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A Review of the New Media, Copyright, and the Nigerian Music Industry

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Abstract

The Nigerian music industry is about the biggest in Africa. According to a report by PriceWaterhouseCoopers (PWC), the Nigerian music industry was worth 40 million dollars in 2011 and 47million dollars in 2015. The report posits that by the year 2020, the industry will be worth an estimated 86 million dollars and that digital platforms will account for about 90% of the recorded music sales in 2022. The intellectual property of our musicians needs to be protected and copyright is one of the ways to do this. Even though these innovations are very important to a nation's general development, we cannot ignore the fact that it has some negative impacts, particularly on the music industry. These negative impacts surface mostly in the area of law-making and enforcement. This is one of the focuses of this paper. While it is important for musicians to understand the rights they possess over their works, the public should also know that they can be held liable for any acts of infringement done on a copyrighted work. Knowing this would make room for growth in the music industry as it would encourage musicians to be more creative. This paper is an attempt to review the New Media under the Copyright Act. The paper adopts the doctrinal method and ends with recommendations on how to further protect the copyright of our musicians, especially within the Nigerian Music Industry.

Keywords: Copyright, Intellectual Property, New Media, Nigerian Music industry

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1.0 Introduction

Copyright basically means to 'copy rightly'. The term however tends to convey different meanings to different sets of people, which is largely due to the various idiosyncrasies of people in the different segments of the economy.[1] Copyright is one of the two major heads of the field known as Intellectual Property. Intellectual Property has been defined by the World Intellectual Property Organisation (WIPO) as 'creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.'[2]

The idea of copyright protection developed as an aftermath of the invention of printing, which made copying easier, cheaper and faster.[3] As intellectual works became susceptible to exploitation in a manner that could jeopardize the interests of the original producer, some form of protection had to be designed.

Copinger and Skone James defined copyright as that branch of intellectual property law that gives the owner the exclusive right to authorise or prohibit certain uses of his work by others.[4] According to Bankole Sodipo, Copyright is that aspect of intellectual property which seeks to reward, encourage and promote creativity, innovation and entrepreneurship by granting certain persons the rights to prevent other unauthorized persons from copying their works or ride unjustly on their goodwill.[5] Similarly, Kunle Ola gave a descriptive definition of copyright when he said that;

> Copyright is a legal system that protects the creative outputs of authors by granting them exclusive rights to control the use of their creations for a limited time, subject to certain limitations, exceptions and statutory licensing arrangements allowing use and exploitation without the author's consent.[6]

The court in *Adenuga v Ilesanmi Press and Sons (Nig) Ltd* held that Copyright is the exclusive right to control, to do or authorise the doing of any of the acts restricted to the copyright owner.[7]

The Nigerian Copyright Act which is the principal legislation on copyright in Nigeria fails to give a descriptive definition of the term 'copyright' in its definition section. However, section 6 of the Act states that, copyright in a

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1 Paul Goldstein, '*Copyright*' (1991) 38 JCSU 109.

2 WIPO, *'What is Intellectual Property'* (2018) <http://www.wipo.int/aboutip/en> Accessed 18 March, 2022.

3 B C McDonald, *'Copyright in Context: The Challenge of Change'* (1971) 8 RIIP 127.

4 K Garnett, G Davies and G Harbottle, *G Copinger & Skone James on Copyright* (15th edn Sweet & Maxwell 2005) 1.

5 Bankole Sodipo, *Copyright Law: Principles, Practice and Procedure* (2nd edn, Swan Publishing 2017) 1.

6 Kunle Ola, *'Evolution and Future Trends of Copyright in Nigeria'* (2014) 2 JOAL 1, 4.

7 (1991) 5 NWLR 189.

work shall be the exclusive right to control the doing of certain acts in Nigeria, in respect of that work. The Act recognizes various kinds of innovative and intellectual property works, namely: Literary works, Musical works, Artistic works, Cinematograph films, Sound recordings, and Broadcast.[8]

2.0 An Examination of the Concept of Music in The Copyright Act

According to the Act, musical works mean, any musical composition, irrespective of musical quality, and includes works composed for musical accompaniment.[9] In essence, the law recognizes the combination of sounds that make up the music as well as the works, such as the lyrics to the song which accompany the musical composition.[10] However, it is important to note that, conferment of copyright protection in any kind of work is not automatic. That is, for copyright to subsist in a musical work, certain elements and factors must be established. They are, the originality of the work, fixation of the work and a qualifying factor connecting the work to Nigeria.[11]

