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Copyright and the Protection of Innovation: The Importance of Intellectual Property Rights in Nigeria

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Abstract

This paper analyses the pivotal role of copyright law in safeguarding innovation and driving socio-economic growth in Nigeria. It explores the conceptual relationship between copyright and innovation, critically assesses the domestic legal framework—with a focus on the modernising reforms of the Copyright Act 2022—and situates Nigerian law within its international treaty obligations. While acknowledging the Act's robust provisions and remedies, the study identifies persistent and emerging challenges, including rampant piracy, institutional weaknesses in the Nigerian Copyright Commission, slow judicial processes, and novel threats from digital technologies like AI and NFTs. The paper concludes by proposing targeted recommendations to fortify the copyright system, advocating for enhanced institutional funding, judicial specialisation, comprehensive public awareness campaigns, and deeper international cooperation. These reforms, it argues, are essential for Nigeria to fully harness its creative and economic potential in the digital age.

Keywords: Copyright, Intellectual Property Rights, Innovation, Copyright Protection in Nigeria, Legal Framework

Introduction

Innovation is a key driver of socio-economic growth in both developed and developing nations. Intellectual property rights (IPRs) provide the legal framework that enables

innovators to reap the benefits of their creativity. The various forms of IPRs are patents, trademarks, industrial designs, and copyright. The production, dissemination and consumption of intellectual property have undergone significant change in the 21st century, which is fuelled by the internet and contemporary technology. These developments have given rise to new intellectual property concerns which are crucial to fostering innovation and creativity across. various industries. These rights prevent unauthorised use and facilitate the commercialisation of new technologies and ideas, ensuring that creators can recoup their investments and continue to innovate, thereby benefiting society through new products, services, and technological advancements. Copyright plays a particularly important role in protecting literary work, artistic work, musical work, and digital work.

In Nigeria, the creative industry has gained global recognition, however, the persistence of piracy and weak enforcement mechanisms undermine the benefits that should accrue to creators. This paper argues that copyright is a vital tool for protecting innovation in Nigeria and must be strengthened through legal and institutional reforms.

Innovation and Intellectual property:

Innovation refers to the process of creating something new that improves a product, process, or service.[1] Intellectual property rights, by granting exclusive rights to creators, incentivise innovation and foster economic development.

Nature of Copyright

The purpose of copyright law is to protect the fruits of a person's labour from appropriation. This protection is immensely important to a wide range of creators, including actors, playwrights, performers, musicians, composers, authors, publishers, architects, engineers, academics, broadcasters, filmmakers, photographers, and software developers.[2]

Copyright and innovation Nexus

By granting exclusive rights to authors and creators, copyright encourages continuous innovation and provides returns, while society benefits from cultural enrichment, knowledge dissemination, and technological progress.[3]

The Copyright Act 2022

The Copyright Act 2022 is the principal legislation governing copyright in Nigeria. It expands protection to digital works, strengthens enforcement, and aligns Nigeria with international best practices. The Act marks a major reform in the country's intellectual property regime, modernising copyright protection in line with international treaties and addressing the challenges of the digital age.[4] It is important to highlight the role of the Act in protecting

1 WIPO, Innovation and Intellectual Property, https://www.wipo.int accessed on 21/09/2025

2 F.O. Babafemi, Intellectual Property, The Law and Practice of Copyright, Trade Marks, Patents and Industrial Designs in Nigeria first edition (Justinian Books Limited, Ibadan, Oyo State, Nigeria, 2006) 1.

3 *Understanding Copyright and Related Rights*, WIPO, 2016, <https://www.wipo.int>6.

