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Copyright Issues in Nigeria: Analysis of Nigerian Copyright Commission Cases Between the Years 2008 - 2018

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ABSTRACT

Nigeria Copyright Commission is saddled with the responsibility of ensuring adherence to the copyright law in Nigeria. However, it has been observed in the last decade that copyright right issue is still rampant in Nigeria. Therefore, this study analyzed cases that the Commission in involved in between years 2008 to 2018. The study adopted citation analysis. The study collected data from three selected law reports, which include Intellectual Property Law Reports, Nigerian Weekly Law Reports and Nigeria Law Intellectual Property Watch. It was found that Nigerian Law Intellectual Property Watch has the highest number of reports of cases involving Nigerian Copyright Commission while none was reported by Nigerian Weekly Law Reports. It was also found that most of the cases handled by the Commission were on copyright infringement. The study concludes that Nigerian Copyright Commission has been paying credible attention to issue that surrounds software infringement but there has been little attention paid to book piracy. Moreover, it was established that the poor attention given to book piracy may entrench the publication of pirated copy and would subsequently lead to poor library service provision at the long run.

1. Introduction

From time immemorial, the invention of new and unique things has been known to be a practice among people. Individuals are blessed with different unique abilities to come up with something that can better improve livelihood and humanity in general. These inventions are often passed down like a baton from one generation to the other. The invention may leave an indelible mark among humanity and the inventor/creator enjoys a privileged unforgettable lifetime status. To come up with new artistic, musical or literary work takes a great deal of exerted efforts, which include but not limited to time, money, and intellectual input. It is based on this premise that it is ideal that these works should be jealously guarded. It is for this purpose that organization such as World Intellectual Property Organization (WIPO) was birthed. Moreover, every country in their various

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capacities has also taken steps and measures to alleviate the issue of copyright infringement, which has been worsened especially with the advent of the Internet.

In Nigeria, the agency that addresses the issue of copyright is the Nigerian Copyright Commission. The Nigerian Copyright Commission was established under section 34 of the Copyright Act (Cap C28, Laws of the Federation of Nigeria, 2004) on the 19 August 1989, under the nomenclature of Nigerian Copyright Council. The agency was upgraded to a status of Commission in the month of April 1996 and this upgrade could only be confirmed three years later by the Copyright (Amendment) Decree in 1999. As provided in the Copyright Act, the Commission is responsible for all matters affecting copyright in Nigeria as provided for in the Act; monitor and supervise Nigeria's position in relation to international conventions and advice government thereon; advise and regulate conditions for the conclusion of bilateral and multilateral agreements between Nigeria and other country; enlighten and inform the public on matters relating to copyright; maintain an effective data bank on authors and their works; and be responsible for such other matters as related to copyright in Nigeria as the Minister (who is interpreted as Minister responsible for culture).

Generally, copyright issue is primarily a matter that borders on intellectual property. This intellectual property may be literary, musical or artistic. These are generally conceptualized as "work". Work, as interpreted under section 51 of the Copyright Act (Cap C28, Laws of the Federation of Nigeria, 2004), includes translations, adaptations, new versions or arrangements of preexisting works, and anthologies or collections of works which, by reason of the selection and arrangement of their content, present an original character. Under same section 51, work of joint authorship is interpreted as a work produced by the collaboration of two or more authors in which the contribution of each author is inseparable from the contribution of the other author or authors.

As provided under section 1(1) of the Copyright Act (Cap C28, Laws of the Federation of Nigeria, 2004), works eligible for copyright include literary works; musical works; artistic works; cinematograph films; sound recordings; and broadcasts. Ola (2014) noted that literary, musical, and artistic works, due to their economic and commercial value, are the core of copyright in Nigeria. The author stated that cinematography films, sound recordings and broadcasts are just bye-products. This shows the dispositions of Nigerians towards works that fall under the last half of the works eligible for copyright as provided in the Copyright Act. As observed, this might be the reason why some Nigerians infringe with reckless abandon works that fall under these categories. This can be said with the uncontrolled habit of "copy and paste" as we have especially on various Nigeria's social media, most commonly with broadcast messages. Quite unknowingly to many, this has increasingly continued to be the practice among social media users.