Generally, all works protected by copyright enjoy both economic and moral rights. The economic rights come in form of granting the author exclusive rights to control the exploitation of the work.[12] The moral rights protect the integrity of intellectual creations (*droit au respect de l'oeuvre*) and gives him the right to claim authorship (*droit de paternite*) as an extension of the author's personality.[13]

Section 6(1)(a) of the Copyright Act provides a list of acts in which the owner of the copyright has the right to do, or can authorise the doing of such acts, in respect of literary and musical works. These acts include; reproducing the work in any material form; publishing the work; performing the work in public; producing, reproducing, performing or publishing any translation of the work; making any cinematograph film or a record in respect of the work; distributing to the public for commercial purposes, copies of the work, by way of rental, lease, hire, loan or similar arrangement. Other rights which the owner of the copyright have are; broadcasting or communicating the work to the public by a loudspeaker or any other similar device; making any adaptation of the work; and to do in relation to a translation or an adaption of the work, any of the acts specified

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8 The Copyright Act 1988 Cap C28, Laws of the Federation of Nigeria (LFN) 2010 ["Copyright Act"].

9 Copyright Act, s 51.

10 Ajoke Oyewumi, *Nigerian Law of Intellectual Property* (University of Lagos Press and Bookshop Ltd 2015)

11 Copyright Act, ss 1-5.

12 *Ibid*, n8 at 154-155.

13 *Ibid.*

in relation to the work in the Act.[14] This work, will be examining how the various new media and technological innovations have affected the exercise of these rights.

The exercise of these copyrights is however limited by duration. Copyright in musical works subsists throughout the life of the author and for a period of seventy years after the author's death.[15] If the government or a body corporate is the owner of copyright in the work, copyright expires seventy years after the date of first publication of the work.[16] Unlike economic rights, moral rights are 'perpetual, inalienable and imprescriptible'[17]

3.0 Distinction Between Ownership and Authorship

It is important to distinguish between the owner of the copyright and the author of a work. This is because of the possibility that ownership and authorship may be vested in different persons in respect of the same work. Furthermore, authorship is pivotal in determining ownership of copyright and the status of the author may be necessary in ascertaining whether or not a work qualifies for copyright protection. The general rule is that ownership of copyright in a musical work vest initially in the author even if such author was paid by someone else to create the work, except a written contract stipulates otherwise.[18] In the case of *Redwood Music Ltd v Chappel &Co Ltd*,[19] it was held that copyright in the arrangement of a musical work belongs to the arranger.

An author of a musical work has been defined by the Act as 'the creator of the work.'[20] Creativity here is taken to mean intellectual effort, labour and skill involved in creating the work as opposed to making financial contributions to the creation of the work.[21] Similarly, a person whose contribution is merely an idea or of a mechanical character would not be regarded as the author.[22]

As regards infringement of copyright, an owner of copyright instituting an action for infringement must satisfy that, copyright subsists in the work, he is the owner of copyright in the work, the infringer had done an act which is exclusive to the owner and that the infringer had no authority to do such

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15 Section 6(1)(a) i- vii Copyright Act
16 Copyright Act, 1 sch.
17 *Ibid.*
18 Copyright Act, s 12(2).
19 Copyright Act, s 10.
20 (1982) RPC 109, 116.
21 Copyright Act, s 51.
22 *Joseph Ikhuoria v Campaign Services Ltd & Anor* (1977-1989) 2 IPLR 316,332-333. *Donoghue v Allied Newspapers Ltd* (1938) Ch 106.

work shall be the exclusive right to control the doing of certain acts in Nigeria, in respect of that work. The Act recognizes various kinds of innovative and intellectual property works, namely: Literary works, Musical works, Artistic works, Cinematograph films, Sound recordings, and Broadcast.[8]

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16 *Ibid.*
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20 Copyright Act, s 51.
21 *Joseph Ikhuoria v Campaign Services Ltd & Anor* (1977-1989) 2 IPLR 316,332-333.
22 *Donoghue v Allied Newspapers Ltd* (1938) Ch 106.

act.[23] Section 15 of the Copyright Act stipulates acts which will constitute infringement of copyright.

