

Protecting Copyright Owners in Nigeria: A Panacea for Intellectual Development

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ABSTRACT

The paper looks at protecting copyright owners in Nigeria: a panacea for intellectual development. A descriptive survey design was adopted in carrying out the study. The sample size for the study was 112. Three research objectives guided the study. The study utilized a self-developed questionnaire for data collection. A total of 112 copies of the questionnaire were distributed to librarian and lecturers, out of which 108 copies were duly filled and returned, representing 96.4%. The collected data was arranged in frequency and analyzed using percentage and mean score. The findings revealed that protection of copyright will encourage creators of intellectual works, and that if authors are well remunerated there is likelihood of adequate availability of various publications to meet information needs of Nigerians. The result showed that the right to intellectual properties is one of the ways to encourage intellectual development. The finding revealed that copyright protection provides security for intellectual product and does not negatively affect the availability of intellectual materials. Based on the research findings, it was recommended that owners of intellectual property deserve good earnings for their intellectual works in order to promote Knowledge proliferation and availability so as to meet the reading needs of the citizens at the various levels. The study also recommended that all cases relating to copyright violation in our courts should be summarily dealt with. The study advocated that the provision on the punishment should be reviewed such that it could deter people from infringing on authors rights.

1. Introduction

Intellectual property refers to creative works such as inventions; artistic and literary works. It could be classified into patents, copyrights, industrial designs, geographical indications and trademarks. However, this study is focused on how the protection of the copyright of owners can enhance intellectual development. The law governing Intellectual Property ensures the security and enforcement of legal rights of owners and punish those that violate such laws. One of the major intricacies

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of technologies of communication is the unlimited access they accord to users, which sometimes result to unauthorized reproduction and duplication of intellectual properties. This constitutes a threat to owners of intellectual properties. Anigilage (1997) averred that the speed and accuracy provided by these technologies have facilitated the infringement of copyright law. The desire to protect a man's investment in the creation of a work, be it a literary work as in copyright, an invention as in patents, distinctive trademarks as in trademarks from unauthorized economic exploitation by another person, is the rationale for the protection of intellectual property (Nwadei, 2016). The author further maintained that legislations appertaining to intellectual property are geared towards protecting property rights, which incidentally, if properly promoted can impact technological transfer and industrialization in the country. Protection of copyright materials are not designed or meant to limit public access but to protect the economic and rights of authors.

It was held in the case of *Gero v Seven-Up Company* that the goal of copyright protection is not to inhibit the free flow of information but to encourage dissemination of ideas by protecting the embodiment or expression of an idea in creative work and reserving the right in it to the creator of the work. The establishment of some viable or appropriate structure and legal framework in Nigeria (such as copyright act, patents, and industrial designs trademarks) is aimed at protecting creators of intellectual materials. This makes it easy and necessary for authors to institute legal action against any person(s) who reproduces or duplicates their works without their consent.

It is against this backdrop that Adedeji (2007) documented that all over the world; the right to peaceful enjoyment of property has been recognized as a fundamental right that citizens cannot be deprived of. Stressing on the importance of protecting copyright owners, Aguda (1992) remarked that law had given every member of the society the right of protection of his tangible or physical property. It gives the owner, the exclusive privilege to control in some respect to the reproduction of copies and the use of the original work or composition. It is on this note that Asein (1990) opined that the protection accorded copyright holders rest primarily on the theory that a creator should be entitled to the fruits of his labour. Adedeji also reiterated that all over the world, it has been recognized that protection of copyright is the best means of promoting creativity, stimulating men and women of talent to create further works, thus building up national heritage. The essence of the copyright law is to protect the writers and artists from the unlawful use and reproduction of material and as well helps to promote creativity'.

Considering the literatures presented above Adedeji (2007), Nwadei (2016), Anigilage (1997), Ekpa and Kure (2015) and others, it is clear that the most of the authors recognized the need to protect copyright owners to enhance intellectual development and for them to benefit from their works. However, they did not provide possible solutions to the crux of the problem which is a gap that demands attention. Therefore, this study is focused on filling this gap: to examine the need for protecting copyright owners in Nigeria. The study, further investigate the effect of the promoting copyright owners on availability of intellectual materials and suggest possible means of ensuring the protection of copyright owners. The study equally examined the strength of the punishment on copyright offenders under the copyright law in Nigeria.