As stated under section 2-5 of the Copyright Act (Cap C28, Laws of the Federation of Nigeria, 2004), copyright of works can be conferred with legal protection by virtue of the following; nationality or domicile; reference to country of origin; works of government, state authorities and international bodies; and reference to international agreements. Simply put, authors do not need to submit or register their work or register their works to get legal protection. However, authors and artist can optionally register themselves and their works alike with the Nigerian Copyright Commission. This will help the Commission fulfilled one of their mandates, which is to maintain an effective data bank on authors and their works. Based on the foregoing, this study examines the cases of Nigerian

Copyright Commission and its collecting bodies between years 2008 to 2018.

1.1 Statement of the Problem

As observed, Nigerian Copyright Commission is vested with enormous power to sanction copyright violators and maintain standard in the usage of authors and artists' works. With all the provisions as enshrined in the Nigeria constitution to support the above task. There are still however some circumstances that would not pass a work to have legal protection. Some of these circumstances as provided under section 1(2) of the Copyright Act (Cap C28, Laws of the Federation of Nigeria, 2004) states that a literary, musical or artistic work shall not be eligible for copyright unless the following criteria is fulfilled; and sufficient effort has been expended on making the work to give it an original character; and the work has been fixed in any definite medium of expression now known or later to be developed, from which it can be perceived, reproduced or otherwise communicated either directly or with the aid of any machine or device. With all of the actions of Nigerian Copyright Commission as regards the issue of copyright in Nigeria, sadly there are still many observable actions of copyright infringement in the country. Hence, there is need to ascertain how the Commission has been fairing as regards bringing to book those that engage in copyright infringement. Moreover, it was found by Anyaegbu, Obiamaka, and Adafor (2016) that Nigerian Copyright Commission is a toothless dog. This impliedly means the Commission have not been up and doing in its role and mandate. It is based on this premise that this study seeks to examine the cases of Nigeria Copyright Commission in Nigerian law courts between years 2008 to 2018.

1.2 Research Objectives

The broad objective of this study is to analyze cases that involve Nigerian Copyright Commission between years 2008 to 2018. However, the specific objectives are to;

- investigate the report of Nigerian Copyright Commission cases by law reports;
- reveal cause of actions in Nigerian Copyright Commission cases;
- investigate cases involved with collecting societies;
- ascertain number of cases won and lost by Nigerian Copyright Commission over this period.

2. Literature Review

Copyright can be described as an individual's legal ownership and exclusive right of a work. The person may be either a sole creator or a collaborator. Copyright is the legal protection that is attached to some work, which has passed some outlined requirement. Infringement is a breach of a process, right or protection. Simply put, copyright infringement can be described as the breach of the legal protection that is assigned to a work. The modern-day copyright legal protection can be traced back to the Berne Convention of 1886. This Convention was tagged Berne Convention

for the Protection of Literary and Artistic Works and it was the first international treaty that protect copyright of legitimate author or artist. The Convention established the idea of copyright being an automatic status as soon as a work is created. The international treaty instituted the need not to register a work before it can be automatically copyrighted.

Olatunji (2013) appraised the enforcement of activities by Nigerian Copyright Commission using the regulations that guide the Commission. This was done from the perspectives of appointing copyright inspector notice, video rental regulations, security devices regulations, optical disc plants regulations, collective management organization regulation and copyright (levy on materials) order. It was found that achieving the tasks of the Commission has been encumbered by factors such as inadequate fund and manpower. This has occasionally made the Commission resort to self-funding, which is done by revenue generation for itself. This is done by different levies ranging from accreditation fee for video rental regulation and levy on materials order for optical disc plants. Anyaegbu, Obiamaka, and Adafor (2016) examined the effort of Nigeria Copyright Commission to curb book piracy and found that many of the populace does not know of the existence of the Nigerian Copyright Commission.

Ola (2014) reported that there are several regulations that have been issued by Nigerian Copyright Commission and they have in no small ways helped in the administration of copyright in Nigeria. It was expressed further that the heightened convictions on copyright infringement will hopefully continue to serve as deterrent to others who think flagrant disregard for copyright can be swept under the carpet without suitable legal implications or punishment. It was further held that the future of copyright in Nigeria lies in the ability of Nigeria to strategically engage with international community on domesticating legal instruments and negotiating issues of interest for the development of Nigeria's creative industries. It was concluded that the chief point in the development of copyright in Nigeria hinges on her resolve to embrace the open culture.