The similarity between the alleged infringed work and the plaintiff's work will not suffice to establish a case of infringement. Consequently, the burden lies on the plaintiff to show that there is a form of causal connection between the two works and that the infringed work was substantially copied from his work.[24] In the case of *Francis Day & Hunter Ltd v Bron,* the defendant was alleged to have reproduced the first eight bars of the plaintiff's musical work, yet, due to the fact that there was no evidence of causal connection between both works, the court held that there was no infringement.[25] However, copyright infringement in Nigeria are not so difficult to establish because cases of infringement in Nigeria often take the form of a total copying or duplication of a person's work.[26] From the wordings of the provisions of section 15, it is clear that the copyright Act recognizes vicarious liability and contributory infringement.[27]

4.0 How New Media has Changed the Music Industry

Generally, the word media is taken to mean 'the main means of mass communication (broadcasting, publishing and the internet) regarded collectively'[28] With respect to this discourse, 'new media' is a term used to describe all sort of ways and means of mass communication mostly through the internet. The Chambers 21st Century dictionary defines the internet as a global computer communications network providing almost instant transfer of electronic data from one computer to another, linking business, academic and private users.[29]

In order to get a better understanding of what the term 'internet' means, it is perhaps necessary to define the term 'digital' which is a somewhat broader term. Digital works are simply all those technologies that make use of information transmitted by means of discrete values using the binary system (combination of 1 and 0) rather than at continuous range.[30]

Basically, there are two forms of digital technology. They are, satellite/cable broadcast and computer software. The internet as a means of mass

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[23] *Distinct Universal Ltd v Bonag Nigeria Ltd* (1997-2003) 4 IPLR 437.

[24] *CBS Inc & Ors v Intermagnetic Co Ltd & Anor* (1977-1989) 2 IPLR 351.

[25] (1963) Ch 587.

[26] For instance, the case of *Okilo v Dick Francis and Anor* (2003-2007) 5 IPLR 141.

[27] Copyright Act, s 15; *Shapiro, Bernstein & Co v H L Green Co* (1963) 316 F 2d 304; *Fonovisa Inc v Cherry Auction, Inc* (1996) 76 F 3d 259.

[28] English Oxford Living Dictionaries, 'Media' (*Oxford Dictionaries*, 2018) <https://en.oxforddictionaries.com/definition/media. last accessed 16 February 2022.

[29] Mairi Robinson and G W Davidson (eds), *Chambers 21st Century Dictionary* (Larousse 1997) p. 283.

[30] Null Linda, *The Art of Digitalization* (2nd ed, Cambridge University Press 2006) 471.

communication naturally falls under the computer software category and there is hardly any limit to the kind of activities that can be performed on it.

The former President of the Motion Picture Association of America (MPAA), commenting on the effect of the technological developments on the entertainment industries, said that, 'the videocassette recorder is to the American Film Producer and the American public as the Boston strangler is to the woman alone.'[31] What this meant is that, the advent of new technologies and developments will lead to increase in piracy and the ultimate death of the movie industry. Similarly, Goldstein posits that the invention of the digital audio tape means the end of the music industry.[32] With the advent of the internet and digital information transmission, the threat is in fact heightened.

Gone are the days when music could only be recorded and played by the phonogram device invented by Thomas Edison and the gramophone later invented by Emile Berliner.[33] However, with the advent of devices like tape recorders, cassette players, and similar devices and machines which allowed easy re-recording and duplication of sounds and videos, the music industry had to respond and attack these technological companies. For example, the popular 1984 case of *Sony Corp. of America v Universal City Studios Inc*[34] (also known as the Betamax Case), represents an instance where the music/media industry sought to stop the invention and production of machines that tend to facilitate the infringement of an artist's copyright.

While the history of the internet can be traced to the creation of ARPANET in 1962 and the consequent developments and improvements after then,[35] the introduction and use of music on the internet began with the advent of file sharing over networks using FTP and Usenet.[36] However, a landmark point in these developments is the introduction of Napster (developed by Shawn Fanning) in 1999, which used compression technologies (such as MP3 and MPEG).[37] Napster was a peer-to-peer network where users could search the disks of other computers for MP3 files and download them into

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31 Adam Liptak, *'Is Litigation the Best Way to Tame New Technology?' New York Times* (New York, 2 September 2000) B9.