The aim of the study is to examine the need for protecting copyright owners in Nigeria: a panacea

for intellectual development and suggest possible means of protecting copyright owners in Nigeria. The specific objectives are to:

- a) Find out if protecting copyright owners will enhance intellectual development in Nigeria.
- b) Ascertain if protecting copyright owners will promote availability of intellectual materials.
- c) Proffer possible suggestions for protecting copyright owners.

2. Literature Review

A considerable amount of efforts has been made by scholars expressing their views on the need for protecting copyright owners. It is obvious that, authors are likely to take greater interest in creativity if they are sure that they will be adequately remunerated and their rights are protected by an enduring copyright system as documented by Okiwlagwe (2000). The author reiterated that if this is upheld then, there is likelihood of adequate availability of various publications to meet reading needs of Nigerians. It is against this background that Hassan (1976) noted that protection of copyright is the best means of promoting creativity, stimulating men and women of talent to create further works and thus building up the national heritage. Lack of protection kills talent and even national prestige.

Writing on this, Philips in Umaru (2002) advocated that all the statutory protections given to intellectual property are found on the principle that unauthorized use of another's intellectual labour is unfair exploitation of it, which the law should not permit. The author reiterated that another reason given for copyright protection is that a man who has spent money, time and energy to create a work from which the society benefits, is entitled to be rewarded or reciprocated by the society by granting him monopoly over that work for limited duration. It is as a result of this that Ekpere (2002) depicted that a complementary objective of copyright legislation is to foster the growth of learning and culture for public good.

Okiwlagwe (2000) opined that copyright law is based on the assumption that an author is more likely to be motivated to embark on continuous production of intellectual products, if there is the assurance that another individual cannot claim neither the credit nor the profit economically from the author's effort. The author reiterated that copyright law does not protect ideas but exists only when the ideas are put in tangible format such as written works or other forms of expression.

Nwadei (2016) observed that it is essential to protect authors and inventors from the exploitation of their works as it is essential policy of government to reward hard work and discourage laziness and indolence. This is in agreement with Asein (1990) who remarked that it is unfair to allow a man who has failed to harness his innate potentials or develop his skills and knowledge from benefiting from the hard work of another person. The utmost aim of the copyright law is to protect the property owner of a copyright work seeing that his labour is not unjustifiable expropriated or reaped by people who are not the producers of such labour as recorded by Aboki (2002). The author maintained that the economic bases of the copyright law is to make sure that people who

make inventions secure the pride, reward, encouragement and incentive of their labour. The author therefore concluded that, it will amount to criminal, fraudulent and cheating to do any acts or omission which will deprive an owner of a copyrightable work the benefit of his labour.

It is necessary to state that creating a system of rewards for creators of intellectual and artistic work would encourage citizens to engage in creativity that would foster economic, scientific, social and cultural development. John Locke in his book titled *Treatises Government* cited in Ashabi (2007) said though the earth and all inferior creatures are common to all men, yet every man has a property of his own person, this nobody has any right to but himself. This is in conformity with Schlatter (1951) who said that the labour of his body, the product of his brains and work of hands are properly his. Emphasizing on the need of protecting copyright owners, Eze (1990) remarked that the value and relevance of any national copyright system has to be, therefore, judged from its potency to stimulate intellectual creativity in local authors and creators.

Nnaji (1986) documented that without copyright protection, authors will be reluctant to engage in the difficult working of writing as a reasonable hope of financial return will be lacking. The author reiterated that few people will embark on the exacting work of writing if no restriction exists to check intellectual banditry which will, in effect, minimize possible remuneration due to their works. However, Section 6(1)(a) of the second schedule of the Copyright Act provides that:

“the doing of any of the acts mentioned in the said section 6 by way of fair dealing for purposes of research, private use, criticism or review or the reporting of current events subject to the condition that, if the use is public, it shall be accompanied by an acknowledgement of the title of the work and its authorship except where the work is incidentally included in a broadcast”.

The effect of this provision is that it allows researchers and students to reprint or quote portions of intellectual property provided there is an acknowledgement of the title and authorship.

