequate measures to combat digital piracy and upload copyright laws into the digital world is a growing concern for those in the creative industries.

Today, the changes that are getting all the headlines relate to digital technology such as the internet and personal computers. Like many innovations, these technologies are both promising and also deleterious to parties interested in the use and exploitation of works of authorship from books, music go films and web pages.

Worthy to mention is that Digital Millennium Copyright Act (DMCA) enacted in 1988, provided mechanisms for copyright holders or owners to protect their works in the online space, however it has faced black lashes due to its application in modern day due to varied technological landscape. This legislation creates a system wherein content platforms are shielded from liability for infringing content uploaded by users of they act expeditiously to remove it once notified.

One of the problems affronting the efficacy of this treaty is the alacrity with which infringing contents or materials can be re-uploaded after it has been taken down.

4.1 Causes of Copyright Infringement in the Digital Space

4.1.1 Ease of reproduction

Reproduction of materials and works which are copyrighted on the internet entails the act of copying a copyrighted work such as a song, videos, and graphics without an explicit authorization of the copyright owner. It includes downloading, sharing, uploading, storing, or even making a copy of a work without due authorization.

One a copy of a work is in digital form, it becomes susceptible to widespread and rapid reproduction on a very minimal cost while the quality is maintained. Each copy can in turn be

further reproduced again without any loss of quality. By this process, a single copy of a work can supply the needs of millions of users.

The digital nature make it possible to distribute copyrighted works after reproduction, compared to physical medium and this heightens piracy concerns.

This action is considered as a copyright Infringement and can result in legal actions with the liability and punishment varying according to the jurisdiction.

However, factors such as “fair usage” which entails: commentary, reportage, criticism and research may allow reproduction of copyrighted material.

Also, the obtaining of a licence or permission from the copyright holder Even enable rapid reproduction and use of the copyrighted works or materials.

- i. Downloading movies from unauthorised websites
- ii. Sharing music or audio files on social media without the artists authorisation or permission
- iii. Copying and pasting texts from copyrighted sources without making reference or necessary attribution to the original source, are some of the forms of infringing reproduction.

4.1.2 Ease of dissemination

Another cause of infringement on the digital domain is the swift and rapid dissemination of works in the online space. This action of distributing or sharing copyrighted material like music, software materials, and videos through platforms making it easy to be copied and accessed by a large audience.

Through the internet space, digital contents are easily copied and distributed with little efforts compared to a physical process.

The emergence of global networks allows rapid dissemination of works. Digital networks allows each recipient on the network to spread at a geometric ratio of increment.

With this and the idea of reproduction, it is certain that a single digital copy of a work can be multiplied severally amounting to thousands of copies being replicated and disseminated in just few hours when disseminated through high speed transmission lines. The process is faster and the capacity grows equally fast.

Social media, cloud storage, file sharing and other services facilitate the rapid spread of copyrighted material.

Some to the forms of disseminating of copyrighted works includes, but not limited to the following:

- i. Dissemination through publishing platforms: Authors can distribute materials such as books, articles, journals which they have no copyright to through the online space.
- ii. Peer- to-peer file sharing networks can be used to illegally distribute copyrighted contents like movies or music without authorisation.
- iii. Also, streaming platforms such as YouTube, Spotify, netflix, etc. makes it possible for users to access copyrighted content, enabling controlled distribution, however the process becomes fast and less costly when infringers transmit files through coaxial cables networks or even fibre optic lines.

4.1.3 Financial gains

This is another factor which causes copyright infringement on the digital or media space. Infringers may be driven by a burning desire to enjoy economic benefits from the work of an author, creator or copyright owner. This infringement can come into be form of using a

copyrights content such as videos, pictures, musical or even artistic works to create financial gains for themselves in sometimes, and this is due to indolence to create an original work.

A perfect illustration of this ignoble trend is the case of a popular Nigerian skit maker “Brain Jotter” using a viral music piece of “Mike Ejeagha” in one of his skits in 2024. The 1983 iconic ‘Igbo’ highlife song-’ka Esi Le Onye Isi Oche’ was recorded off his album ‘Akuko N’egwu’. This song made a comeback on the media space 41 years after, in 2024 after it was used by a popular content creator, Brain Jotter in one of his skits. Ever since the video was posted it has garnered millions of views across streaming platforms which of course, transforms into humongous financial benefits. Such an action constitutes copyright infringement within the scope of Section 36 of the Copyright Act, 2022 which prohibits anyone from doing or causing anybody to do any act which constitutes a violation of the exclusive right conferred on a copyrightable work.