4 I. A. Adedokun and T. P. Akeredolu., Copyright Protection in the Nigerian Digital Age: A Critical Analysis of the Current State of the Law, (2024) (8) EKSUU Journal, 1.

innovation, culture, and development. The Copyright Act 2022 sets out its objectives, which serve as a guide for the interpretation and implementation of its provisions. The old Act did not stipulate its objectives, which created interpretive challenges.[5] Section 2 of the 2022 Act, amended the list of works eligible for copyright protection to include audio-visual works while excluding cinematographic works. Other works eligible for copyright protection include literary works, musical works, artistic works, sound recordings, and broadcasts.[6] Also, Section 2(2) stipulates that, literary, musical, and artistic works are eligible for copyright protection where sufficient effort has been expended to give the work an original character, as opposed to the requirement of sufficient effort under the old Act.[7] However, under section 2(3), copyright in a work is not contingent upon the work's quality, while subsection 2 (5) precludes a compiler of a work from claiming originality in the pre-existing work compiled.[8]

The Act also recognises the importance of intellectual property rights in online spaces by granting creators the right to control the digital distribution of their works. It prohibits the circumvention of technological protection measures and empowers the Nigerian Copyright Commission (NCC) to block access to infringing websites.[9] These provisions highlight the role of intellectual property rights in fostering a safe and lawful digital environment. The Act further protects folklore and traditional cultural expressions.[10] By preventing the unauthorised exploitation of Nigeria's rich cultural heritage —including music, dance, textiles, and indigenous arts— the Act safeguards national identity and ensures that local communities benefit from the commercial use of their heritage.[11] This demonstrates how protecting intellectual property rights promotes cultural preservation alongside economic development. The Copyright Act 2022 provides clear enforcement mechanisms, including criminal sanctions, civil remedies, border controls, and dispute resolution panels.[12] This creates certainty for both rights holders and users. Strong enforcement highlights the importance of intellectual property rights in building trust, deterring infringement, and supporting the rule of law in the creative industry.[13]

The Nigerian Copyright Commission (NCC)

The NCC is the regulatory body responsible for enforcement, registration, and administration of copyright. Protection is automatic upon the creation of an original work fixed in a tangible form, though registration with the NCC provides a clear record of ownership.[14]

5 Tope Adebayo LP., A Rewiew of the Copyright Act of 2022, <www.topeadebayopl.com> 6.

6 Ibid.

7 lawGlobal Hub, Section 2 Nigerian Copyright Act 2022, https://www.lawglobalhub.com

8 Ibid.

9 U. D. Okeke and S. Ater, An Analysis of the Role of Nigerian Copyright Commission as a Designated Relevant Organisation under the Proceeds of Crime Act, 2022, (2025) (13) (3) Global Journal of Politics and Law Research, 18.

10 Richard Ujah Oyiwona, Importance of the Protection of Expression of Folklore to the Society, (2025) (2) Journal of Customary and Religious Law, 55.

11 Ibid.

12 Tope Adebayp LP (n6)

13 Ibid.

14 Ibid.

International Obligations

Nigeria also adheres to international copyright treaties such as the Berne Convention for the Protection of Literary and Artistic Works (1886), and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS, 1994), and the WIPO Copyright Treaty (1996). These instruments commit Nigeria to minimum standards of copyright protection and enforcement. It is therefore pertinent to examine these treaties briefly.

i. Berne Convention for the Protection of Literary and Artistic Works 1886: The Berne Union exists to protect the rights of authors in their literary and artistic works. The protection also covers musical works, cinematograph films and analogous audio works.[15] The first requirement of the Berne Convention is that each member state must follow the principle of national treatment.[16] This is organised through the concept of the "country of origin" of the work. Where feasible, this is the country of the work's first publication.[17] Where the country of origin is a Berne State, other members must accord the work the same treatment as they offer their own nationals,[^9] including the rights guaranteed by the Berne Convention.

The Berne Convention also imposes minimum standards on its members. Accordingly, since its revision, it has outlawed any form of registration as a precondition for legal rights [18] and it requires a minimum term of the author's life plus 50 years thereafter.[19] It also gives some recognition to the moral rights of authors. The right to authorise reproduction of a protected work is subject to a limited qualification.[20]

ii. Agreement on Trade Related Aspect of Intellectual Property Rights (TRIPS) provides that all members must comply with the substantive articles (1-21) of the Berne Convention, other than provision of moral rights. TRIPS generalises the Berne principle confining the extent of exceptions in national legislation to reproduction rights.[21] Furthermore, computer programmes are required to be protected as literary works under the Berne Convention. The TRIPS Agreement also establishes its own set of obligations relating to performers, producers of sound recordings, and broadcasting organisations.[22]

iii. World Intellectual Property Organisation (WIPO) in 1982, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and the World Intellectual Property Organisation made initial efforts to put in place, a set of norms for the protection of expressions of folklore against illicit exploitation and other prejudicial actions.[23] It also added a number of general provisions to the range of the Berne Convention, also deals with on-line digital services principally by requiring, for work within the convention, (a) right of communication to the public (b) wire or wireless means which includes the making available to the public of