Guobadia (1998) did not quite agree with this. According to him, it is not sufficient to simply acknowledge the endeavour. To him he sees no reason why an author should be prevented from commercial exploitation of his creative work locally and internationally. He reiterated that if the right to commercial exploitation of the product of man's ingenuity is restricted to copyright disregard, it may be major disincentive to authors, scholars and researcher because of the absence of material rewards.

It is against this background that Ajetunmobi (2017) documented that it is equitable that the creators be compensated for the exploitation of their works as a return for the labour and skill they applied in creating their works. The author further maintained that creativity and invention are the product of the human intellect and consequently creators and investors should have the right to control their works. Though the law has helped to strike a balance between the interest of innovators and public interest, providing an environment in which creativity and invention can flourish, for the benefit of all which bothers on fair use principle.

Writing on the problems affecting intellectual property rights in Nigeria, Adeleye (2016) observed that dates of enactment of principal legislations relating to intellectual property rights in Nigeria

clearly show that the laws were made long ago at a time that many of the current day development were not in the consciousness of the legislators. The author lamented that the result of the use of outdated legislations is that the protection offered in Nigeria is substandard in comparison to the updated laws now operating in other jurisdictions. This means that there is need to review the law to be in line with laws of other jurisdictions of other civilized nations. Furthermore, Opadere (2011) lamented the diverse ways, works of which are subject to copyright protection have been grossly abused by corporate entities and individuals alike, to the extent that it could hardly be said that there is any impressive appreciation for arts in Nigeria. Despite that there are law enforcement agencies, copyright commission set up to guard against infringement, it appears the law is still far from being effective.

3. Methodology

This study applied descriptive survey design. According to Nworgu (2015) descriptive survey design aims at collecting data on something and describing it in a systematic manner. The author further explained that it is a plan or blueprint which specifies how data relating to a given problem should be collected and analyzed. The study lends itself to descriptive survey, because the respondents' description of the situation in protecting copyright owners in Nigeria. A total of one hundred and twelve (112) copies of the structured questionnaire were distributed among the respondents and one hundred and eight (108) were properly filled and retrieved making up a respondent rate of 96.4%. The researcher analyzed and interpreted the response using simple percentage, frequency tables and means scores.

Table 1. Sample of the study

SN	Profession	Frequency	Percentage
1	Librarians	61	56.5
2	Law Lecturers	47	43.5
	Total	108	100

Table 2. Demographic characteristics of the sample

SN	Respondents	Frequency	Percentage
1	BLS/LLB	21	19.4
2	LLM/MLS	51	47.2
3	Ph.D.	36	33.4
	Total	108	100

* BLS/LLB: Bachelor in Library Science/ Bachelor in Law
 ** LLM/MLS: Master in Law/ Master in Library Science
 *** Ph.D.: Doctor of Philosophy in either Library or Law profession.

4. Results

The findings from Table 3 shows that the respondents accepted all the items with high mean scores, culminating to a grand mean of 3.38 ($3.38 \geq 2.50$). This indicates that the protecting copyright encourages intellectual owners in Nigeria. This gives credence to Okiwlagwe (2000) who earlier remarked that authors are likely to take greater interest in creativity if they are sure that they will be adequately remunerated and their rights are protected by an enduring copyright system. This agrees with Nnaji (1986) who documented that without copyright protection, authors will be reluctant to engage in difficult working of writing as a reasonable hope of financial return will be lacking. This statement is confirmed by Asein (1990), that it is unfair to allow a man who has failed to harness his innate potentials or develop his skills and knowledge from benefitting from the hardwork of another. These goes to show that authors will do better if the law could protect their works from infringement.

Table 3. Does protecting copyright encourage intellectual owners in Nigeria?