Faga and Ngozi (2011) assessed the limits of copyright protection in contemporary Nigeria by re-examining the relevance of the Nigerian Copyright Act in today's digital and computer age. The study focused on the problem of the skeletal nature of the Act with respect to the rights of innovators of digital technology, shrewd and manifests ambiguities, and contradictions contained in the Act. Some shortcomings were identified in the Act that makes it easy for infringers of digital invention to breach the legal right of the creator with impunity, and therefore make it difficult for Nigerian Copyright Commission to achieve its mandate. The study recommends that for the fight against piracy and copyright infringement during this digital age to be successful, there is need to take extralegal measures, such as administrative, social, judicial and technological, to stem the tide of socio-legal problem.

Tade and Akinleye (2012) carried out a qualitative analysis of artistes and pirates on music piracy in Nigeria. The study employs descriptive qualitative design and the study was carried out in Alaba International Market, Lagos State, Nigeria. It was found that up-and-coming artistes see pirates as helpful to them in achieving stardom. Due to the high cost that is involved for these new artistes to meet up with their financial obligations, they resort to promote and market their single tracks. This portends a great threat to copyright administration and also needs the searchlight of NCC in order to subdue the menace that may arise from such disposition as espoused by the

artistes. The study indicates a symbiotic relationship among the players in the act of piracy, which has made it a thriving business. It is based on this that those involved in this heinous act view piracy has beneficial to survive in the saturated and competitive music industry.

Edosomwan (2019) examined the progress that has been made by the Nigerian Copyright Commission in its duty to protect copyright laws in Nigeria. The study adopted a semi-structured interview and the review of relevant texts, the plans of NCC on improvement and expansion of services and challenges associated with it, and data collected from the activities of the Commission to protect works covered by the Act. The study found that some aspect of the policy frameworks that guide NCC needs to be reviewed to mitigate copyright infringement and enforcement of copyright laws. It was recommended that creative worker in Nigeria about copyright laws and the need to conclude recent review of the existing laws to reflect changes that will stand the test of time in this era of technological advancement.

Nworie, Nworie, and Nwaigbo (2019) assessed the practice of copyright law infringement among university library personnel in South-West, Nigeria. The study adopted descriptive survey design. The study was carried out on 117 library personnel in South-West, Nigeria. It was found that sharing of library resources minimizes copyright violation and that library personnel should document violation of copyright law by its users, file complaints against copyright infringers, be involved in collecting societies, library services to users such as photocopying can result in loss of income to author hence violates copyright law and compliance should be ensured by all categories of users. The study concluded that copyright law infringement among university library personnel is common-place activities and routine practices they partake in. The study recommends that library management should move to enlighten library personnel of the danger involved in the violation of the copyright law and they should ensure they guide the users against copyright violation.

3. Methodology

This study adopts content analysis research design, which involves the quantitative analysis of reports. In a bid to collect the required information on cases that involved Nigerian Copyright Commission (NCC), the study consulted law reports such as Intellectual Property Law Reports, Nigerian Weekly Law Reports and Nigerian Law Intellectual Property Watch. Nigerian Weekly Law Report was chosen due to its popularity in the Nigerian legal community while Intellectual Property Law Report and Nigerian Law Intellectual Property Watch were selected due to their relationship to the course of this study. Content analysis was selected as the research method in order to organize and elicit meaning from data collected from these law reports. Owing to the fact that the study sought to ascertain the performance of Nigerian Copyright Commission as regards copyright infringement, the study chose purposive sampling technique to select its sample size. Data were purposefully collected by carefully checking through the reports of the three law reports selected for this study. The purposive sampling technique was deemed appropriate because it ensured the extraction of cases that serve the purpose of this study from the law reports adopted. Hence, all NCC cases as reported by the selected three law reports during the period under study were

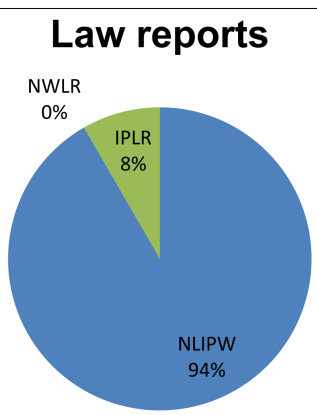
analyzed. More importantly, the ten (10) categories adopted for the study were selected based on the causes of actions instituted by the parties involved in the cases that concern Nigerian Copyright Commission within the period of the study.

