

Abuses of Intellectual Property Rights in Nigeria: The Role of Academic Libraries

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Abstract

Purpose: *The purpose of this paper was to identify and critically examine the role which academic libraries could play in helping to combat abuses being meted against intellectual property rights in Nigeria.*

Design/ Methodology/Approach: *For this paper, the exploratory approach through extensive literature review was adopted. Concepts vis-à-vis other critical factors in the title were defined and discussed for a vivid comprehension of the study.*

Findings: *The paper points out that the enforcement of intellectual property rights helps in the creation of order in the vast array of the universe of publications and inventions, and plays a salutary role in the income generation and encouragement of creativity. Also, the paper found out and discussed the roles academic libraries play in effectively combating abuses of intellectual property rights. Such roles include displaying warnings from the Nigerian Copyrights Commission (N.C.C) in strategic places in libraries, and helping to organize “National Creativity Day”.*

Implications: *The creativity and inventiveness of Nigerians will be more seriously threatened and jeopardized if academic libraries which serve the largest number of clientele that use these creations do not aggressively help in beating off plagiarism and other form of abuses of copyrighted works. They should take the lead in enlightening the masses on the importance of intellectual rights protection since ignorance, apathy and poor funding of N.C.C. by government form the bottlenecks on the successful mitigation of abuses.*

Originality/Value: *The value of this paper lies in its identification and discussion of the role of academic libraries in the business of intellectual protection as well as bringing to limelight factors that inhibit full scale achievement of intellectual property rights, thereby proffering solutions. Such solutions include increased funding of N.C.C. by government and philanthropists and the creation of awareness of the intellectual property rights provisions or laws and an enhanced training of the agencies responsible for effective monitoring of the abusers.*

Key words: *Abuse, Academic Libraries, Intellectual Property, Nigeria, Rights, Roles.*
Paper type: *Conceptual*

Introduction

One of the strongest and most prevailing desires of every nation is to uphold, enliven and popularize her cultural heritage, which depicts the extent of her wealth and creativity. This wealth of a nation is preserved and bequeathed as legacies to the future generations. They are usually expressed through writings, music, drama, cinema shows and sculptures, etc. These expressed heritages are great sources of revenue generation to the people who imagined and brought them to lime light, to be read, touched, seen and heard by the people of their countries of origin and the entire humanity. They generate money for their producers and increase foreign reserve for their countries. These entire heritages so conceived and produced for man’s utilization

are known as intellectual property. Intellectual property may simply be taken as the intangible property owned by a man, and quite distinct from tangible property like buildings, cars, etc. They are obtained as a result of someone’s ingenuity through the exercise and development of intellect.

If the intellectual property of any nation must be kept afloat and allowed to flourish by motivating the producers to continue to exploit their intellect and reap the financial gains of their labour, then it must be protected by law locally and internationally. Hence, the presence of intellectual property rights protection. Discussing intellectual property right, the World Intellectual Property Organization (WIPO, n.d., p3) states thus:

Intellectual property refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce. It is divided into two broad categories of Industrial Property Rights and Copyrights. Industrial property rights includes patents for inventions, trademarks, industrial designs and geographical indications while Copyright covers literary works (such as novels, poems and plays), films, music, artistic works (e.g., drawings, paintings, photographs and sculptures) and architectural design. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programs

Intellectual Property Right is an exclusive right given to the creator of an intellectual work with a view to restraining others from unwarranted meddlesomeness in his work. It is a non partisan issue that is shared by a coalition of interests, and enhances the individuals' intellectual development, national wealth and pride, creativity and poverty reduction if adequately protected. Academic libraries are in a vantage position to play a cutting edge role in helping to protect those rights.

With proliferation of information communication technologies, information explosion and globalization there is also an attendant rise in intellectual property right abuses. Abuses here refer to disregarding and working against the legal provisions on intellectual property right. In order to examine the role of academic libraries in fighting these abuses, this paper considers issues such as the concepts of intellectual property and academic libraries, usefulness of intellectual property rights, problems militating against successful protection, the role of academic libraries in the fight, and the conclusion.