SN	Item	SA	A	D	SD	\bar{x}	SD	Decision
1	Copyright protection would increase proliferation of intellectual contents.	57 (52.8)	41 (38.0)	4 (3.7)	6 (5.6)	3.38	1.3	Accepted
2	The right to intellectual properties is one of the ways to encourage intellectual content owners.	57 (52.8)	51 (47.2)	0	0	3.53	1.0	Accepted
3	Copyright protection caters for the intellectual product security needs of intellectual property owners.	62 (57.4)	46 (42.6)	0	0	3.57	1.0	Accepted
4	Copyright protection for individual content to owners is more important than monetary benefit.	38 (35.2)	58 (53.7)	9 (8.3)	3 (2.8)	3.21	3.1	Accepted
5	I am confident on the protection of my work with copyright protection.	40 (37.0)	54 (50.0)	11 (10.2)	3 (2.8)	3.21	3.3	Accepted
$3.38 \geq 2.50$								

* N=108

The respondents accepted all the items with individual mean as follows; item 1 with a mean score of 2.19, item 2 with a mean score of 1.91, item 3 with a means score of 2.03, item four with a mean score of 2.05 and item 5 with a mean score of 1.95, cumulatively, the five items were responded to with a grand mean of 2.02 ($2.02 \leq 2.50$) leading to the rejected of the items.

Table 4. Protecting copyright owners and availability of intellectual materials in Nigeria?

SN	Item	SA	A	D	SD	\bar{X}	SD	Decision
1	Copyright protection limits the usability of an intellectual content.	19 (17.6)	14 (13.0)	27 (25.0)	48 (44.4)	2.19	1.0	Accepted
2	Copyright protection does not allow for flexibility on the use of intellectual content.	18 (16.7)	7 (6.5)	42 (38.9)	41 (38.0)	1.91	1.0	Accepted
3	Copyright protection does not support the open source/education initiative.	15 (13.9)	9 (8.3)	30 (27.8)	54 (50.0)	2.03	1.5	Accepted
4	Copyright protection delays replication of knowledge.	18 (16.7)	7 (6.5)	27 (25.0)	56 (51.9)	2.05	1.0	Accepted
5	Copyright protection does not allow accessibility and availability of information materials on the web which is the primary sources of information.	14 (13.0)	8 (7.4)	35 (32.4)	51 (47.2)	1.95	1.0	Accepted

2.02 ≤ 2.50

* N=108

The implication of the result on Table 5 showed that all five (5) were accepted as possible means of protecting copyright owners in Nigeria. The result showed that 89.8% agreed that Peer review process manuscript publication was important to ensure originality of literal works. Over 94.4% agreed that strict punishment for crimes against copyright owners were required to protect copyright owners in Nigeria This is in agreement with Adeleye (2016) who observed that dates of enactment of principle legislations relating to intellectual property rights clearly shows that laws were enacted long ago at a time that many of the current day development were not in the consciousness of the legislators. Despite the presence of law enforcement agencies, copyright commission set up to guard against infringement is weak and has not been effective. The punishment provided for in the Act is not stringent enough to discourage infringers from committing copyright crimes.

Table 5. What are the possible suggestions to protecting copyright owners in Nigeria?

SN	Item	SA	A	D	SD	\bar{X}	SD	Decision
1	Proper acknowledgment of materials source/authority and checking Plagiarism.	52 (48.1)	48 (44.4)	8 (7.4)	0	3.41	1.2	Accepted
2	Publishing intellectual works/manuscripts through recognized publication outfit registered with National Library.	49 (45.4)	48 (44.4)	10 (9.3)	1 (0.9)	3.34	1.0	Accepted
3	Strict punishment for crimes against copyright owners.	62 (57.4)	40 (37.0)	6 (5.6)	0	3.52	1.3	Accepted
4	Establishment of copyright National Guild.	42 (38.9)	48 (44.4)	15 (13.9)	3 (2.8)	3.19	1.0	Accepted
5	Peer review process manuscript publication to ensure originality.	50 (46.3)	47 (43.5)	11 (10.2)	0	3.36	1.0	Accepted

* N=108

5. Discussion of Findings

5.1 *The Copyright Law and Its Enforcement.*

In order to achieve the noble objectives of protecting copyright owners in Nigeria. The Copyright Act was enacted, in the words of Nwogu (2014) the Act not only created favourable conditions for actualization of authors' potentials through creative work, but also incorporated on establishment, for the first time, machinery for the administration of copyright in Nigeria called Copyright Council. This council was later in 1996 renamed Nigerian copyright commission as amended in the Copyright Act in 2004. The commission is saddled with the following functions as contained in Section 34(3) of the Act. These are to:

- a) Be responsible for all matters provided for in this Act.
- b) Monitor and supervise Nigeria's position in relation to international conventions and advise government thereon.
- c) Advise and regulate conditions for the conclusion of bilateral and multilateral agreements between Nigeria and any other country.
- d) Enlighten and inform the public on matters relating to copyright.
- e) Maintain an effective data bank on authors and their works.
- f) Be responsible for such other matters as related to copyright in Nigeria as the minister, may from time to time, direct.