4. Results

The classifications of these cases were based on the cause of actions that cases analyzed were delineated into by the publishers of case reports adopted for this study. After collecting the required data from the three law reports for the period under study, the data were analyzed using descriptive statistics of frequency count and simple percentage. The results were presented using tables and bar charts.

Table 1. Report of Nigerian Copyright Commission cases by law reports

Variables	Frequency	Percentage (%)
Nigerian Weekly Law Reports (NWLR)	0	0.0
Intellectual Property Law Reports (IPLR)	3	6.0
Nigerian Law Intellectual Property Watch (NLIPW)	47	94.0
Total	50	100.0

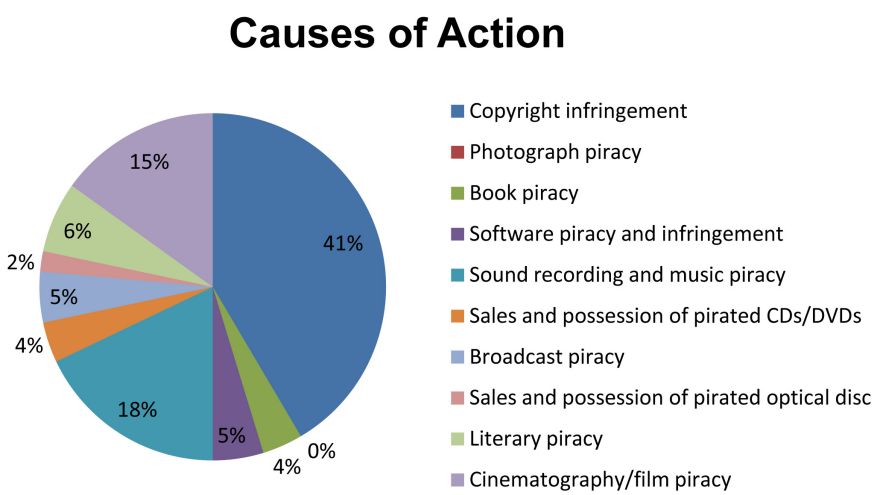


* Source: Author's fieldwork (2019)

It can be seen in Table 1 that 47 (94.0%) of the cases involving Nigerian Copyright Commission (NCC) were reported by Nigerian Law Intellectual Property Watch, 3 (6.0%) were reported by Intellectual Property Law Reports and Nigerian Weekly Law Reports did not report any case involving the commission within the period under study. This shows that NLIPW shows the most interest on cases involving NCC. However, it was found NWLR did not report any case involving NCC within the period under study. Taking into consideration how NWLR is widely acceptable and used in the legal community, it was a rude shock to found that the Report did not give consideration to any Nigerian Copyright Commission cases.

Table 2. Cause of actions in Nigerian Copyright Commission cases

Variables	Frequency (N)	Percentage (%)
Copyright infringement	44	88.0
Photograph piracy	0	0.0
Book piracy	4	8.0
Software piracy and infringement	5	10.0
Sound recording and music piracy	19	38.0
Sales and possession of pirated CDs/DVDs	4	8.0
Broadcast piracy	5	10.0
Sales and possession of pirated optical disc	2	4.0
Literary piracy	7	14.0
Cinematography/film piracy	16	32.0

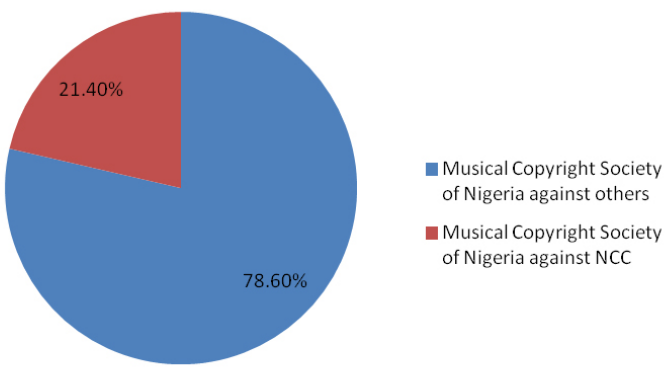


* N.B.: Some cases have more than a cause of action, hence total N>50 and %>100
** Source: Author's fieldwork (2019)