Conceptual definitions

Intellectual property rights consists in the achievement of gifted people who create, preserve, express and popularize the history and culture of their people, essentially through singing, music, writing, dancing, plays, and other ways in order to encourage the creation and dissemination of information and ideas that

enrich people's lives. Corroborating this view, Ojiji (1992) observed that people who possess these wonderful creative and interpretative talents are the country's cultural workers who write books; compose inspiring music, paint beautiful pictures, songs, etc. He further stated that these cultural works of the mind are aptly referred to as intellectual property.

When this property is protected by law, then emerges what is known as intellectual property rights. According to Akunyili (2010), intellectual property rights are rights conferred on an individual or corporate body with respect to the product of his or her intellect, guaranteeing the exclusive control of the exploitation of his work for a limited period. Gasaway (2001) describes intellectual property right as a legal protection for commercially valuable products of human intellect. In accordance with these views, Wikipedia (2009) referred to intellectual property right as a number of distinct types of creation of the mind for which a set of exclusive rights are recognized under the corresponding fields of law. This paper takes intellectual property rights to be a conglomeration of rights awarded by law to the original creator of an intellectual work.

Intellectual property covers two broad areas. One is copyrights while the other is industrial rights. Copyrights are rights conferred on the owners of literary and artistic creations. Jones (1996) observed that copyright is the exclusive statutory right given to those who create original works to exercise control for specified period of time over the copying and other exploitation of those works. Literary works include such examples as poems, novels, plays, computer programmes, music, etc. Artistic embodies such things as painting, sculpture, drawing, etc. Industrial property right involves patent, trademarks¹, industrial designs, geographical indication and appellations of origin (Akunyili, 2010).

Academic libraries are libraries that are attached to post secondary institutions. They are as varied and distinctive as the institutions which they serve. They are under two broad categories. One is the university libraries while the other is non-university libraries. These libraries support the objectives of the institutions where they are situated. They acquire, and process into retrievable form and make available the information contents to the academic communities for their learning and teaching, and

research works (Ugwuanyi, 2004). Libraries are the hearts of academic institutions as they are sites of intensive teaching and learning. The enormous literary and artistic works going on in them make them the target of this work. Librarians use copyrights in place of intellectual property rights. The two will therefore, be used interchangeably to mean the same.

Usefulness of property right

The vitality of intellectual property rights is today assuming unprecedented attention nationally and internationally. This is visible in the formation of such bodies like the World Intellectual Property Organization (WIPO), the Nigerian Copyright Commission (NCC) and the frequent and many calls for workshops, conferences, seminars, etc by these bodies. New developments in modern science and technology coupled with challenges arising from the competitive nature of international trade vis-à-vis its usefulness in preserving intellectual property rights from infringement heightened this upsurge of interest (Akunyili, 2010).

Intellectual property rights helps to attract foreign investors to enhance technological transfer. This is vital because no businessman would want to invest where his trade mark patent would be abused. The economy of Nigeria is faltering because of non-involvement of foreign investors in the trade and technology sectors. The reason is partly because of the fear of IPR violation and partly because of nongovernmental seriousness over the violation. Affirming this, a top executive of a German Pharmaceutical Company stated (IFC 2006):

We are not prepared to transfer high technology into a country in which our IPR is not protected and in which we will lose control of it.

One of its usefulness is that intellectual property rights create order in the universe of publications, research and inventions. With it, plagiarisms, piracy and other abuses are kept at bay as ownership will no longer be contested. Hence, Groves (1997) observed that an intellectual property right prevents conflict among individuals and nations over ownership of intellectual property.

When intellectual property right is well administered, it acts as a great source of income generation. These creations of the mind bring in a lot of revenue both for the creators and their nations. It is a veritable source of enjoyment for

the users of the cultural artifacts. Corroborating this, Hefter and Litowitz (2003) stated that intellectual property rights provide creators the benefits of economic rewards while the public receives the benefits of literature, music and other creative works that might not otherwise be created or disseminated.