Besides this legal framework enacted to protect copyright owners in Nigeria, authors have suffered a lot as a result of the following problems. First among them is the provision on punishment under the Copyright Act is not stringent enough to discourage people from the act of infringement. Section 20(2)(d) provides that any person who has in his possession, sells or lets for hire or distribution for the purposes of trade or business or exposes or offers to sale or hire any copy of a work which, if it had been made in Nigeria, would be an infringing copy. The provision went ahead to state that unless he/she proves innocent infringing, is guilty of an offence and liable on conviction to a fine of N100 for each copy dealt with, or to a term of imprisonment not exceeding two years or in case of an individual, or both such fine and imprisonment. The infringers who make fortune from the infringement do not see a fine of N100 as anything. The copyright law in Nigeria is weak, couples with the delay in litigation in Nigerian judiciary. Some of the respondents decried the weakness of the punishment of copyright offenders. The punishment of copyright offence under Section 20(2)(a) of the Copyright Act is N100.00 only for every copy dealt in contravention of Section 20(2)(a) of the Copyright Act. This punishment does not commensurate the degree of offense appropriate for the infringement on the copyright of the intellectual property of someone. It does not stringent enough to scare people and protect the copyright owners as such the law needs to be reviewed to be in line with other jurisdictions of the world.

As demonstrated in the case Nigerian Copyright Commission and Ali Baba. The accused Ali Baba was found with him an infringing copy of literary work in which the copyright subsists in

favour of the copyright owner without the consent and authorization of the copyright owner and thereby committed an offence contrary to and punishable under Section 20(2)(a) and 20(2)(c) of the Copyright Act, Laws of the Federation, 2004. In spite of the plea of guilt made by the accused and the exhibits tendered in support of the charge, the accused was convicted as charged. The accused was sentenced to a fine of N100.00 or 3 months imprisonment on each of the two counts. The sentences were to run concurrently.

In addition to this is the case of Nigerian Copyright commission and Michael Paul. The accused (Michael Paul) had with him infringing copies of literary work in which copyright subsists in favour of the copyright owner without the consent and authorization of the copyright owner and thereby committed an offence contrary to and punishable under Section 20(2)(a) and 20(2)(c) of the Copyright Act, Laws of the Federation 2004.

The Court having taken into account the plea of the accused person and the evidence plead before the Court by the Prosecution witness. The Accused person (Michael Paul) was found guilty of exposing for sale the purpose of trade or business fifty-one (51) copies of a literary work titled ije 'The Journey' without the consent and authorization of the copyright owner an offence contrary to an punishable under Section 20(2)(a) of the Copyright Act 2004. The Accused was also found guilty of having in his possession other than his pirate and domestic use Fifty-One copies of the said literary work, an offence contrary to and punishable under Section 20(2)(a) of the Copyright Act and N100.00 for every copy dealt in contravention of Section 20(2)(a) of the Copyright Act. That the infringing copied to be destroyed by the Nigerian Copyright Commission.

Also, of interest is the case of Nigerian Copyright Commission and Nworie Anayo. The accused person (Nworie Anayo) had with him six Hundred and Thirty-One (631) infringing copies of works in Digital Video Discs (DVDs) and Compact Discs (CDs) in which copyright subsist in favour of the copyright owners without the consent and authorization of the copyright owners and thereby committed an offence contrary to and punishable under Section 20(2)(a) and (c) of the Copyright Acts, Laws of the Federation, 2004.

In the light of the plea of guilty made by the accused and the evidence made in support of the charge before the court the accused (Nworie Anayo) was convicted as charged. The court held that since the convict is an individual, he was charged to a fine of N100.00 per copy of the infringed items i.e. $631 \times 100 = \text{N}63,310.00$ naira only. He was also sentenced to six months imprisonment commencing from the date of his arrest and detention 20th May 2011. The Court ordered that exhibits B & C used in the course of the court proceeding be handed over to the prosecution/complainant for destruction.