It can be observed in Table 2 that most of the cases involved by Nigerian Copyright Commission were on copyright infringement, with 44 (88.0%). This is followed by sound recording and music piracy with 19 (38.0%), cinematography/film piracy with 16 (32.0%), literary piracy appeared 7 (14.0%) times, broadcast piracy and software infringement both had 5 (10.0%), CD/DVDs piracy and book piracy had 4 (8.0%), followed by pirated optical disc with 2 (4.0%), while none was on photograph piracy. This shows that most of the cases handled by the Commission were on copyright infringement while none of the cases were on photography.

Table 3. Investigate cases involved with collecting societies

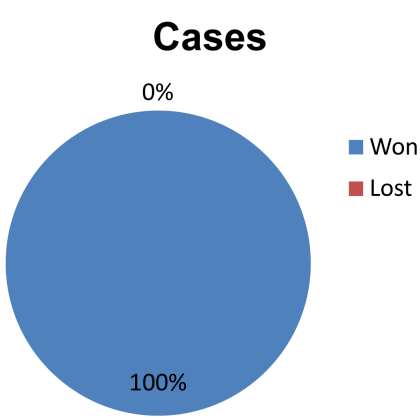
Variables	Frequency	Percentage (%)
Musical Copyright Society of Nigeria	22	78.6
Musical Copyright Society of Nigeria against NCC	6	21.4
Total	28	100



* Source: Author's fieldwork (2019)
** N.B.: Cases involving collecting societies is 28 (N=28)

Table 4. Cases won and lost by Nigerian Copyright Commission over this period

Variables	Frequency	Percentage (%)
Won	50	100.0
Lost	0	0.0
Total	50	100



* Source: Author's fieldwork (2019)

It can be seen on Table 3 that there were twenty-eight (28) cases involving the collecting societies that was accredited by Federal Government of Nigeria. It can be seen on the Table that 22 (78.6%) of the cases were handled by Musical Copyright Society of Nigeria while 6 (21.4%) of the cases were instituted by Musical Copyright Society of Nigeria against Nigerian Copyright Commission over issue of collecting societies. This shows that the collecting society is actively involved in ensuring and maintain standard and strict adherence to copyright law as enshrined in the Copyright Act.

Table 4 shows that 50 (100%) of the cases handled by Nigerian Copyright Commission were won while 0 (0%) were lost. This shows that all of the cases handled by the Commission were won during the duration under study.

5. Discussion of the Findings

The result of the study shows that Nigerian Law Intellectual Property Watch has the highest number of reports of cases involving Nigerian Copyright Commission. However, it was found that Nigerian Weekly Law Reports (NWLR) do not have any case reported that involved the Commission. As it can be generally observed, NWLR is the most consulted and used law reports among Nigeria lawyers and those in the legal community. To buttress this, Samuel (2019) notes that Nigerian Weekly Law Reports (NWLR) is evidently the most popular and reliable law reporting company in Nigeria. This in fact shows that the coverage of the Commission cases has not been done by widely known law reports. This may mean that many Nigerians would not be aware of the activities of the Commission. It was however found that Nigerian Law Intellectual Law Intellectual Property Watch (NLIPW) has the most reports on Nigerian Copyright Commission. This may be owing to the specific scope of coverage of the law report, which is in the area of Intellectual Property.

Results of the study show that most of the cases handled by the Nigerian Copyright Commission were on copyright infringement. This depicts that the issue of copyright infringement is the most prevalent among all the issues handled by the Commission. Meanwhile, the findings revealed that there was no case on photography piracy. This may probably mean that the Commission is not paying enough attention to photography piracy. Moreover, the result of the study shows that the Commission has shown somewhat neglect to the issue of book piracy. This is evident from the fact that they have paid more attention to software infringement, film piracy and literary piracy than book piracy. Considering that book piracy is a rampant issue in Nigeria, it is surprising that the Commission has not instituted significant number of actions against the dastardly act. Odu and Bassey (2015) stated that book piracy is prevalent in Nigeria and it occurs with ease and comfort. Lastly, it was found that the Commission won all the cases it was involved in during the period under study.