32 Paul Goldstein, *Copyright's Highway: From Gutenberg to the Celestial Jukebox* (Stanford University Press 1994).

33 Mark Katz and Brian Jones, *'Music Technology'* (*Oxford Bibliographies*, 27 June 2018) <www.oxfordbibliographies.com/view/document/obo-9780199757824/obo-9780199757824-0111.xml> last accessed 25 October 2021.

34 *Sony Corp. of America v Universal City Studios Inc* (1984) 464 US 417.

35 Tristan Fitzpatrick, *'A Brief History of the Internet'* (*Science Node*, 9 February 2017) <https://sciencenode.org/feature/a-brief-history-of-the-internet-.php> last accessed 20 January 2022.

36 Felipe Gaucho Periera, *'A Brief History of P2P Content Distribution, in 10 Major Steps'* (*Medium* 25 October 2017) <https://medium.comparatil/a-brief-history-of-p2p-content-distribution-in-10-major-steps-6d6733d25122> last accessed 20 January 2022.

37 *Ibid.*

their own computer.[38] Due to various lawsuits against Napster, it was shut down, but more sophisticated and similar technologies were consequently created. The two basic ways by which the internet and other new technologies have increased this threat is by revolutionizing the creation/copying of music and the dissemination of music online.

1.4 Revolutionising the Reproduction and Copying of Music

Compression formats (also known as Compression/Decompression Modules 'CODECs') and the MP3 file formats, now enable compression of digital music files into smaller files and other file digital reproduction devices (such as CD-Writers).[39] With the creation of Digital Audio Workstation (DAW) and sampling, digital copies of recorded music can be easily made.[40] Specifically, the DAW allows a person to import, cut, copy and manipulate digital copies of music.[41] The implication of this is that, asides from making illegal digital copies of an existing work, a person can also choose to sample the work by manipulating it and extracting any portion of the work.

A somewhat impressive feature of these technologies is their ability to maintain the quality of the music even after multiple copying.[42] With faster internet connections, the piracy tendencies of these technologies is increased, as literally, anyone can easily make unauthorized copies of music right on his bed at home.[43] What worsens the situation, is that the cost of obtaining these reproduction devices has dropped. Therefore, anybody can purchase them and illegally make copies of musical works.

It is important to note that digital sampling was one of the technologies that really changed the traditional ways of creating and producing music.[44] In the case of *Grand Upright Ltd v Warner Bros Records*,[45] the US courts had the rare chance to examine the copyright implications of sampling and to clarify its legal ramifications. The court held that sampling without permission qualifies as copyright infringement and gave an order of injunction in favour of the plaintiffs.

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38 *Ibid.*

39 R J Hill, 'Pirates of the 21st Century: The Threat and Promise of Digital Audio Technology on the Internet' (2000) 16 SCCHTLJ 311,317.
Paul Petrick, '*Why DRM Should Be Cause for Concern: An Economic and Legal Analysis of the Effect of Digital Technology on the Music Industry*' (2004) 9 BCIS 1 <http://papers.ssrn.com/abstract_id=618065> last accessed 5 January 2022.

41 Mac Vaughn, *'History of DAW'* (Logitunes, 10 October 2014) <https://logitunes.com/blog/history-of-daw/> last accessed 5 January 2022.

42 Patrick L. Kenney, 'The Napster Battle: Applying Copyright Laws in the Era of the Internet and Digital Music' (2000) ELS 6.

43 John Gibeaut, 'Facing the Music' (2000) 86 ABAJ 36, 40.

44 Helen Townley, 'Sampling: Weapon of the Copyright Pirate' (1993) 12 UTLR 102.

45 (1991) 780 F Supp 182.