From the foregoing it is evidenced that federal high courts which have jurisdiction over copyright matters as enshrined in our law have made concerted efforts in protecting copyright owners in Nigeria but the law is not strongly enough to protect the copyright owners, encourage intellectual development. Globally, copyright offences are considered as a criminal offence particularly in the academic environment, lecturers' loss their job, pay huge some as fine and face bans and much more. Based on the data from the study, 94.4% (See item 3 in Table 5) of the respondents agreed that the law was weak and require strict punishment for crimes against copyright owners to encourage intellectual development both in the academic environment and the society at large. It is therefore,

recommended the copyright law be reviewed or amended with respect to international best practice with weightier punishment. This will ensure and enhance the protection of copyright of owners and intellectual development.

5.2 Effect of Corruption of Monitoring Agencies and delay in litigation in the Nigeria Judiciary

The agency responsible for enforcement of the copyright law is the Nigerian copyright commission. However, the effect of corruption in the system worsens the situation. Over 92% of the respondent stated that the corruption of enforcement agencies such as the Nigerian Copyright Commission (NCC) officials and the delay in litigation in the Judiciary impedes the level of success in enforcement of the copyright law. Corruption has become an endemic disease that has eaten deep into the affairs of the Nigerian-State. Nwogu (2014) opined that some of the Nigerian Copyright Commission (NCC) officials who are charged with the responsibility of carrying out raids on infringed works are corrupt, so are compromised by the infringers. The author stressed that the officers at times have private dealings or transactions with the infringers, and consequently, they deliberately refuse or find it difficult to arrest infringers or pirates during regular raids. As such allow these evil doers to continue with nefarious act.

Besides this is the delay in administration of criminal law system. A case which ordinarily shouldn't take three months in the Court, a matter that could be summarily dealt with, surprisingly lasts up to two years in Court and in the process litigants get frustrated and abandoned such case in the process the infringer is left to go free since the litigant has lost interest in the case. This discourages copyright litigation and enforcement. Due to inadequate funding, the Nigerian Copyright commission (NCC) is not living up to its expectations in discharging its responsibilities as such cannot carry out comprehensive investigation and prosecute those found guilty of infringement. In order to perform effectively the commission needs to be funded adequately.

5.3 Enforcement of Plagiarism

The data presented in Table 5 shows that 92.5% of the respondents (See item 1 in Table 5) agreed that proper acknowledgment of materials source/authority and Checking Plagiarism is a possible way of protecting the copyright of owners and intellectual development.

Plagiarism is the practice of taking someone else's work or ideas and passing them off as one's own. The study found that the concept of plagiarism is not defined in any Nigeria law. It is only by extension that the copyright law is been applied. Thus, the law is not specifically captured in the Nigerian Law. However, some institutions in Nigeria have instituted it as a crime. The study found that a possible way to protect copyright owners and increase intellectual development is to review the copyright law to include plagiarism offences while all institutions in Nigeria should as a matter of urgency fight plagiarism as this will enhance intellectual development, This finding is in line with the words of Gokmenoglu (2017) who suggested that plagiarism is raising legal and ethical concerns Turkish universities and around the world, which has negative impact on intellectual development among teachers, students and the academic environment. Therefore, proper acknowledg-

ment of materials source/authority and checking Plagiarism would protect the copyright owners and enhance intellectual development in Nigeria particularly in the tertiary institutions.

5.4 Effect of copyright protection on the availability of intellectual materials

The present study found that the protection of copyright of owners does not reduce the availability of intellectual materials. This indicates that promoting copyright owners does not have negative impact on the availability of intellectual materials in Nigeria. The copyright Act provides for exceptions to the general use Ocheme (2000) to enable certain groups or organization and other times the general society, to access and use people's creative works under special conditions, without infringing the authors right. Examples include uses for research and scholarship purposes Ocheme (2000) which encourages availability of intellectual materials to the public.

This is enshrined in the second schedule to the Nigerian Copyright Act which deals generally with exceptions to copyright control, paragraph (a) provides for fair dealing as follows:

The doing of any of the acts mentioned in the said section 630 by way of fair dealing for purposes of research, private use, criticism or review or the reporting of current events, subject to the condition that, if the use is public, it shall be accompanied by an acknowledgement of the title of the work and its authorship except where the work is incidentally included in a broadcast.