15 F. O. Babafemi (n1) 98.

16 Berne Convention, Arts 3-5.

17 F. O. Babafemi (n1) 99.

18 Ibid, art 5 (2)

19 Ibid, 9 (1)

20 F. O. Babafemi (n1) 99.

21 Ibid.

22 Ibid.

23 Adebambo Adewopo, Nigerian Copyright System, Principles and Perspective, (Dade Publisher, 2012), 70.

their works in such a way that members of the public may access these works from a place and at a time individually chosen by them.[24]

The Importance of Intellectual Property Rights in Nigeria's Development

The importance of intellectual property rights is manifold, as seen in the following key aspects:

i. Encourages Innovation: Intellectual property protection incentivises individuals and businesses to invest time, money, and resources into developing new products, services, and technologies. Knowing that their innovations are secure, they are more likely to share their ideas and inventions with the world.

ii. Promotion of Research and Development: The Patents and Designs Act provides innovators with exclusive rights to exploit their innovations. Although patent culture in Nigeria is still underdeveloped, strengthening awareness and simplifying registration could encourage more local research and technological advancement.

iii. Contribution to Economic Growth: Nigeria's creative and technological industries contribute significantly to GDP. For instance, Nollywood is the second-largest film industry in the world by volume. Stronger intellectual property rights enforcement can further enhance job creation, attract foreign investment, and boost Nigeria's international competitiveness.

iv. Fosters Fair Competition: By preventing the sale of counterfeit or imitation products, intellectual property rights promote fair competition and maintain product credibility in the market.

v. Alignment with International Standards: Nigeria is a party to the Berne Convention, the WIPO Copyright Treaty, and the TRIPS Agreement, which facilitate cross-border enforcement and recognition.

Infringement of Copyrights

Infringement of copyright occurs when a person, without the authorisation of the copyright owner, performs any of the acts exclusively reserved for the owner.[25] It is a statutory breach of duty owed to the owner, arising from the unauthorised use, reproduction, distribution, or display of copyrighted material. Common types of infringement include digital piracy, plagiarism, and unauthorised distribution.[26] Section 36(a)-(g) of the Copyright Act 2022 stipulates that copyright infringement occurs when a person, without the authorisation of the copyright owner: (a) performs an act that violates the author's rights; (b) imports into Nigeria a copy of a work that would be an infringing copy if it were made in Nigeria; (c) sells, offers for sale, or hires out an infringing copy; (d) makes or possesses a machine solely for making infringing copies; (e) produces infringing copies of a copyright work; (f) permits a place of public entertainment to be used for the performance of an infringing work; or (g) performs for trade purposes any work in which copyright subsists.[27]

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24 F. O. Babafemi, (n1) 100

25 **Adebambo Adewopo, (n70)**

26 Alliance Law Firm, Copyright Infringement and Enforcement of Rights in Nigeria. https://www.lexology.com> accessed on 3/10/2025.

27 Ibid.

Remedies for Infringement of Copyright

Both civil and criminal remedies are available for copyright infringement. This paper discusses these remedies below.

Civil Remedies for Copyright Infringement:

The civil remedies available for copyright infringement include:

i. Damages
ii. Account of Profits
iii. Delivery up
iv. Injunction
v. Anton Pillar Order

Damages: Infringement of copyright injures the copyright owner. This injury may affect the owner's pecuniary interest in the work. Therefore, an award of damages aims to restore the plaintiff to the position they would have been in had the infringement not occurred. An award of damages entails the payment of monetary compensation as recompense for the harm suffered from an act of infringement. Damages may be calculated based on the loss incurred by the copyright owner as a result of the infringement.[28]

Account of Profits: This remedy is granted as an alternative to an award of damages. The objective of this remedy is to strip the defendant of improperly made profits and prevent unjust enrichment. Where a copyright owner discovers that their work has been infringed and has sufficient evidence to prove that the infringer has generated profits, they may institute a suit and seek an account of profits instead of damages.[29]

Delivery Up: This is a remedy where the court orders the seizure and delivery of infringing goods, plates, master tapes, machines, or equipment to the copyright owner.