5.0 Revolutionising the Dissemination and Distribution of Music

With the creation of P2P (Peer-to-Peer) networks,[46] music files can be easily shared to millions of people across the internet.[47] The invention of the Napster software which introduced the sharing of music through the internet, created a technological and legal uproar.[48] With the software, people could search, copy and transfer music files in MP3 formats, from the hard drives of other users (Napster had a compiled list of files from which users could choose). Other improved software,[49] similar to Napster were created which allowed individuals to create their own list of files that would be available for download.[50] It should also be stated that, apart from the ease of distribution, these technologies preserve the quality of the music no matter how many times and how many people or computers it is distributed to.[51]

There are other ways by which the internet and new digital technologies have increased the rate and tendency of piracy in today's world. Websites can be owned by anyone today as it is easy to create and maintain.[52] The significance of this is that, music and other forms of digitized works can be easily placed on websites without the authorization of the copyright owner. Another area of concern, is the advent of social media network. The term social media network is used to describe online platforms and complimentary applications that allow users to create accounts, interact with other users and post or upload various kind of media and content (such as video, music, photo, etc).[53] Common social media platforms and networks are Twitter, Facebook, Instagram, Youtube, Whatsapp, Snapchat, TikTok

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[46] An example of a modern peer-to-peer application is the BitTorrent which can be used to transfer large amounts of data quickly at a low cost.

[47] R J Hill, 'Pirates of the 21st Century: The Threat and Promise of Digital Audio Technology on the Internet' (2000) 16 SCCHTLJ 311, 317.

[48] *Ibid.*

[49] Such as Kazaa and Grokster (collectively known as 'fast track Providers').

[50] Chris Sprigman, '*Why Grokster and Morpheus Won, Why Napster Lost, and What the Future of Peer-to-Peer File Sharing Looks Like Now*' (FindLaw, 8 May 2003) <https://supreme.findlaw.com/legal-commmentary/why-grokster-and-morpheus-won-why-napster-lost-and-what-the-future-of-peer-to-peer-file-sharing-looks-like-now.html> last accessed 6 January 2022.

[51] Ariel Berschadsky, 'RIAA v. Napster: A Window onto the Future of Copyright Law in the Internet Age' (2000) 18 JMJCIL 755, 759

[52] D L Clark, 'Digital Millennium Copyright Act: Can It Take Down Internet Infringers' (2002) 6 CLRTJ 193.

[53] Fauzia Burke, '*Social Media vs. Social Networking*' (*Huffpost*, 2 December 2013) <http://www.huffingtonpost.com/fauziaburke/social-media-vs-social-neb_4017305.html> last accessed 7 November 2021.

etc.[54] Social-Media Live Streaming (SMLS) is one of the features provided for on many social media platforms. It enables users broadcast their life experiences in real time, with their mobile phones or tablets.[55] Some of these platforms allow the user's followers to view broadcast for the next twenty-four hours form the time when it is posted.[56]

With the SMLS feature, entertainment artists are faced with the problem of maintaining control of their live performances. Some artists have embraced the idea of the feature since it exposes their shows and performances to the world as fans broadcast them.[57] However, some artists have taken strong measures to ensure that the gross infringement perpetuated by the SMLS feature does not occur. For instance, Dave Chappelle, an American stand-up Comedian musician, collaborated with the Yondr Company, which manufactures phone-restricting cases, allowing him create a 'phone-free zone' at his shows.[58] Also, Taylor Swift hired a team of attorneys who issue takedown requests when there is any form of infringing content of her art online.[59]

Perhaps another factor that increases the piracy tendencies of new technologies, is the fact that most internet users have the notion that the availability of a music, movie or file online makes it free.[60]

These challenges and problems are not peculiar to Nigeria and it will take a certain level of ICT expertise, improved legal framework and sophisticated enforcement mechanisms to solve them.

6.0 Positive Effects of the Impact of New Media on the Music Industry

These technologies have advantages to both the artist and the music consumer. Asides from its illegality, digital technology makes music

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[54] Jeff Dunn, '*Facebook Totally Dominates the List of Most Popular Social MediaApps*' (*Bus Insider,* 27 July 2017) <http://www.businessinsider.com/facebook-dominates-most-popularsocial-media-apps-chart-2017-7> last accessed 10 November 2021.

[55] Mitchell Labiak, *'FAQs About Live Streaming Your Business on Social Media'* (*Exposure Ninja*, 4 February 2017) <https://exposureninja.com/blog/social-media-and-marketing-livestreaming/> last accessed 10 November 2021.