However, the fair use doctrine in Nigeria needs to review to strike a balanced between owners right and users right as reflected in the copyright laws of other countries such as Canada, United of American and the United Kingdom. This will ensure the while creating a provision for a fair use, the copyright owners are protected and remunerated.

This finding is in accordance with the works of Ekpa and Kure (2015), who opined that a legislation that insists on a sum of money which must be paid as 'royalty' to owners of intellectual properties such as literally works for the photocopy of works in any form. They further suggested that REPRONIG (a copyright collective society) for authors of literary works or any other collective societies under the Act, may by this legislation, be mandated to take on the issuance of this license and onward delivery of the proceeds to authors (Ekpa & Kure, 2015) as obtained in other parts of the world such as United States and Canada.

For instance, in *CCH Canadian Ltd. v. Law Society of Upper Canada*¹⁰⁶, that

“The fair dealing exception, like other exceptions in the copyright Act, is user's right. In order to maintain the proper balance between the rights of a copyright owner and user's interest, ... Both owner rights and user rights should therefore be given the fair and balanced reading that befits remedial legislation.”

From the ongoing, the fair use doctrine ensures the availability of intellectual materials but should also be reviewed in accordance with the best practices in the world as highlighted above.

6. Conclusion and Recommendations

Firstly, the study shows that protecting the copyright owners would enhance intellectual development in Nigeria. The protection accorded to copyright owners rests solely on the theory that a creator should be entitled to the fruits of labour, if this is assured then authors would be likely to take greater interest in creativity so long they will be adequately remunerated and their rights protected by the law. The courts have been of immense assistance in prosecuting culprits that have been infringing on copyright law. Furthermore, the progress in technologies that has eased the task of unauthorized reproduction and duplication of intellectual properties and infringement of copyright law can be checked by improved legislation and effective enforcement by the Nigerian copyright commission (NCC). The establishment of appropriate structures and legal frameworks in Nigeria must be aimed at protecting creators of intellectual materials. The right to peaceful enjoyment of one's property has been recognized as a fundamental right that citizens cannot be deprived of. However, owners of intellectual property deserve good earnings for their intellectual works in order to promote book production so as to meet the reading needs of the citizens at the various levels.

The present study also showed that the protection of copyright of owners does not reduce the availability of intellectual materials; the fair use doctrine ensures the availability of intellectual materials but should also be reviewed in accordance with the best practices in the world as highlighted above. In the light of the possible suggestion to protecting copyright owners, the study recommended that the copyright law be revisited or amended with respect to international best practices with weightier punishment and not just a 100 naira by copy not even per page when the defaulter could sell a copy for 5000 naira and more depending on the quality and creative work or book. This provision on punishment in the instant law is not stringent enough and should be reviewed such that it deters people from infringing on authors rights. Adequate funding should be made available to the Nigerian Copyright Commission to enable the Commission perform her statutory duties effectively and the judiciary should ensure all cases relating to copyright violation in our Courts should be summarily dealt with as quickly as possible to encourage the commission in discharging her duties creditably.

Lastly, as a way of protecting the copyright owners and increase intellectual development, the copyright law to be reviewed to include plagiarism offenses which is not defined in the Nigerian law while all institutions in Nigeria should as a matter of urgency fight plagiarism. Based on the findings of this study and previous studies, there is no doubt that protecting the copyright owners is the panacea to intellectual development in Nigeria.

References

- Aboki, Y. (2002). Economic and Cultural for Copyright Protection in Nigeria. In J. O. Asein, & E. S. Nwauche (Eds.), *A decade of Copyright Law in Nigeria*. Abuja: Nigeria Copyright Commission.
- Adedeji, A. (2007). Protecting Copyright Owners in Nigeria. In A. Popoola, & A. Adodo (Eds.),
-

