

## Copyright And Issues

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### Abstract

This research work is all about copyright and issues. It talks about the right given to the originator, emanatory, founder of a particular intellectual work such as literature books like novels, textbooks on a specific subject, music producers, film makers and so on. Copyright is a law emanated to protect the right of original innovator from the reproduction of the work without any permission (piracy). Copyright does not cover the names of business, organizations or groups, pseudonyms of individuals, title of works, catchwords, catchphrases, mottoes, slogans or short advertising expression, listings of ingredients in recipes, labels, and formulas, though the directions can be copyrighted.

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### Introduction

Before the proper definition of the term copyright can be appreciated, we will try to do a brief description of what it stands for. Fundamentally, copyright is a law that gives one ownership over the things he/she emanates. This legal right grants the creator of an original work exclusive right for its use and distribution (Sullivan, 2016). These exclusive rights are not absolute but determined by limitations and exceptions to provisions in the copyright law, which include fair use and the fact that copyright protects only the original expression of ideas and not the underlying ideas themselves (Daniel, (ND)). With this brief introduction, let us now try out some definitions of the concept for a deeper appreciation.

The issue with copyright is that *“it only safeguards the expression of ideas by the creator and not the underlying idea”*. Copyright is a type of intellectual property that applies to creative work. It is a legal right that gives exclusive rights to the creator of an original work to use and distribute it.

According to Ese (2009) in Ugocha (2014), Copyright is defined as “the right of the owner of an intellectual property to exclusively produce copies, sell and control it. Copyright is the ownership and right to control all possible ways of producing and disseminating copies of an intellectual property such as literary works, artistic works, cinematography films, sound recordings and broadcasts”. The author went further to define copyright notice as “a notice in



the form required by law, which is placed on each published copy of an intellectual property copyrighted, stating the owner of the right and its protection”.

Webster’s II New Riverside Dictionary office revised edition (ND) defined copyright as “the sole right to sell, publish or distribute a literary or artistic work”. Copyright therefore means the exclusive legal rights given to authors and creators of certain intellectual literary or artistic work, which qualifies for protection to produce, communicate to the public or broadcast, adapt or translate the entire work or an aspect of the work either in original form or in any other form recognizably derived from the original (Ugocha, 2014).

## Evolution of Copyright

Copyright evolves with the invention of printing press and growth in literature and literacy. Copyright is a legal document which origin is traced to Britain form “a reaction to printers’ monopolies at the beginning of the 18<sup>th</sup> century” (Patterson, 1968). According to the author, the English parliament was concerned about the “unregulated copying of books and passed the licensing of the press Act 1662, which established a register of licensed books and required a copy to be deposited with the stationer’s company...”

From the evolutionary point, Copyright Law as a legal concept regulating copying rights in the publishing of books and maps extended to one with significant effect on nearly every modern industry covering such items of artistic or intellectual inventions like sound recordings, films, photographs, software architectural works etc.

## Copyright Notice

The United State law sometime before 1989 called for the use of copyright notice consisting of the copyright symbol “©”, that is the letter c inside circle. It also made use of the abbreviation “corp” or the word “copyright”, followed by the year the work was published and the name of the copyright holder. In a situation where the work has gone through some revisions, the different years may be noted, (the Berne Convention Implementation Act of 1988 (BCIA)).

The Act also shows that for sound recordings of musical and other audio works, the copyright symbol is “℗”, the letter “p” inside a circle. Sometimes too, an addition of the phrase *all rights reserved* was also used to assert copyright. Some of the later practices are becoming obsolete since the Berne Convention confers copyright automatically for any intellectual or artistic work.

## Rational for Copyright Laws

Copyright laws allow products of creative human activities such as literary and artistic production to be preferentially exploited and thus incentivised. Authors and artists contribute substantially to the well-being of human beings in every society by enriching their arts and culture. It is in recognition of that importance that efforts were made through Copyright Laws to ensure their continued productivity. Copyrights play a catalytic role in enhancing overall development of a nation by creating a system of reward for creators of intellectual and artistic works. The creators are encouraged to further create and thereby promote development.



According to Ugocha (2014), copyright laws ensure the property element of a man's intellectual work or achievement and artistic property the protection that the law of trespass and theft laws would give to a man's real or personal property. Balance is always sought in the provision of copyright laws in order not to contradict the national interest of any country. Corroborating with this assertion, Osita (1990) in Ugocha (2014) stated that "the monopoly rights granted to the creative and intellectual works should not undermine the quest for national educational, scientific and research objectives of that nation. Therefore, the copyright protection cannot operate to stifle the national development efforts.

## **The Earliest Known National Copyright Laws**

The earliest known national copyrights were those of the Statute of Anne (the copyright Act of Britain 1709), which came into force in 1710 and the copyright clause of the United States Constitution 1787. The 1709 Statute of Anne gave the publishers right for a fixed period after which the copyright expires. The act alluded to individual rights of the artist. It stated as follows, "whereas printers, booksellers and other persons have of late frequently taken the liberty of printing books and other writings without the consent of the authors to their very great detriment and too often to ruin of them and their families: a right to benefit financially from the work is articulated and court rulings and legislations have recognized the right to control the work, such as ensuring that the integrity of it is preserved.....(Deazley, 2006).