Cost Awards: In this situation, the court can order the losing party to pay the successful party's legal costs.

Injunction: This is a court order that prevents the infringer from continuing to produce or distribute the copyrighted work and can be granted urgently to stop further harm.

Anton Pillar Order: This is a court order that enables the plaintiff, accompanied by their solicitors and law enforcement agents (court bailiffs), to enter the premises where the infringing materials are kept to remove them or make copies for use as evidence in court. It is an order granted ex parte for the inspection, photographing, and delivery up of infringing material in the possession and control of the alleged infringer.

Criminal Liability for Copyright Infringement:

Criminal penalties are provided for infringers of copyright and these penalties include:

28 **S. T. Abdulrahaman., (n199) 121.**

29 Ibid.

i. Infringement for commercial advantage or financial gain: A person who wilfully infringes copyright for commercial purposes commits a criminal offence and is liable on conviction to a fine of up to ₦5,000,000, imprisonment for up to five years, or both.[30]
ii. Dealing in infringing copies: Any person who sells, rents, imports, distributes, or possesses infringing copies for trade is liable on conviction to a fine of up to ₦5,000,000, imprisonment for up to five years, or both.[31]
iii. Use of equipment for infringement: Any person who uses devices or equipment to reproduce or distribute copyrighted content without authorisation is liable to a fine or imprisonment, depending on the nature and scale of the offence.[32]
iv. Circumvention of access control or copyright protection mechanisms: The circumvention of technological protection measures, such as DRM or encryption, carries more severe penalties than the previous offences, as outlined in Sections 60 and 61 of the Copyright Act. Section 60 criminalises the act of circumventing any technological protection measure employed by a copyright owner to control access to their work. This includes actions such as:
a. deactivating or bypassing an encryption or digital rights management (DRM) system;
b. removing or altering digital watermarks or other protective mechanisms.

The penalty for violating this provision is a fine of not less than ₦1,000,000, imprisonment for a term of not less than five years, or both. This reflects a significant increase from the previous Act, which imposed a maximum fine of ₦1,000 per infringing copy or a maximum imprisonment term of five years. The new Act allows courts the discretion to impose higher penalties based on the severity of the offence. Section 61 addresses the trafficking in devices or services for the circumvention of technological protection measures. This includes:
a. selling, distributing, or offering for sale devices or software that enable the bypassing of technological protection measures (TPMs).[33]
b. providing services that facilitate unauthorised access to copyrighted works. The penalties for offences under this section are similar to those in Section 60, with minimum penalties of a fine of not less than ₦1,000,000 or imprisonment for not less than five years, or both. The Act emphasises that these penalties are minimums, granting courts the authority to impose more severe sentences depending on the circumstances of infringement. Furthermore, the Copyright Act 2022 introduces a framework where judges have the discretion to impose penalties exceeding the statutory minimums, allowing for sentences that more accurately reflect the gravity of the offense. This approach aims to deter copyright violations by ensuring that penalties are commensurate with the harm caused to copyright holders.[34]

30 Section 60 Copyright Act, 2022.
31 Ibid.
32 Ibid.
33 Section 61 Copyright Act,
34 Ibid.

However, despite the protection accorded to copyright holders through legal and institutional mechanisms, including the innovations introduced by the Copyright Act 2022, significant challenges remain in copyright protection in Nigeria. Some of these challenges are discussed below.

Challenges in Copyright Protection

i. Piracy and counterfeiting: The most glaring form of copyright violation is the illegal reproduction of copyrighted works and the commercial dealing in such illicit products. It is common to find illegal copies of books, music tapes, video films, and, more recently, computer software being sold openly.[35] This unauthorised commercial exploitation of copyrighted works is commonly known as piracy. Piracy and its twin, counterfeiting, are among the most grievous forms of intellectual property violation. This trend is a source of concern for both the government and the creative community because of its negative impact on the economic and social foundations of society.[36] Piracy is detrimental to creativity. It denies copyright owners their means of livelihood and discourages investment in the industry. These illegal dealings lead to financial losses for the various interests responsible for the creation, production, and distribution of legitimate materials, as well as direct and indirect loss of tax revenue for the government.[37]

ii. Emerging Digital Challenges to Copyright Protection: While the Copyright Act 2022 represents a significant step forward, the digital landscape continues to evolve at a rapid pace, presenting novel challenges that test the boundaries of existing legal frameworks. Beyond traditional piracy, issues such as artificial Intelligence (AI), non-fungible tokens (NFTs), and decentralised online content sharing are creating new ambiguities in copyright law.