For an act to constitute infringement, it is material to prove that monetary benefits were made and given the fact that the skit maker subsequently reached out to the original owner of the work, offering a two million naira gift, also, owing to the fact that the content creator’s social media handles are monetised, it is adjudged that profits were made from the content made and posted. This product already consummates liability for infringement.

Also, considering the fact that contents uploaded by these content creators or skit makers are for financial gains, it is safe and accurate to say that the video made with the musical work of the right holder constitutes an infringement.

Most importantly, the relation of this action to infringement on the digital space is against the backdrop that it involves the using and uploading of musical works of the esteemed copyright owner on the social media space.

4.1.4 Ease of Storage

With the surge of internet popularity, more and more persons have resorted to searching for means to get information and materials they need on the internet space. Another problem encountered is the possible means of storing these information as well as their personal data. The problem of storage is due to the fact that digital storage is dense with the ever increasing amount of materials and information that are to be stored in a smaller and smaller amount of space.

Prior to this era, in the 1990s, compact discs which were capable of storing up to 1000 megabytes worth of information were the most predominant method of storage used by pirates to store mass computer programs or even sound recordings. Today, several storage facilities have emerged which can store millions of data in a small device. One of the examples of such storage procedure is “cloud storage”. Cloud storage is a digital service which allows users to store digital data on remote servers which is maintained by a third party provider and can be accessed through the internet. This procedure involves a remote data storage as data is stored on servers located off-site and not on local computers, and it enables access to files with the aid of an internet connection, removing the need to manage data through physical storage on one's device. It makes it relatively possible for a data owner to increase or decrease the storage space as needed.

Cloud storage equally allows a data owner to backup important data. This cloud storage facility has obviously changed the traditional mode of storing information among data owners and users disseminators. To a large extent, it has caused conflicts between copyright owners who are the data owners and the cloud storage server due to the increasingly concern of copyright protection for data and information on the server. The rapid development of infringing practice such as file sharing through these platforms and other platforms has posed a great copyright concern.

Unscrupulous cloud storage services can use cloud storage to infringe on a person's information by storing and distributing materials like music, graphics, software programmes etc, belonging to the right owner, to third parties without proper license or authorization. This process allows these infringers to effectively bypass the original methods of physical distribution which involves burning compact discs and hard drives.

The application and development of this cloud storage facilities also present a challenge of recognition and distinction between original copyright owners and serves making it expedient to balance the exchange of information resources and protect the legislative rights of copyright holders.

4.1.5 Ignorance of Existing Laws against Infringing Practices.

One of the predominant causes of perpetual infringement of copyright in the cyberspace is the ignorance of existing cyber laws which prohibits infringement of copyrighted materials or information on the cyber space. In some cases, some of these infringers are unaware that their actions constitute infringement. For example, on the social media space, such as Facebook, Instagram etc, written content of users are sometimes copied and pasted by another user on his or her page or wall, without referencing the original author of the work, oblivious of the fact that their actions constitutes Infringement.

Also, case of persons using music works or sound recordings on their media pages without tagging or mentioning the original owner of the sounds often constitute infringement as well.

However, ignorance of one's actions or existence of legislation precluding and prohibiting an infringer's action doesn't obviate the liability of the infringer. For instance, by virtue of Section 54 of the Copyright Act, 2022,¹ the owner of a copyright in a work (either a work hosted on another site or copied and reposted on a social media page without due

¹ S. 54, Nigerian Copyright Act, 2022

acknowledgement or reference) may issue a notice of the infringement to the relevant service provider requesting a takedown of the infringing material or disable access to the infringing content or link to the content which is hosted on the infringers system or network.

By virtue of Section 55 of this Act,² the service provider, upon receiving of the notice, the service provider is expected to timeously notify the infringing subscriber and expeditiously take down the infringing content or disable access to the content or linked to such content which is hosted on its network and subsequently notify the owner accordingly.

