

Copyright Law and Intellectual Property Abuses in Nigeria: Impact on Creativity and Academic Output

Cyril C. Eze¹, Richard N. C. Ugwuanyi² & Felicia N. Ugwu³
Nnamdi Azikiwe Library, University of Nigeria, Nsukka^{1,2,3}

Abstract

Purpose: To inculcate into the general public the need to reject intellectual property abuses by being law-abiding and by helping to implement copyright laws.

Design/Methodology/Approach: A literature-based opinion paper which looks at the copyright system and intellectual property abuses by examining their meanings, causes of abuses, libraries and copyright system, impact of their interplay on creativity and academic output, and recommendations on how to help copyright triumph over abuses.

Findings: Proper awareness of copyright implications on the part of copyright owners, abusers, and the public has been noticed to be at the root of intellectual property abuses. Paucity and inadequate training of copyright personnel also exist.

Practical Implications: Proper administration of copyright law is the surest way of enhancing intellectual and scholarly growth and development. Public must rise to the challenges imposed by abuses in order to let copyright prevail.

Originally/value: Much of the sub-topics were culled from many avid writers in the fields of legal studies, library and information sciences.

Key Words: copyright, intellectual property abuses, property law, reprography.

Paper Type: View point.

Introduction

The joy and hopes to have attractive remunerations from one's intellectual works is at the back of producers who ceaselessly, tirelessly and sleeplessly continue to produce and perfect their works. Many times, this attraction and hopes are spoilt by the treacherous acts of some individuals who are eager to reap where they never sowed. In this case these individuals abuse the intellectual properties of their producers or creators. These abuses appear in many forms like plagiarism and piracy. While plagiarism has to do with actions of taking someone's ideas, works, words, etc. to be one's own without admitting to have done that, piracy manifests itself in the illegal reproduction of copyright works like paintings, books, architectural drawings, films, photographs computer software's etc, for commercial purposes. These two commonest abuses not only make the creators suffer financial losses, loss of reputation and social displacement but also dampen creativity. They also deprive a nation of its income, cause unemployment, laziness, and scare local and foreign investors. They are canker worms that are capable of milking a country to death. In realization of these great

undoing of intellectual property abuses, nations have risen up to fight them by creating copyright law. Copyright laws are laws passed by a country in order to guarantee and protect the interest of a creator of work to do or to authorize the doing of certain things in relation to the work. This is to barricade others from pirating and, or plagiarizing peoples works. Copyright laws are weapons designed to flush out intellectual property abuses.

Abuses have taken a greater dimension due to the emergence and proliferation of sophisticated information and communication technologies (ICTs) capable of allowing one to stay in his room and secretly reproduce thousands of copyright works in a split second. Plagiarizing another's work is also very prevalent today considering world constriction and information globalization. The dangers being imposed by these clandestine abuses of intellect and initiatives are fraught with problems. Hence, Okoroji was quoted by Ephraim, Afebende and Nkebem (1997) as lamenting thus;

What started as a personal problem of musicians has become a big problem for writers and book publishers a problem for motor spare parts manufacturers

(counterfeiting) has become a national problem. You had the option of buying an original work or what was termed 'Aba or Onitsha made'-nickname for pirated works.

With this backdrop, the need for this paper emerges thus: to examine the conceptualizations of copyright system, impact of their interplay on creativity and academic output, and recommendations on how to help copyright triumph over abuses.

Copyright has its humble beginning in the Nigerian culture and English legal settings (Ekpo, 1997). The cultural traditions of Nigerian society strongly support the recognition and acknowledgement of those who laid the foundation and opened the way in all human endeavours. Hence, dancers and singers normally chronicle and trace their development to their masters who trained and empowered them to dance and sing their songs. In the same way, the modern copyright system originated from England in 1709 (Ekpo, 1997). This act was repealed many times before it got to Nigeria in 1970. In Nigeria, the Act had several amendments before settling in 1988. Nigeria made it to be in line with Nigerian style of life, and created the Nigerian copyright commission (NCC) for effective copyright enforcement.

Conceptual Definitions

Ever since 1992, copyright has become a household word among Nigerians. As a legal concept, it has assumed a prominent position in national and international circles. Yet, it may sound incredible to state that its actual meaning portends a high degree of enigma to many average Nigerians including those in academics and those who even have copyright protections (Ekpo, 1997). This therefore, underscores the need to follow Aristotle's dictum that the beginning of every intelligent discussion should start with the definition of terms.

Wikipedia (2009) Defines copyright as unauthorized use of copyright materials in a manner that violate one of copyright owner's exclusive rights, such as the right to reproduce or perform the copyright work, or to make derivative works that build upon it.

Eze (2004) This author stated it is an intellectual properly protection given to the originator the exclusive right to the use of his literacy, dramatic musical or artistic work.