Furthermore, the findings show that all of the cases involved within the period of study were won by Nigerian Copyright Commission (NCC). This flawless victory may be caused by some factors, which include the quality of counsel/attorney recruited, watertight claims against the opposing parties, and quality of the in-house legal department. The intellectual brevity of the recruited counsels

would be vital for the victory of NCC in court. This is because their arguments and submissions during court appearances may be instrumental in swaying the judges to give judgment on the side of the Commission. Also, the claims against opposing parties may also be a factor for this landslide victory as it would be difficult to argue against superior facts and arguments. Moreover, the support of the in-house lawyers of the Commission may be considered a factor as well. This is because the support of internal lawyers in the litigation or adjudication may be pivotal for the victories of the Commission. Moreover, Ola (2014) reports that regulations issued by NCC have significantly helped in the administration of copyright in Nigeria.

It was revealed that none of the cause of actions has online copyright infringement. The findings of this study reflect that copyright issues in Nigeria in the context of international community shows that there should be improved legislative actions as it concerns copyright law in Nigeria. This is to further entrench copyright law in Nigeria. One important aspect that needs legislation is online copyright infringement, which was found to be non-existent in the whole cause of actions for this study. For instance, Ethiopia copyright law of 2004 was amended in 2014 and there was observable tremendous improvement in the effective protection of copyright artists. In 2015, Eritrea also enacted a tougher penalty for copyright infringers, which has been observed to be weak for online copyright infringement. It is expected that Nigeria should cater for online copyright infringement in future amendment. Online copyright infringement is observed to be common on various social media used by Nigerians. To underpin that online copyright infringement is getting recognition and concern from international community, Adebayo (2018) notes that China carried out a four-month campaign against Internet platform copyright infringement, which was jointly launched and anchored by the National Copyright Administration of China (NCAC), the Cyber Administration, the Ministry of Industry and Information Technology and the Ministry of Public Security.

6. Conclusion

The study establishes that Nigerian Copyright Commission has done a lot in implementing copyright law and that has positively paid off in the administration of copyright in Nigeria. It was concluded from findings that Nigerian Law Intellectual Property Watch (NLIPW) is with the highest report of cases involving Nigerian Copyright Commission. The study also concludes that there has been no stringent legal action against book pirates by the Commission. Above all, it is noteworthy that the Nigerian Copyright Commission has been paying credible attention to the issue of software infringement. It is also established that the serial neglect of book piracy has brought about an observed increased in book piracy, which violates copyright law. This subsequently may have deleterious effect on library in the effective provision of library services as pirated copies of books are usually not durable and as such would not stand the test of time on the shelf or stack. Also, the aberration that comes with pirated copy of books would not make it stand the test of long time use as they are usually of low quality. More so, copyright infringement is dastardly act that could have damaging effects on the legally copyright owners. Therefore, there is need to protect ideas of people from flagrant abusers and violators so as not to discourage people from coming up with

unique ideas. This study concludes on the note that NCC should pay more attention to illegal download of music without the permission of the artistes, as it has been observed that this is a common practice among the Nigerian populace.

7. Recommendations

The following recommendations were made based on the findings of this study:

a) The Nigeria Copyright Commission should improve on her publicity and campaign against copyright violations. The Commission can adopt the use of social media such as Twitter in entrenching their publicity clout.
b) The Commission should give more attention to the issue of book piracy and photography piracy in the Nigeria society.
c) The executive government should strengthen and support the Commission so as to ensure its meets the desired objectives as it was discovered in literature that the Commission generate fund to implement its activities.
d) Legislative arms should pass bill that bring stringent punishment upon any copyright violator in Nigeria
e) Above all, the Commission should proactively work with stakeholders concerned with issues of copyright so as to achieve more in their duties.
f) The copyright law of Nigeria of 2004 should be amended to cater for copyright issues that surround the Internet community.

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