4.2 Forms and Patterns of Copyright Infringement Prevalent in the Digital Age

4.2.1 Musical, Audio files and Sound Recording Infringement on the Digital Space

The current era of digitalization has seen artists and creators distributing their works through the internet space. Piracy in the musical entertainment industry is a cankerworm which hinders an artist as well as record labels from fully deriving the economic benefits of their works, creativity, even investments of the record labels.

Piracy which involves copying reproduction and distribution of works, which in this case involves musical work, and audio files involves the exploitation of these works by knowing infringers, exploring the creative works of artists, these actions are borne out of the intention to make financial gains.

It is noteworthy to state that not all musical works are deemed to enjoy copyright protection with the infringement of such work given rise to a legal action. Recognised musical works, statutorily includes: musical works itself (also audio files), then sound recordings.

As earlier adumbrated, the internet has made it very easy for audio files to be pirated. Searching platforms on the internet has made it very possible to infringe upon music works of

² S. 55, Nigerian Copyright Act, 2022

artists, due to the low cost as well as ease of acquisition. This has caused adverse effects on the artists and other concerned parties financially and otherwise.

Infringement of audio files occurs where a person creates or forms, shares or distributes such music without the permission or authorization of the creator (artists), its record label or other concerned parties.

There are several available digital audio files which can be accessed through several means such as through ones phones, laptops, iPad etc. These new technology has facilitated easy and quick illegal means of tampering with the works of creators without due compensation of the artists of record labels which are the legal right owners or holders.

Many websites and internet service providers are notorious for putting up audio works of artists without their consent and authorization. This is a perpetual practice and sometimes it is due to the ease of downloading as well as the reduced out to download. For instance, a few megabytes can be sufficient to download a song which cost more to download from authorised websites, this makes digital audio files a well-targeted material for online Infringements. Also, the music industry being a very vast market worldwide, makes it very attractive for exploitation by unscrupulous individuals. The achievement by musical artists in terms of streams and monetary values also allures these individuals to engage in such frivolous activities.

Infringement of audio files on the internet sphere can occur in different forms which are but not limited to the following:

- i. Unauthorised and unpermitted hosting of files (audio files) on the internet space enabling easy streaming: pirates of audio work imbibe the common practice of uploading and distributing audio files of creators on the website without authorisation or obtaining any licence, making it easy for accessibility to listeners

and users to listen to the song without downloading. There are other legitimate platforms through which songs can be streamed, they include: Spotify, Audiomack, YouTube music, Apple music, etc. These platforms happens to be some of the main streaming platforms, apart from some of these platforms other platforms happens to be pirated websites through which the owners aim to generate financial gains from the creativity and industry of another. This is achieved when the songs are listened to on the platforms by the infringing website owner for download by the site users and this happens where the other website owners either paid or for free which the website owner has no prior authorisation from the owner of the song.

- ii. Conversion of compact discs into digital audio files for financial gains other than fair use or personal use. It has become seamlessly easy to convert CDs which contain music files into music player format through the use of laptops and other computer devices and make them available on the internet. The conversion of such CDs and uploading on the internet for the use of others without permission of the copyright owner constitutes an infringement, except this CD converted into audio files are for personal use by the person responsible for the conversion.
- iii. Another trending form of digital piracy on the cyberspace is the unauthorised dissemination and sharing of files on social media platforms. This social media platform includes Facebook, WhatsApp, Snapchat, Twitter, Instagram and other networks.

Also, as earlier agreed, the digital space makes it possible for infringers to successfully exploit works of musical artists. Digital artists see the media as a medium to gain popularity and announce themselves to the world. Musical artists in a bid to do so sometimes pay to have their songs broadcast on both the internet, radio stations and even television stations.

Furthermore, it is a common practice for these artists to pay micro logging media such as the aforementioned Facebook, Twitter, Instagram, etc to broadcast their song so as to give it some level of wide recognition, through this process, released songs or unreleased songs are publicized and made known to the general public, at least those who are active on these platforms. However, the problem of Infringement arises where after release of these songs, infringers through search engine platforms, directs intending downloaders and listener's to other illegal sites to download or stream these songs thereby causing financial loss. In the case for *Nigeria Copyright Commission v. Ononuju*,³ the Federal High Court held that the downloading of songs were acts of reproduction, where the accused was found downloading music from the internet into his computer and subsequently making physical copies in CDs for commercial purposes.