[56] Facebook Inc, '*About' (Facebook Live,* 2018) <https://live.fb.com/about/> last accessed 17 November 2021.

[57] Selene Presseller, 'Copyright Infringement Via Social Media Live Streaming Shortcomings of the Digital Millennium Copyright Act' (2018) 7 ASUSELJ 357.

[58] Janet Morrissey, *'Your Phone's on Lockdown. Enjoy the Show'* (New York Times, 15 October 2016) <https://www.nytimes.com/2016/10/16/technology/your-phones-onlockdown-enjoy-the-show.html> last accessed 17 December 2021.

[59] James Geddes, *'Taylor Swift Employs Dedicated Team to Remove All Periscope Videos from Net'* (*Tech Times,* 28 September 2015) <http://www.techtimes.com/articles/88791/20150928/taylor-swiftemploys-dedicated-team-to-remove-all-periscope-videos-from-net.htm> last accessed 20 December 2021.

[60] R J Hill, 'Pirates of the 21st Century: The Threat and Promise of Digital Audio Technology on the Internet' (2000) 16 SCCHTLJ 311.

consumers have nearly unlimited access to as much music as possible. By virtue of file sharing technologies, individuals will be able to make different copies of the music for personal use.[61] P2P networks create an avenue whereby consumers can interact with fellow users of similar taste in music, thus, making it easier to search for music online.[62]

On the other hand, the artist also enjoys cheap production, copying, marketing and distribution of his music, which ultimately reduces the cost of producing music and increases the number of potential listeners and consumers.[63] For example, a rock band, Harvey Danger, used Bit Torrent to save bandwidth cost and to distribute its third album to fans at little or no cost.[64]

There are certain softwares that are capable of monitoring the downloading habits of users online.[65] This kind of software are able to aggregate the data by community, city or country which subsequently allows an artist develop strategic marketing plans, since he already knows where his fan base is.

The internet also allows for legitimate uses of copyright works. That is, an artist can use the internet as a medium to sell his work. However, since there are more potential buyers online than with sale physical copies, the artist will most likely reduce the cost of the music. Significantly, the internet, particularly file sharing networks, have brought exposure to non-marketable artists who were unable to use the unfavourable distribution channels controlled by commercial music establishments.[66] Furthermore, with the use of DAW and other software that enable sampling, artists can use the samples of a recorded music to create new music.

Some have argued that digital technologies (particularly online file sharing) may not have any negative effect on the music industry at all.[67] In justifying this position, Oberholzer and Koleman posited that most peer-to-peer users would not have bought a hard copy of the music even if there isn't the option of file sharing.[68]

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[61] For example, making a copy to use in the car, one for your phone and another for your laptop.

[62] *Ibid*, n42.

[63] *Ibid*.

[64] Matthew Helton, 'Secondary Liability for Copyright Infringement: BitTorrent as a Vehicle for Establishing a New Copyright Definition for Staple Articles of Commerce' (2006) 40 CJLSP 1.

[65] For example, the LAN monitoring software.

[66] G Terrel and D Kinnear, 'Unchained Melody: A Price Discrimination-Based Policy Proposal for Addressing the Mp3 Revolution' (2001) 2 JEI 35, 279.

[67] For example, A J Peter, 'Peer-to-Peer File Sharing: The Case of the Music Recording Industry' (2002) 20 RIO 2, 151.

[68] O Felix and K Strumph, 'The Effect of File Sharing on Record Sales: An Empirical Analysis' (2004) 115 JPE 1.

Can we say that the advantages enjoyed by the use of digital technologies and the internet should make us turn a blind eye to the infringing actions perpetrated through it? Apart from the courts, the artists themselves are faced with a dilemma. That is, while the internet can serve as a medium through which their work can be infringed, it can also be an invaluable tool for reaching a new audience and potential consumers.