- Current Legal developments in Nigeria, Essays in memory of Professor J. D. Ojo.* Ile-Ife: Obafemi Awolowo University Press.
- Adeleye, A. (2016). Intellectual property rights enforcement in Nigeria: regulatory agencies to the rescue. [http://pennjil.com/intelectual-property-rights-enforcement in nigeria](http://pennjil.com/intelectual-property-rights-enforcement-in-nigeria)
- Aguda, A. (1992). The Nigerian Copyright law and its relevance to social change. In E. E. Uvieghara (Ed.), *Essays on Copyright law and administration in Nigeria*. Lagos: the Nigerian Copyright Council.
- Ajetunmbi, A. O. (2017). *Computers and the Law Handbook: a resource for lawyers and business professionals*. Ikeja: Princeton and Associates Publishers.
- Anigilage, M. A. O. (1997). Photocopying laws: Legal implications and librarian's Dilemma. *The Lagos Librarian*, 18(1&2), 1.
- Asein, J. O. (1990). Nigerian Copyright Law: an appraisal of recent innovations and implications. *The Calabar Law Journal*, 3, 124.
- Ashabi, V. O. (2007). Strategies action against piracy (STRAP): Revolutionizing the Nigerian Copyright Sector in Cross-cutting issue in Nigerian Law. In O. P. Ojo (Ed.), *Essays in honour of Professor Funso Adaramola*. Ibadan: University of Ibadan Press.
- Ekpa, F. O., & Kure, B. R. (2015). Fair dealing as an exception to the infringement of copyright: an obstacle to the effective enforcement of copyright claims in Nigeria. *Idah Bar Journal of Contemporary Legal Issues*, 2, 245-270.
http://www.academia.edu/download/40898030/FAIR_DEALING_AS_AN_EXCEPTION_TO_COPYRIGHT_AN_OBSTACLE_TO_THE_EFFECTIVE_ENFORCEMENT_OF_COPYRIGHT_CLAIMS_IN_NIGERIA.pdf
- Ekpere, J. A. (2002). Nigeria Copyright Law and National development: philosophical and economical paradigm for the next millemium. In J. O. Asein, & E. S. Nwauche (Eds.), *A decade of Copyright Law in Nigeria*. Abuja: Nigerian Copyright Commission.
- Eze, O. C. (1990). Copyright Protection in Nigeria: Prospects for national development. *The lawyers' Journal*, 1(2), 35.
- Gokmenoglu, T. (2017). A Review of Literature: Plagiarism in the Papers of Turkish Context. *Higher Education Studies*, 7(3), 161-170. <http://doi.org/10.5539/hes.v7n3p161>
- Guobadia, D. (1989). Fair dealing and copyright in Nigeria. *The gravitas review of business and property law*, 2(4), 40-45.
http://www.unesco.org/culture/pdf/antipiracy/nigeria_cp_en
- Hassan, A. (1976). *The book in multilingual*. Paris: UNESCO International Publisher Association.
- Nnaji, L. O. (1986). *The Library in Nigeria*. Enugu: Fourth Dimension Publishers.
- Nwadei, H. (2016). The Protection of Copyright in Nigeria: re-evaluating subsisting instruments. *Port Harcourt Journal of Business Law*, 2(2), 726.
- Nwogu, M. I. O. (2014). The challenges of the Nigerian Copyright Commission (NCC) in the fight against copyright piracy in Nigeria. *Global Journal of Politics and Law Research*, 2(5), 22-34. <http://www.academia.edu/download/55651602/01.pdf>
- Nworgu, B. C. (2015). *Educational Research: Basic Issues and Methodology* (3rd ed.). Nsukka: University Trust Publishers.
-

- Ocheme, P. (2000). *The Law and Practice of Copyright in Nigeria*. Zaria: ABU Press Ltd.
- Okiwlagwe, A. O. (2000). Copyright law and Book publishing Industry in Nigeria. *Nigerian Education law journal*, 3(2), 71.
- Opadere, O. S. (2011). Copyright protection as catalyst to economic Growth. *University of Benin Journal of Private and Property law*, 2(1), 28.
- Schlatter, R. (1951). *Private Property the history of an idea*. New Brunswick: New Jersey Rutgers University Press.
- Umaru, M. J. (2002). Nature, Subsistence and Scope of Copyright in Nigeria. In J. O. Asein, & E. S. Nwauche (Eds.), *A decade of Copyright law in Nigeria*. Abuja: Nigerian Copyright Commission.

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