In addition, in the United States case of *A&M Records V. Napster, Inc*⁴ which happens to be one of the first major threats for piracy on music files. Herein, Napster which was owned by Shawn was sued for peer-to-peer sharing of internet software which concerned digital audio files/songs which were encoded in MP3. This allowed the owner (Shawn) to create a platform which allows users of the Napster software to download music from other users. Subsequently, the claimant, A&M Records successfully sued as Napster was held liable for copyright Infringement by the United States Court of Appeal under the United Digital Millennium Copyright Act (DMCA)⁵ for outright copyright Infringement for downloading music files and sharing the files through unauthorised medium.

The aftermath of this case brought about easy channels for website users to access files online which are legitimately done. Now, streaming platforms like YouTube, Apple music,

³ [2013] FHC/1L/1C/

⁴ [2001] 239 R.3d 1044

⁵ Digital Millennium Copyright Act (DMCA) 1998

Audiomack, iTunes etc, provide a management system which ensures immediate and swift revenue generation to owners of musical works on their platforms.

Unfortunately, most of the music blogs which deal with audio files and music particularly in Nigeria engage in the unauthorised and unlicensed sharing of the files with a view of deriving benefits from the downloads made by interested users who downloads these files.

As earlier stated, the resultant effect of this is that, listeners become disinterested from downloading these files from the original sites and platforms which may require payment of some sort of subscription which in the long run, accrues as financial benefits to the artists and its label, instead, they are afforded easy and cheap channels to get these audio files. The situation is even uglier as some of these infringers operating these infringing websites may edit the existing song, adding their trademark to the song distorting the original version which leads to mentioning of the site of the song. This may mislead many users as to the identity of the original owner of the song.

Also, some artists who are desperately desirous of fame and audience in the music scene and have resulted to unscrupulous means of marketing themselves by doing refixes and covers of songs and go as far as posing as the original artists. Again, persons using songs for media viral challenges without proper authorization or allusion to the original.

It is becoming increasingly expedient for copyright infringers of audio files to be apprehended and prosecuted. Pirates of audio files and songs who engage in arbitrary sharing, distribution of these files are liable for these actions, and music artists or owners are enjoined and to bring an action against such infringers. In recent times, a renowned Benin High life singer Pa. Monday Edo claimed his song “Nogbaisi” was infringed by a younger musical artist, Crown Uzama also known with his stage name “Shallipoppi”.

The infringer, Shallipoppi ostensibly lifted part of the accuser's songs and integrated it onto his own song "Obapluto" an act which is no two way is a copyright Infringement on the musical work of the renowned Monday Edo.

A holder of copyright over a song can institute an action against an infringer at the Federal High Court to enforce his rights and seek remedies which are accruing dependent on the violation. An action can be civil or criminal and both can be instituted simultaneously.

4.2.2 Linking

This is another form of copyright Infringement on the digital space. This form of Infringement involves the directly or connecting the user of a work from the original site to a linked site which is apparently an illegal website. It provides easy access for users to the site, however, such an act results in serious legal issues.

Some case laws bothering on linking are as follows: *Ticket Master Corporation v Microsoft Corporation*,⁶ herein, the defendant provided for specific hyperlink to specific pages on the plaintiff's sites. The policies, service information and advertisements in the plaintiff's website were bypassed due to such hyperlinks and a suit was filed. However, an out-of-court settlement was later adopted and Microsoft sold the entertainment portion of its site to the ticket master. The decisions of the court were however divided as no unanimous judgement was reached. Also, in *Shetland Times Ltd v Dr. Jonathan wills and Zet News Ltd*,⁷ the court granted an interim injunction for copyright protection against the defendant who constructed links on his site which when clicked on, directs the users to the relevant story on the claimant's page. The court observed that materials of the plaintiff/claimant could only be obtained by accessing the website through the plaintiff's site.

⁶ [1997] 97-3055DDP CAL

⁷ [1997] FSR 604, SLT669

There are three main types of linking which are; “deep linking”, “online linking” and “surface linking”.

4.2.3 Illegal Adaptation:

Section 108(1) Copyright Act, 2022⁸ defined adaption as the “modification of pre-existing work from one type of work to another or altering a work within the same type to make it suitable for different conditions if exploitation and may also involve altering the composition of the work. Adaptation is a work which is the same as the original work although with few changes.

Adaptation could also occur wherein a dramatic work is converted from a dramatic work to a non-dramatic work.