Intellectual property rights are sources of encouragement. They do not only offer incentives to the creators of literary works or inventions but also bring about recognition. They equally act as motivators to others who should also get involved in inventions (Eze, Ugwuanyi and Ugwu 2009).

Property rights encourage innovations and creativity which in turn lead to societal growth and development. Legal protections enable the owner of a work to control the publication or use of his work. In recognizing the rights of the creator of a work, Saunders (1992:64) stated thus:

It is just, that an author should reap the pecuniary profit for his ingenuity and labour. It is just that another should not use his name without his consent. It is fit that he should judge when to publish, or whether he will ever publish. It is fit he should not only choose the time, but the manner of publication; how many; what volume, what print.

In summary, copyright protection laws cannot be dispensed with in any society that tends to develop technologically and economically for the following reasons. The progress and well-being of any society rests on its capacity to create and invent new ways that are capable of reinventing and revitalizing their cultural heritage. Again, the legal protection of new creations aids and recreates additional resources for further innovation. The promotion and protection of intellectual property enhances economic growth, creates new jobs and new industries, which promotes the level and quality of human life. An efficient and equitable intellectual property system can help all countries to realize intellectual property's potential as a catalyst for economic and social development of any nation (Global Intellectual Property Center, n.d.).

In spite of the usefulness of property rights, many abuses have been recorded. Hence, Ephraim, Afebende and Nkebem (1997) quoted Okoroji as having lamented thus:

What started as a personal problem of musicians has become a big problem for inventors 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.

Abuses of intellectual property rights exist when these rights are not honoured, when legal orders backing them are inactive and flouted. Abuse is an infringement. Infringements on intellectual property rights rob a nation of creativity, enjoyment of innovations and of economic growth and development. Stating the impact of infringement, Nigerian Copyright Commission (NCC 2008) quoted Obasanjo as regretting that:

The damaging effects of piracy are visible around us; the waning zeal for creativity; the dearth of well-researched textbooks and reading materials in the education sector; the diminishing of the artistic and literary quality of our stage performances; and the increasing colourless and uninspiring products in the visual arts. Expectedly, investors are wary, and the younger generation is not encouraged to pursue career in the arts and entertainment industry. We are 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.

Intellectual property rights and academic libraries

Libraries, especially academic libraries, are the greatest beneficiaries of the intellectual creations through the doctrine of 'fair use' of copyrighted materials. This doctrine makes copyright flexible enough to allow libraries and other non-profit-making bodies to reproduce copyrighted work not necessarily without permission but with conditions that the originators of the work must be acknowledged, and the work used only for teaching and demonstrations. Also, the quantity to be reproduced for the teaching/ learning must be limited. As the greatest custodians of artistic and other intellectual works, academic libraries try to satisfy and sustain the research interests of their clientele and to achieve the objectives of their parental institutions. They stock such works

as recordings, tapes of cultural events and music. In helping to develop knowledge, they are authorized to make "fair use" of copyright works by mounting exhibitions of art works and other intellectual property. According to Moahi (2004:3), "fair use" consists of a set of guidelines that outlines what constitutes allowable use of copyrighted material. This is to encourage the development of knowledge. Academic libraries use to play critical roles that stave off abuses of intellectual property rights. Some of these roles are:

- a. **Creation of public awareness.** Academic libraries have all it takes to organize workshops, symposia, seminars, conferences, etc., intent on keeping people aware of the usefulness of intellectual property rights. Through those media, the public will come to appreciate its legality and begin to respect those legal rights.
- b. **Support in giving special and constant attention to the training of law enforcement agencies.** Such agencies include the customs, courts and the police. These are the agencies that are usually charged with proper maintenance of obedience to law and order. As an agency with good knowledge of copyrights and as beneficiaries, academic libraries should strongly lend support to the training those agencies for effective copyright administration. This could be done by supplying relevant materials to them.
- c. **Organization of 'National Creativity Day'.** Libraries should take up the challenge of organizing Creativity Day where people with creative and inventive minds are afforded the opportunity to meet and interact. Here, they rub minds, enlighten the public, showcase their creative works and form common front against abusers of their property rights.
- d. **Catching the abusers young.** Academic libraries form the meeting point and the platforms from where many who abuse copyrighted works take off. These are the seats of research, publications and inventiveness. As such, intellectual property rights should form part of the orientation lectures for fresh students as well as being integrated into the general

studies lectures. This early training will enable the students to appreciate the socio-economic and moral implications of intellectual copyright abuses (Eze, Ugwuanyi & Ugwu; 2009).

- e. ***Displaying copyright warnings at strategic points in libraries.*** This is an effective way of warning library users and others on the dangers of unauthorized meddlesomeness with people's intellectual rights. These warning should highlight the legal punishments due to the offenders. These postings should as well be done at every strategic point within higher institutions because they attract the highest percentage of literate population. Knowledge of the attendant punishments and obligations will act as deterrent to potential abusers.

Problems Militating Against Effective Fight

Protection of intellectual property rights has not been very effective because of many problems which include the followings.

- i. ***Ignorance.*** Many people, including some librarians are not even aware of the intellectual property rights and their legal implications. One has to understand something before talking of protecting it and as such, abuses continue to thrive.
- ii. ***Laxity on the part of government.*** Nigerian government has not been able to seriously train the immigrations, customs, police, and court registrars for the duty of fighting intellectual property rights abuses.
- iii. ***The fair deal granted to libraries and other non-profit making organizations.*** Many of these institutions hide under the cover of "fair deal" and begin to infringe upon the rights of the creators of intellectual property.
- iv. ***Inadequate funding of the Nigerian Copyright Commission (NCC).*** Good training has to be given to members of the agencies charged with the duty of tracking, investigating and publishing offenders. The training will enable them to be able to identify, photocopied and pirated works.

Recommendations

Intellectual property rights abuses are rampant in various forms. The following recommendations are made in the effort to eradicate or seriously reduce abuses:

- Nigerian academic libraries should help to create and sustain national awareness of this important issue through radio and television programmes and through workshops. They should constantly organize seminars, talk shops and other fora to forestall abuses.
- Academic libraries as the pillars of academic and research centres should help influence government and other agencies to increase their moral, material and funding capacity for the Nigerian Copyright Commission. Adequate funding is necessary to enable the Nigerian Copyright Commission to carry out her duties and to be more effective in checkmating the copyright abusers.
- Academic libraries should be more responsive to their roles in respect of controlling abuses of intellectual rights in and around them. This, they could do by displaying handbills and other write-ups in strategic places to beat off abuses and plagiarism among staff and students.
- While training and retraining for the staff of the agencies charged with enforcing intellectual property laws and disciplining intellectual property rights offenders are on, academic libraries are required to provide them with resources very relevant and requisite to them.
- From time to time, academic libraries are expected to display materials that would bring to limelight what the abuses of intellectual rights are and what types of punishment await the defaulters.

Conclusion

In Nigeria, as in many other countries of Africa, the intellectual property rights of authors, inventors and innovators are not yet being fully enjoyed as should be the case. The system and mechanism for the protection of intellectual property rights are yet to be fully established and made functional. The movement towards attaining full recognition and implementation of the property rights are sluggish. It does not

encourage young artistes, designers, publishers, and inventors to continually exploit their intellect to put their nation on a new pedestal, and attract enormous wealth for greater development. No foreign investor would like to invest in a country where the control of intellectual property rights have no government backing, is very fluid and uncertain. Many people in Nigeria neither know what IPRs are, gains that come from it, nor do they know how to fight the abusers. It is in recognition of these drawbacks and the possible roles that academic libraries could play to reduce the abuses that made this work necessary.

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