

## **Copyright, Creative Commons license and the Nigerian Case**

According to the Nigerian Copyright Commission, Copyright is the exclusive right granted by a statute to an author (i.e., an artist, writer, publisher, musician, performer, photographer, architect, film maker, and sculptor) of certain works to control the doing of some acts in relation to the work. <sup>[1]</sup>

Copyright protects original creations in the literary and artistic fields which are fixed in medium from which they can be reproduced, or otherwise communicated. Works that can be copyrighted include; Literary works (novels, stories, poetical works, plays, computer programmes, letters, encyclopedias, law reports, etc); Artistic works ( paintings, drawings, maps, plans, woodcuts, works of architecture, sculpture, craftsmanship, etc); Musical works (musical notations and compositions); films; Sound recordings; and Broadcasts. However, titles, ideas, concepts, procedures, methods or things of similar nature are not protected by Copyright.

The creator of a copyright work, usually referred to as the “author” of the work owns the copyright in the work in the first instance. However, the author is at liberty to transfer his rights to a third party. In such a case, the person who has obtained the right by transfer or other legal means becomes the owner of copyright. The rights enjoyed by the owner of Copyright are limited. The author of a work does not own his Copyright indefinitely. The author of a literary, artistic or musical work enjoys copyright throughout his lifetime and for 70 years after his death. In the case of films, sound recordings, performances etc., the owner enjoys Copyright for 50 years from the time the work was first published. The work goes to the public domain when the term of protection expires and third parties are allowed free use. <sup>[2]</sup>

Copyright protection is essentially territorial in nature. By virtue of membership of certain international copyright treaties and conventions, works of Nigerian citizens enjoy protection in territories of member countries of such treaties to which Nigeria is a party, including the Berne Convention.

The primary law that protects copyright in Nigeria is the Copyright Act, Cap C28, Laws of the Federation of Nigeria 2004. In addition to the Copyright Act, there are Regulations which have been issued to regulate certain activities undertaken in relation to copyright works.

These include; the Copyright (Optical Discs Plants) Regulations 2006; Copyright (Collective Management Organizations) Regulations 2007; Copyright (Levy on Materials) Order 2012.

The rights which an author or copyright owner enjoys in a work include the right to be acknowledged in any use made of his work and also to prevent any derogatory use; alteration; distortion or mutilation of same (referred to as moral rights). More importantly, he enjoys the right to earn money from his work by determining the condition under which the work may be commercially used by a third party (economic rights).

An author can prohibit or authorize the following acts; the reproduction of the work in various forms such as printed publication, photocopying or making a recording in any media; the public performance of work such as staging a play in a theatre; the recording of work in the form of compact disks, cassettes, videotapes, etc; the broadcasting of the work by radio, cable or satellite; the translation of the work into other languages or its adaptation such as from a novel to a screenplay; the distribution of the work commercially by way of sales, hiring or rental.

The Copyright Act does not stipulate registration or any such formality as a condition for protection. Copyright subsists automatically in a work from the moment the work is created. However, as part of its statutory mandate to maintain an effective databank on authors and their works, the Nigerian Copyright Commission (NCC) has established a voluntary copyright registration scheme designed to enable authors and right owners notify the Commission of the creation and existence of a work.

On the other hand, with the trend in Openness and Accessibility to the world's knowledge cum ingenuity, an author may decide not to register with the NCC but instead employ the Creative Commons Licenses that gives permission to anyone to reuse, remix and adapt her work, thereby shutting the door against any copyright infringement issues. Although there were some cases on intellectual property law in Nigeria. In year 2017, Macmillan Publishing Company Nigeria and the Universal Basic education were to pay 250 million-naira damages on infringement of Intellectual Property Right and Copyright over the printing and distribution of the book "BIRIBAMBA THE LONELY ELEPHANT" without the consent of the author.<sup>[3]</sup> Another similar case is the reprinting of a book "Heroes of the Night"

without the permission of the publisher and also distributing same to schools across Nigeria.<sup>[4]</sup>

Aside few online users and internet savvy, many intellectual property holders are not conversant with the CC Licenses and the opportunities that they provide for easy dissemination of content and creative ingenuity. For a knowledge society and the common knowledge to be achievable, open access to research, education and public sector information need to be implemented for the betterment of Nigeria and other developing nations. Because when the Nigerian citizens have free access to repositories, database, self-archiving and open access publishing, the common knowledge of the world will be shared with ease.

Moreover, the benefit of open access cannot be underemphasized. The advantages of open educational resources are enormous in attaining widespread national education, due to the fact that it provides access to education and also to foster democratic and citizenry participation, good governance, accountability, spurs creativity and innovation through open governance and access to public sector information. Though there are some institutional repositories in Nigeria but there is need for more institutions as well as individuals outside the scholarly field to follow suit by making open their research or creative materials for the public good.<sup>[5]</sup>

## References

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