Adaptation may also occur in the form of “speed-up” song “remix” cover of a song or even a sampling. In the musical scene, it takes place where a song is being remodelled or a literary work being edited to s foster version or where a music video is edited or transformed to another. It also entails redesigning of backgrounds with a different colour.

However, all these must be done with the due authorization and permission of the original owner. For example, Damini Ebunoluwa Ogulu “Burna Boy” sampled one of Tony Braxton’s hit songs in his Grammy nominated song “Last Last”. In return, he gave the veteran some percentage from the revenue generated from the song as royalties.

It is, however, an infringement where these works are used, remodelled or sampled on cyberspace without due permission from the original owner of the work. As earlier mentioned,

⁸ S.108, Nigerian Copyright Act, 2022

refixes, sampling of songs, editing, alteration of works (literary works) which forms adaptation and also posting of articles without permission constitutes Infringement.

4.2.4 Caching:

This refers to a temporary storage space and it is the process whereby materials are copied from an original source to another place of storage which is the “CACHE” making the materials readily available to the user for a temporary period of time. For a cache to successfully operate, identical copies of all information which are cacheable which comes across it must be made.

The duplication and saving of information retrieved from the web through cache means for the future use of a person amounts to reproduction and distribution of the original work.

In the case of *Playboy Enterprises Inc. v Frena*,⁹ the plaintiff (playboy) sued the operator of a computer bulletin board or the BBS. The defendant placed to protect the works online in the form of photographs belonging to the plaintiff, the plaintiff alleged violations of its exclusive rights, including the exclusive issue of file caching as cache servers are very similar in their operation to computer bulletin boards.

4.3 Effects of Copyright Infringement in the Digital Space and the Principle of “Fair Dealing”

4.3.1 Effects of copyright Infringement in the Digital Space

Copyright infringement on the digital space has resulted in several havoc done to the right holders. For instance, the copying, remodeling, storage and distribution of files belonging to

⁹ [1993] 839 F SUPP 1552 MDLA

the original right owners by infringers has led to economic and financial adversity to both the owners and the public at large. Unfortunately, in most cases, these infringers happen to benefit from materials that are not originally theirs while the original owners suffer huge economic losses. This has however discouraged many creatives from putting out work especially in the media space. For example, infringement of musical works on the internet space by unscrupulous and criminal web providers can lead to a stunted revenue growth to the original owner of the musical work.

Also, another effect of this online infringement is that private information of internet users is disseminated to the public which is also an invasion to the person whose information is out there and this can be really frustrating and tiring.

This kind of Infringement also makes it difficult to identify or distinguish a duplicated material which is also an infringing material from the original, again causing a setback to the original owner of the work or material. Fortunately, these overwhelming effects have been aptly regulated in recent years through effective protection mechanisms.

4.3.2 Fair dealing/Usage

This is a form of defense which justifies the usage of a copyrighted work. Lord Denning in the leading English case between *Hubbard v. Vosper*,¹⁰ on the scope of the defense policy of fair dealing stated that: "it is impossible to define what fair dealing is. It must be a question of degree. You must consider the number and extent of the quotation and extracts". "The use of the extracts are also to be considered if they are used as a basis for criticism, reviews, it may be fair dealing.

Generally, the intent of the work must be evaluated and if it contains a rival purpose from that of the author, then it is unfair, but if it however conveys the same meaning as the author, then

¹⁰ [1972]2 Q.B.84

it is fair. By virtue of the Article 13 of the TRIPS agreement,¹¹ "members shall confine limitations or exceptions to exclusive rights to exploitation of the work and do not unreasonably prejudice the legitimate interest of the right holder.

¹¹ Trade Related Aspects of Intellectual Property Rights (TRIPS) 1994.

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings

The primary objective of this study is to investigate and assess the spite of copyright infringement in the digital age orchestrated through the cyberspace like the internet, social media space and so on. It is to analyze the challenges which came with digital technology despite its immense benefit in changing the world landscape. A significant amount of industries like the literary industries, artistic, especially the music industry which has been the worse hit of the heinous act was evaluated in this work, film industry, publishing industry, digital platforms, etc playing a major role in the production, storage and distribution of pirated materials.