1. Artificial Intelligence and Generative Works: The rise of AI systems capable of generating text, images, music, and code raises fundamental questions about authorship and originality.

a. Question of Authorship: Under current copyright doctrine, protection is granted to original works created by a human author. It is unclear whether an AI-generated work, created autonomously from a user's prompt, qualifies for copyright protection in Nigeria. This creates a legal vacuum where a significant output of modern creative tools may reside in the public domain by default, potentially disincentivizing investment in AI-driven creativity.

b. Infringement by Training: The process of training AI models requires massive datasets, often comprising millions of copyrighted works scraped from the internet without explicit permission.[38] Rights holders argue this constitutes large-scale copyright infringement, as it involves the reproduction of their works. The legality of this practice remains a contentious and largely unsettled area of law, posing a threat to the value of existing creative works.[39]

35 **Adebambo Adewopo, (n70)**

36 Ibid.

37 Ibid.

38 Jenny Quant, Does Training AI Violate Copyright Law, in (2021) 36 *Berkley Technology Law Journal*, 1413.

39 Michael Murray, Generative AI Art: Copyright Infringement and Fair Use in (2023) 26(2) *SMU Science and Technology Law Review*, 259.

2. Non-fungible Tokens (NFTs) and Asset Tokenisation: NFTs, which are unique digital certificates of ownership recorded on a block chain, have become intertwined with digital art and collectibles.

A pervasive public misunderstanding exists that purchasing an NFT of a digital artwork confers the underlying copyright on the buyer. In reality, the NFT typically only represents ownership of a unique token linked to the work, not the copyright itself. The creator usually retains the exclusive rights to reproduce, distribute, or create derivative works. This confusion can lead to unauthorised commercialisation and disputes, necessitating clearer legal guidance and public education.[40]

A related copyright issue is the liability for infringing NFTs. Platforms that mint and trade NFTs can become conduits for the sale of tokens linked to unauthorised copies of copyrighted works. Determining the liability of these platforms—whether as primary infringers or under secondary liability principles—is a complex challenge that the current Nigerian copyright framework is not explicitly designed to address.

3. Decentralised and Peer-to-Peer (P2P) Content Sharing: The evolution from centralised piracy websites to decentralised platforms and encrypted P2P networks complicates enforcement.[41]

Decentralised platforms often operate without a central controlling authority, making it difficult to identify infringers and for bodies like the Nigerian Copyright Commission (NCC) to issue takedown notices. The architectural design of these networks can render traditional enforcement measures, such as website blocking, ineffective. **Legal frameworks, such as the Digital Millennium Copyright Act (DMCA) in the United States, have developed notice-and-takedown procedures to handle copyright violations on digital platforms. The DMCA allows copyright holders to request the removal of infringing material, and in circumstances of persistent violations, legal action can be taken against infringers and, in some cases, platform operators.** While effective for centralised systems, peer-to-peer networks present unique obstacles**. The decentralised nature of these platforms causes disruptions in the notice-and-takedown process, making enforcement difficult.** Furthermore, disparities in national copyright laws result in jurisdictional limits, prohibiting a single worldwide regulatory strategy**.**[42]

These emerging issues highlight that the legal framework must be dynamic. Continuous judicial interpretation, potential regulatory guidance from the NCC, and sustained stakeholder dialogue are essential to ensure that copyright protection remains effective and relevant in the face of relentless technological advancement.

iii. Cross-Border and Globalisation Challenges: In an increasingly global marketplace, many infringing platforms and pirated content sources are based outside Nigeria, limiting the

40 Levidi Sai Keertana, NFTs and Copyright Law, in (2022) 7 *International Journal of Novel Research and Development*, 41.