7.0 Negative Effects of the Impact of New Media on the Music Industry

While there appears to be no disadvantage of the advent of digital technology to the music consumer, its advent tends to do more harm than good on the part of the artist and the music industry as a whole.[69] As it has been said earlier, the significant effect of the advent of digital technology on the music industry is the increase in piracy and infringement tendencies. Consequently, it was affirmed that the effects of piracy in Nigeria are economic, social and political.[70]

The economic effects seem to be the most apparent. The Recording Industry Association of America (RIAA), which represents music copyright owners in America, stated that online file sharing results in a reduction in the financial incentives for the production of new music.[71]

According to Afam Ezekude, the former Director General of the Nigerian Copyright Commission, copyright owners who invest lots of time, energy, and money suffer huge losses of revenue.[72] In a situation where a pirate distributes the work of a copyright holder freely or at ridiculously low prices, the copyright holder will be forced to cut down the original price of his work. Thus, making him unable to recuperate as much profit as he had intended. This discourages creators from investing in Nigeria making the government to lose lots of tax revenue, the ability to attract foreign investment and opportunities for technology transfer.[73] According to the former Director General of the NCC, Nigeria losses over one billion dollars to piracy every year.[74]

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69 *Ibid.*

70 Mary Imelda Obianuju Nwogu, 'Copyright Law and the Menace of Piracy in Nigeria' (2015) 34 JLPG 113, 124.

71 Recording Industry Association of America (RIAA), *'Music Industry Unveils New Business Strategies and Combats Piracy during 2002'* (RIAA 2003) <http://www.riaa.com/PR_Story.cfm?id=618> last accessed 17 November 2021.

72 A Ezekude, *'Nigerian Anti-Piracy Drive Feild Results'* (*WIPO Magazine*, 3 June 2012) <http://www.wipo.int/wipo-magazine/en/2012/03/article> last accessed 18 February 2022.

73 S N Nnamani, 'Effects of Music Piracy on the Nigerian Public: A Case Study of Enugu Urban' (2016) 2 WJSSH 1.

74 Chris Ochayi, *'Nigeria Loses over $1bn Annually to Piracy - NCC'* (*Vanguard* July 30 2013) <https://www.vanguardngr.com/2013/07/nigeria-loses-over-1bn-annually-to-piracy-ncc/> last accessed January 20 2022.

Digital technologies and applications (such as BitTorrent and Napster) have been scrutinized and debated by legal scholars and the courts.[75] Major companies in the music and film industry have instituted actions against these software-producing companies as a way of fighting and preventing unauthorized sharing of digital media through online databases.[76] The legal uncertainty and delay caused by technological developments will consequently result in a situation whereby the people will rely on self-help to fight piracy and copyright infringement.[77] Some of the big companies in the entertainment industries have realized that the law adapts slowly to the changes brought about by these technological innovations. This has made them rely and invest in antipiracy-protection technologies.[78] This in turn motivates the pirates and infringers to look for other ways to circumvent these protection technologies and so the circle continues.

Apart from the economic effects, digital technology and the internet pose a threat on the moral rights of a copyright owner.[79] For example, the moment a digital work is put on the internet, anyone who has access to such work is capable of removing the author's name from the work.

8.0 Conclusion and Recommendations

In the last few years, the music industry in Nigeria has experienced immense growth to the extent that our indigenous artists have received international awards and global recognition and some of our artists have been able to sell out shows and concerts abroad. This however, has not stopped dubious people through the instrumentality of the new media from infringing on their copyrights. Piracy has resulted in loss of income to the musician and revenue through tax to the government.

It is therefore recommended that our copyright laws be strengthened to address the threat of the new media, while not hindering technological development. In the same vein efforts should be made to administer the copyright law in Nigeria because it is one thing to have a law and another thing to put in place effective enforcement mechanism. This should be done to preserve our musician intellectual property and to encourage them to be more creative.

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75 *Ibid*, n74 at 3.

76 Examples of such cases are; *A & M Records Inc. v Napster* (2001) 239 F3d 1004; *Universal City Studios Inc v Reimerdes* [2000] 111 F2d 294, 303; *Metro-Goldwyn-Mayer Studios Inc v Grokster Ltd* [2005] 545 US 913.

77 Ben Depoorter, *'Technology and Uncertainty: The Shaping Effect on Copyright Law'* (2009) 157 UPLR 1831 <http://ssrn.com/abstract=1420059> last accessed 20 March 2022.

78 J.A. Rothchild, 'The Social Costs of Technological Protection Measures' (2007) 34 FSTULR 1181,1198.

79 Adebambo Adewepo, *Nigerian Copyright System: Principles and Perspectives* (Odade Publishers 2012) p. 190.