The study also addressed the limitations and inadequacy in the copyright laws, including the Nigeria Copyright Act (NCA 2022) in addressing, holistically the issues of digital copyright Infringement, despite it containing some provisions for it. It also pointed out that the rise of digital technology though positive, brought about various exploitative methods which made it easier to infringe copyright works on the cyberspace or even invade an internet users pirate information. This is achieved through various modes as enumerated earlier such as peer-to-peer file sharing, linking, copying and pasting and so on. The study basically and generally discussed the development of copyright practices, method through which it can be infringed and as well protected with the focus being on the digital space while discussing several concepts relating to copyright Infringement on the digital space as well as to further discuss several laws and treaties which bothered on copyright practices including the Berne Convention, WIPO Treaty, Rome Convention, the Nigeria Copyright Act, etc. The concept of the internet, social media and other digital technologies were equally discussed in other to

give a clear meaning to the work. Copyright infringement especially on the digital space is like a parasite which is sapping creators and owners of copyright works and material, economically and otherwise. It also has been affecting public policies and countries' economic welfare at large. This heinous act is perpetuated by greedy and unscrupulous individuals who either are in search of faster means of sharing or dissemination information which in most cases aren't really theirs, or for the purpose of storing large files, which hitherto attracted complex process, easily and conveniently. However, the most prevalent reason for this infringing practices is for financial gains. And as mentioned in the foregoing chapters, industries such as the music industry, the film industry as well are the most targeted because of its pool of wealth and as such, many of these unscrupulous infringers are hell-bent on frustrating original creators by attempting to steal from them through piracy.

5.2 Recommendations

Infringement of the rights of copyright owners on the digital space through piracy of their works of any kind had become a pestilence as adumbrated severally in the digital world and this largely due to the fact that the coming of digital technology largely brought with it short-changing trends as well. These ugly trend has brought about lots of demoralizing tendencies because creators, users of the internet space and other affected parties have become so discouraged to put out their works or information on the internet due to the fear of it likely being distorted or pirated. However, enactments have been made over time to curtail the widespread of this menace. Still, it lingers on, largely in some parts or even most parts of the world. It is very imperative that actions are taken to effectively and timeously curtail this perpetuating menace as it greatly affects copyright owners and creators on cyber space. Some recommended steps include:

- i. The provision of digital rights for copyright owners or holders in the digital space enhance their exclusive rights to share their works in the public space using appropriate methods. The aim is to grant copyright owners exclusive rights to share and distribute their works to the prevention of copyright infringers for pirating the works. Copyright owners should be granted exclusive rights to upload their works on social media platforms and in cases others do so, especially those who are not authorized, the owner of the infringed work shall be entitled to institute a civil action against the perpetrator.
- ii. Some infringers don't seem to be faced by some of the punitive measures which they face for their unscrupulous actions. They develop a thick skin and resolve to continue perpetuating the dastard act with the conviction that the worse punishment they can get is a light demand of compensation for their act of infringement or outmost, delivering up of all the profits made from the usage of the infringing work or from the infringement of the work directly. Also, they are convinced that their criminal liability may be lighter or they may only have a civil liability. Persons who are guilty of unauthorized downloads of files like movies, photographs, audios, even articles and other literary works should be subject to stringent punitive measures ranging from imprisonment as this will surely serve as a deterrence to other intending infringers.
- iii. Platform and internet providers should be vigilant enough to identify infringing files and materials at all times and promptly take them down from their website. Thus will go a long way in protecting persons who are ordinarily not aware of infringing materials which are sometimes in a duplicated or parody form of the original version. Taking down of infringing materials by service providers after thorough investigation and identification will go a long way in ensuring

confidence in the service provider's website by users as they will be minimal apprehension as to the authenticity of materials found on the site and other social media platforms.

- iv. Online service providers in collaboration with owners of works should collaborate to put in place other contracts with subscribers on the space which in turn will ensure effective militating against piracy of the copyrighted works and prevention of repeated infringement actions from nefarious infringers. The service providers should also be made liable for the infringing activities if they appear to be negligent to the dangerous effect of the activities of their users which affects the information or works of owners. When such legislations are on ground, service providers will be made to be on their toes in ensuring a rigorous investigation, blockage or removal of materials which may infringe the right of owners of copyrighted works.
- v. Redefinitions of terms should also be encouraged in order to further strengthen intellectual property rights, particularly copyrights for instance, the redefinition or rebranding of “audio-visuals” to become “cinematograph” should be encouraged in other types of copyrightable works.
- vi. More copyright protection commissions should be set up to protect works on cyberspace from pirates. Their major aims are to clamp down on infringers and they should also be empowered to initiate arrests. They can also be empowered to assist online service providers in the blocking and removal of pirated works from their space.