41 **Wan Man Jason Fung, Avnita Lakhani Combatting Peer-to-peer File Sharing of Copyrighted Material via Anti-Piracy Laws: Issues, Trends, and Solutions in (2013) 29(4) Computer Law & Security Review, accessed at** https://www.sciencedirect.com.scuebce.artucke.abs.piiS0267364913000976 **on 12/10/2025.**

42 Aiswarya M., Anuritha A., Copyright Protection in Online Data Sharing Platforms, in (2024) 6, International Journal for Multidisciplinary Research, 5.

jurisdictional reach of Nigerian enforcement agencies. The lack of strong cross-border intellectual property enforcement cooperation further hampers local efforts to curb digital infringement.

iv. Socio-Cultural and Educational Challenges: A considerable portion of the Nigerian population remains unaware of the importance and scope of copyright law. This lack of awareness leads to unintentional infringements and a general disregard for the intellectual property rights of creators.

v. Institutional Constraints: The Nigerian Copyright Commission (NCC), the principal agency responsible for enforcing copyright laws, faces chronic underfunding and limited capacity. The agency lacks modern enforcement tools and the human resources required to combat infringement effectively, especially online. Furthermore, although the Copyright Act declares piracy a criminal offence punishable by terms of imprisonment and makes extensive provisions empowering the Commission to combat it. However, with Nigeria's population of over 200 million people and being the largest country in Africa, policing the nation is a formidable challenge. It demands significant financial and human resources.

vi. Weak Judicial Enforcement: The judicial system in Nigeria is often slow and inefficient in handling intellectual property disputes. Prolonged litigation and a lack of judges specialised in copyright law contribute to poor enforcement outcomes. This creates an environment where infringers operate with impunity.

Recommendations

Based on the challenges identified above, this paper recommends the following measures to tackle the problems of copyright protection in Nigeria.

i. Strengthen enforcement mechanisms through increased funding and training for customs, police, and intellectual property enforcement units to detect and seize pirated and counterfeit goods.
ii. Enhance international cooperation through participation in multilateral treaties and regional intellectual property frameworks, for instance WIPO, TRIPS, and ACTA, to align enforcement and protection standards. Furthermore, cross-border enforcement protocols should be established, including data sharing, joint investigations, and customs cooperation, to track and intercept infringing goods across jurisdictions.
iii. Implement public awareness campaigns to educate consumers on the economic, legal, and social consequences of piracy and counterfeiting. Intellectual property education should also be integrated into curricula at all levels to foster respect for intellectual property rights from an early age and to encourage innovation and creativity.
iv. Strengthen institutional coordination among relevant agencies—such as intellectual property offices, customs, the judiciary, and the police—to ensure cohesive enforcement and policymaking. Funding and resources for the Commission should also be increased to improve its capacity for outreach, regulation, and enforcement. There is also a need to modernise intellectual property offices and institutions by digitising processes,

enhancing transparency, and reducing backlogs in intellectual property registration and case handling.

v. Train judges and prosecutors in intellectual property law and emerging infringement trends to ensure informed and effective adjudication. Furthermore, specialised intellectual property courts or tribunals should be established to expedite the resolution of intellectual property cases and build judicial expertise.

Conclusion

Copyright protection is a cornerstone of a modern, knowledge-based economy, serving as a critical incentive for creativity, innovation, and cultural preservation. This paper has demonstrated that Nigeria possesses a progressive legal framework, particularly with the advent of the Copyright Act 2022, which provides a solid foundation for protecting rights holders. However, the existence of robust laws alone is insufficient. The potential of this framework is severely undermined by a combination of entrenched enforcement challenges—such as institutional underfunding and judicial delays—and the rapid emergence of complex digital issues, from AI-generated works to decentralised piracy.

To bridge the gap between law and practice, a concerted and multi-faceted approach is imperative. The recommendations outlined—strengthening enforcement agencies, enhancing cross-border cooperation, embedding intellectual property education, and specialising the judiciary—provide a pragmatic roadmap for building a resilient copyright ecosystem. Ultimately, securing the full economic and social benefits of Nigeria's immense creative talents requires a sustained national commitment to prioritising and effectively enforcing intellectual property rights. This is not merely a legal necessity but a strategic imperative for sustainable development and global competitiveness.