NCC (1997) Conceptualizes copyright as a legal device that provides the creator of a work of art or literature, or a work that conveys information or ideas, the right to control how the work is used. The Nigerian copyright protection grants authors a bundle of intangible exclusive rights over his works.

The rights include

- Reproductive right, ie the right make copies of a protected work
- Distribution rights ie the right to sell or otherwise distribute copies to the public.
- Right to create adaptations or derivative work-the right to prepare new works based on protected work
- Performance and display rights-the right to perform a protected work such as a stage play, or display a work in public.

Prytherch (1990) Copyright is a procedure whereby the originator of a piece of intellectual property (book, article, piece of music, etc) receive due recompense for the inventiveness or imagination expended. It protects publications issued by a person from piracy, plagiarism and undue reprography.

From the foregoing, all the definitions so far examined talk of the granting of exclusive right to the individual creators of literary or artistic works. Copyright is, therefore, a right in law conferred on authors and owners of works who shed hot sweat and burned midnight oil to arrive or move the society higher.

Causes of Copyright Abuses

Reports and studies all over the world shown that the problems of intellectual property abuses is indeed global and ravaging the various classes of copyright works, (Nigerian Copyright Commission, 2008). This scenario rears its ugly head everywhere, often completely jeopardizing the livelihoods of creators and those working in the creative industries.

The causes of intellectual property abuses has been traced to economic reasons, such as, high demand, and cost of original products, unavailability of original products and financial gains. This could be further justified considering the high level of unemployment, high poverty rate, e.t.c in the country. The dearth of knowledge about copyright abuses. Many right

owners as well as users of creative works do not know their rights and obligation under the copyright laws. Thus, many Nigerian writers, publishers and artist spare no time to follow the circulation and commercial use of their works in public domain (Nnabuife, 2008).

Libraries and Copyright System

The Nigerian copyright Law (decree 47 of 1988) section 5 (1) (h) empowers educational and non-profit making organizations like libraries to copy any work for the purpose of teaching and learning. However, these copied works must be destroyed at the expiration of the exercise. Section 5 (1) (2) also call it an infringement of copyright if more than three copies of any work is made by libraries for any purpose. This section talks of “fair use” and “fair dealing” and empowers libraries to reproduce copyright work with due discretion work and caution.

This is because of the scarcity of the teaching and learning material and because of libraries’ extensive involvement in teaching, learning and research. Libraries must not hide under the given concessions to defraud creators of their social and economic benefits. For they have areas where they are bound by copyright laws.

Afebede (1991) summarize the areas where libraries are caught up by copyright laws thus:

1. Library services to users such as photocopying if not carried out within the copyright regulation and cooperative acquisition can result in loss of income to owners.
2. Libraries resources sharing such as exchange of journals, books for other material if these substitute actual subscription by libraries for them can result in loss of income to owners thus violating copyright.
3. Libraries violate copyright by dubbing video sound and audio cassettes, record pre-recorded films and records programmers off air film radio and TV broadcast without permission of the copyright owners.
4. They also record, duplicate, exchange and sell lectures presented in seminars and workshops or symposia without taking permission from the organizers of the workshop or speakers responsible for works presented on such occasions.

In spite of the Afebede’s summarization of areas where libraries could be found infringing on copyright laws, libraries

received great concession. As such, libraries are expended to reciprocate this gesture not only by abiding by the copyright stipulations (1988) but by helping to implement copyright against abuses. This the libraries can do by:

1. Making copyright laws an aspect of lecture during the orientation programme of fresh students. This will enable them to imbibe and appreciate the socio-economic and moral implications of copyright abuses.
2. Helping to display copyright warnings not only in the main libraries but also in faculty and departmental libraries. The consequences of the violations must also be pasted and handbills distributed from time to time. This will enable all the abusers to know what they are getting into.
3. Supporting, the organization of “National creativity Day” where creative minds could assemble, rub minds, showcase their creative works and extol creativity.
4. Helping to organize symposia, seminars, workshops and copyright summit for public awareness of copyright and its impacts.
5. Helping to conduct special copyright training for law enforcement agencies like the Nigeria police, Nigerian custom services as well as law court judges.

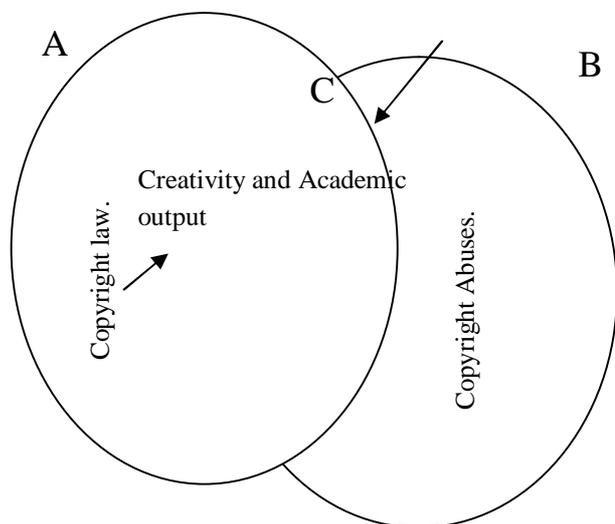
These enlightenment activities from libraries are vital considering the fact that to whom much is given, much is expected. Moreover, the abusers, copyright owners and the general public need to be educated for many foul the copyright laws out of ignorance. The activities will create an enabling environment for creativity and academic excellence to thrive and meet the many challenges of the copyright system.