5.3 Contributions to knowledge

In addressing the perpetuating and unresolved challenges bedeviling copyright in the digital age, there are however some gaps caused by the inadequacies and incomprehensive scholarly

discourse of authors as well as existing legislations. Existing copyright legislations and most discourse of authors while acknowledging the debilitating impact of digital technology on the protection of copyright, have failed to sufficiently address some critical areas which are going concerns, some of which shall be succinctly highlighted and discussed subsequently.

Fragmentation of copyright work ownership in digital environments exposes a deficient area. Digital platforms which foster collaborative creation creates complex ownership structures which brings difficulty to attribution models in identifying actual ownership and authorship. Online collaborative writing, for example, software development, user-generated content lack ownership protocol which shortchanges minor contributions leading to ownership and authorship disputes. Also, copyright as primarily anchored on fixed works makes it insufficient and poorly equipped to handle the mutable and transient nature of creations on the digital space. For example, algorithm content creation and generation challenges the concept of ownership and authorship which creates a problem relating to liability for the AI-produced infringements. For example, livestreams and real-time content, which are temporal tends to bypass existing enforcement mechanisms. The advent of block-chain based platforms and DAOs like NFTs and others further makes licensing difficult and necessitates innovative solutions beyond just the existing legal paradigms. This will necessitate legal frameworks which recognizes ownership attribution in digital projects, exploring block-chain based licensing solutions. Again, existing copyright legislations are more focused on the economic interests and benefits, neglecting broader social and cultural factors. It is noteworthy that existing legislations renders the task of enforcement difficult due to the large expanse of digital space. Against this backdrop, methods such as takedown notice and actual takedowns are insufficient against large-scale infringement. Also, due to the lack of harmonization between international legal frameworks, cross-border enforcement against these challenges are frustrated. New legislations are also needed to tackle the “training data” problem which

artificial intelligence presents. Inadequate legal guides to this regards hinders innovation of creators.

5.4 Area for Further Studies

In discussing copyright and its challenges in the digital age, it is important to also identify some areas which existing scholarly work of authors and legal frameworks failed to adequately address. Some of these areas which I wish to highlight for further studies are:

- i. The issue of fair usage vis-a-vis user generated content: creators face challenges protecting their copyright due to the surge of user-generated content platforms such as social media blurring the boundaries of “fair use”. In such an environment, works of creators can be easily stored, shared, remixed, refixed, remodelled or redistributed. Further research on this area, examining the legal and social implications of such user-generated content and proposing clear-cut guidelines for distinguishing fair use and copyright infringement on all platforms will be helpful.
- ii. Technologies such as data mining and artificial intelligence which also raise concerns pertaining to ownership of copyrights should also be further researched about.
- iii. In terms of preservation and access method, digital formats may become outlandish with time and this may further create problems in accessing contents created in the past on cyberspace. It is important that extended studies are made to discover and implement other methods to preserve digital works for a lengthier period.
- iv. Further research should be made in order to look into the effectiveness of existing international and national legal frameworks as well as the Digital Right

Management (DRM), with an attempt to make the laws more attentive to the right and protection of copyright owners and also balance the conflicting authorship rights and ownership rights.

5.5 Conclusion

Copyright law in the digital age is faced with myriads of complex challenges. The introduction of the internet has created a humongous difficulty in regulating and protecting works of creators as well as information on cyberspace. This is largely due to the ease the cyberspace gives in reproducing these works. The ease it also gives in storing these works as well as its enablement to easily pirate works of copyright owners which are mainly geared towards financial benefits of the offenders. Internet service providers and content platforms such as: Instagram, Tiktok, Facebook, inter alia are the main focus on the debate relating to this menace due to their inability to effectively checkmate and regulate the surge of this ugly and parasitic trend. Some existing laws have also failed to keep track with the ever evolving menace as new tricks are being introduced everyday which the legal framework are slow to catch up with due to inadequate modification to meet the current realities. It is important that copyright laws are timeously modified to ensure that rights of copyright owners are adequately protected in this current digital age.

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