The copyright clause of United States Constitution 1787 authorized copyright legislation and reads in part "... to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries...". It was said that copyright laws came into German states much later than Britain and United States. In Nigeria, copyright is protected by the copyright Act as contained in chapter C28 Laws of the Federation of Nigeria 2004 and it is administered by the Nigerian Copyright Commission (NCC). The Nigerian copyright act provides protection for literary musical and artistic works, cinematography, sound recordings and broadcasting.

## **Duration of Copyright**

Copyrights subsists for a variety of lengths in different countries. This depends on the following factors:

- ❖ The type of work (e.g. musical composition, novels etc).
- ❖ Whether the work has been published.
- ❖ Whether the work was created by an individual or corporate body etc.

In most parts of the world, the length of copyright is the life-time of the creator plus 50 or 70 years as the case may be. In Nigeria copyright in literature, musical or artistic works other than photographs last 50 years after the year the work was first created. Copyright in sound recording lasts for 50 years after the recording was first published (Akpotaire, 2018).

## **Eligible Works for Copyrights**

According to the World Intellectual Property Organization (WIPO), copyright may apply to a wide range of creative intellectual or artistic forms of works. There may be variations from country to country or region to region, but generally copyright covers such works like poems,



theses, fiction characters, plays and other literary works, motion pictures, choreographs, computer software, radio and television broadcasts and industrial designs.

## International Copyright Treaties

Copyright law applies or protects the owner even beyond his country provided his country of origin signed the international copyright conventions and regional agreements. That means that if a country is not a signatory to international conventions, works of national of that country are not protected outside the borders of his country. Registration is required for works requiring copyrights in some countries while it is automatic in others provided that work is 'fixed', especially for works from such countries that signed the Berne Convention. Other examples of international treaties include the Universal Copyright Convention (UCC), The United Nations Universal Declaration of Human Rights, The Rome Convention and the World Intellectual Property Organization (WIPO) (Ugocha, 2014).

## Copyright Infringement

Copyright infringement occurs when a person copies (in whole or in part exceeding the aspect not covered by the copyright law) without acknowledgement or the express permission of the original owner of the work. There are however waivers for "fair use" of works covered under the copyright law.

## Limitations and Expectations

Copyright laws has exceptions to certain restrictions in many countries or jurisdictions when the work is "copied" for the purpose of commentary or other related uses. Notwithstanding, protections are also made available for those areas copyright does not cover e.g. trademarks and patents.

Copyright does not cover areas like:

- Names of products
- Names of business, organizations or groups
- Pseudonyms of individuals
- Title of works
- Catchwords, catchphrases, mottoes, slogans or short advertising expression
- Listings of ingredients in recipes, labels, and formulas, though the directions can be copyrighted.

## References

1. Akpotaire, U. (2018). Some basic facts about copyright in Nigerian Law: Nigerian Law Intellectual Property Watch Inc. New York.
2. The Berne Convention Implementation Act of 1988. <http://legislink.org/us/pl100-568...>
3. Daniel, A.T. (ND). Works unprotected by copyright law. Retrieved from <http://www.bitlaw.com/copyright/unprotected.html#ideas>. Retrieve June 26<sup>th</sup> 2018.
4. Deazley, R. (2006). Rethinking copyright: history, theory, language. United Kingdom, Edward Elgar Publishing. Retrieved from



- <http://www.web.archive.org/web/20111119042246/https://www.google.com/boos> ?...  
Retrieved 26<sup>th</sup> June 2018.
5. Ese, C.D. (2009). Introduction to printing and book production, Cameroon: Princeton Publishers.
  6. Ese, M. (2009). Mass media law. Lagos: Princeton Publishers.
  7. Patterson, L.R. (1986). Copyright in historical perspective. London, Vanderbilt University Press. Pg. 136-137.
  8. Peter, K.Y. (ND). Intellectual property and information wealth: copyright and related rights. Greenwood Publishing Group. Retrieved from [http://www.google.com/books?id=tgk9BzcF5WgC&dq=status+anne+copyright&ir=&as\\_brr\\_3&source=gbs\\_navlinks\\_s](http://www.google.com/books?id=tgk9BzcF5WgC&dq=status+anne+copyright&ir=&as_brr_3&source=gbs_navlinks_s)
  9. Status of Anne. Copyright history Internet: <http://www.copyright history.com?anne.html>. retrieved from 26<sup>th</sup> June 2018.
  10. Sulliva, A.M. (2016). Cultural heritage and new media: A future for the past. Retrieved from <http://repository.jmls.edu/cgi/viewcontent.cgi?article=1392&context=ripl>
  11. Ugocha, O. (2014). Introduction to book publishing and printing. Okigwe, Marco Press
- Websters II New Riverside Dictionary Office revised edition (ND)