Impact of Copyright and Copyright Abuses on Creativity and Academic Output.

It is necessary here to consider what impact they and copyright abuses could have on creativity and academic output of the people. Copyright and abuses are two sides of a coin. Each has effect on creativity and academics output depending on which one is gaining an upper hand. The copyright laws and intellectual property abuses are great enemies, each competing for supremacy and dominance. The interplay of the two determines to a great extent the academic and creative output of a community. If abuses dominate, academic and

creative development will suffer while they will soar highly if copyright laws are will enforced. Copyright is interested in maintaining that an author must be encouraged to eat from the fruit of his sweat. Intellectual property abuses are not

mindful of who suffered to author the work but interested in the ability to edge out others without regards to legal stipulations. Whichever rules the other has greater control over output. See the diagram below:



A and B, each struggle to have control over C

Figure 1:A

Conceptual Model of the relationship between the copyright laws, property abuses, and creativity and academic output.

The impact of the two are hereby examined.

Encouragement: If the, NCC which is a commission designed to administer copyright laws becomes efficient, it will encourage authors/creators to have greater interest and excel. The encouragement received as a result of successful administration of copyright brings intellectual capacity building. But where the abuses triumph, the originators will be discouraged and their creative desire would sag and be stifled.

Financial Gains: Creators/originators of copyright works spend all the resources within their reach on their work in order to have financial gains accruing from them. Copyright law helps them attain objective but abuses deny them of these important remunerations. The abusers neither pay duty tax nor royalties. They make staggering profit at the producers. In consonance with this, Coommasie (1997) stated that it not right for a person to burn the midnight oil and produce a work while others reap the financial benefits of it.

Social Reputation: For the works of the writers to be reproduced, they have to give out authority or permission. This and more increase their social standing. Abuses infuse or engender loss of reputation and social displacement local creativity and academic output is frustrated and annihilated by intellectual property abuses.

Scares Foreign and Local Investors: The essence of copyright law is to enable creativity to thrive and being in investment. Copyright law stands for justice over property rights. When there is not stealing of peoples academic and creative works, industrialists invest more of their profits while property abuses scare foreign and local investors. This reduces not only individual but also national gross domestic product (GDD).

Development of Cultural Heritage: Copyright laws creates serious desire on the part of researchers and academicians who interestingly made into local cultural heritage. When properly administered copyright aids research since their will be a congenial atmosphere for creators of works to gain from the fruits of their endeavours.

Creation of Environment: Since copyright advocates and fits for justice and enthronement of right to property, it creates an enabling environment for research, investment, learning and creativity to grow. With copyright abuses, many sharp brains go into depreciation as people get dispirited and refuse to use their brain for academic and creative output.

If the copyright gets well administered and over rungs intellectual property abuses, academic and creative minds will be spurred into greater activity and academic excellence. But whereby

the reverse becomes the case, the output gets extinguished as interest, joy readiness to strive, and dexterity are thrown overboard.

It is in recognition of the evil effect of property abuses that NCC (2008) cited President Obasanjo as stating thus:

The damaging effects of piracy are visible all around us; the waning zeal for creativity; the dearth of well-researched textbooks and reading material in the education sector; the diminishing of the artistic and literary quality of our stage performance; and the increasing colourless and uninspiring products in the visual arts. Expectedly, investors are wary, and the young generation is not encouraged to pursue careers in the arts and entertainment industry. We are all confronted by an attack on our culture and future as a people. We are faced with the reality of a declining economic resource and a source of pride as a nation.

Suggestion

The following suggestions have been made as a veritable tool for combating the abuses:

1. There is need for the creation of awareness through campaign to enlighten the general public on the law and administration of copyright. This can be done by organizing seminars and workshops on copyright for the benefit of the masses.
2. A specialized training should be organized biannually for law enforcement agencies such as the Nigeria police, Nigerian Customs Service, etc.
3. Formulation of a viable economic policy on the copyright law and administration.

Conclusion

A lot of positive inputs have been made by the government in trapping abuses of intellectual

property. This is done through the formation of strategic Action Against Piracy (STRAP), reproduction rights society of Nigeria (REPRONIG) and other agencies charged with fighting the menace in their various capacities. But the high rate of increase in the abuses shows that there is need for more inputs in the fight against intellectual property abuses so as to enthrone an enabling environment for creativity to thrive, to re-invigorate the copyright industry and make it core attractive to existing and prospective investors in the industry for overall national growth.

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