

A Violation of Copyright Law through Photocopying in Tertiary Institution: Case Study of Delta State University Abraka

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Abstract

The authors studied “Violation of Copyright Law through Photocopying in Tertiary Institution: Case Study of Delta State University, Abraka.” The Survey research method was adopted for the study. The population of the study was the students of Delta State University Abraka and the random sampling techniques was adopted, hence 0.2% was randomly sampled from the total population of Delta State University Students. The instrument for data collection was the questionnaire, while the researchers used simple percentage statistical data for analysis. From the findings, it is revealed that copyright law violation could be curtailed through effective policy from the Nigeria copyright commission. The studies also reveal that textbook is the highest abused information material through photocopying and penalties for copyright offenders are enshrined in the Nigerian constitution. The study further reveals that the Nigeria copyright commission needs to do a lot to intensify copy right law in tertiary institutions. The study recommended that the libraries should derive a better means of effecting copyright law in the tertiary institutions and the Nigerian copyright commission should wake up to the challenge and protect authors from pirates.

Keywords: Copy Right laws; Violation of Copy Right Laws; Reprography; Roles of the library on copyright law; Copyright Commission, Nigeria

Introduction

Any material that has been produced for Education, Information and Entertainment or for any other reason or reasons must have been written by an author, or a group of people or an organization whose right to the material must be protected from undue exploitation by other members of the society. This means that apart from the owner of an intellectual property, no other person can make economic use of it unless he gets permission from its owner or his licensee (Okwilagwe, 1993). The evolution of copyright has been linked with European invention in the 15th century. Credit must however be given to the Chinese and Koreans, centuries unknown to the Europeans. Between 1041 and 1048, a Chinese alchemist, Pishang, conceived movable type of printing. It has been argued in some circle that some rudimentary motions of copyright may have perhaps existed before the introduction of printing, but such a

right neither required nor received any definite recognition until the invention of the printing press invested it with practical value (UNESCO Publication, 1981).

Johanness Gutenberg's invention of printing in the 15th century gave birth to modern copyright. The invention of printing and engraving in the 15th century make decisive day in the history of intellectual property generally. At about the time William Caxton established a printing press at Westminster in 1476, the copy of venrce inaugurated a system of granting privileges or monopoly rights to print certain book. The practice of sovereign grants of exclusive publishing right spread quickly to other countries and became a common trade practice during the 16th and 17th centuries. The printer or publisher seeking the monopoly was willing to pay the privilege and submit the work for official censorship and approval for the ruler making the grant, the system was thus a source of revenue and more importantly an opportunity to exercising political or religious censorship for secular rules and the clergy both in England and on the continent of Europe saw the development of the printing press as a power and authority. Copyright was therefore, a product of the renaissance and the development of printing as rulers made monopoly.

The Encyclopedia of Library and Information Science (1971) defines copyright as the exclusive, legally secured right to publish and sell the substance in form of a literary, musical or artistic work. Another comprehensive definition is one given by Kent (1972) who defines copyright as the right generally secured by law to authors of literary, dramatic, musical and artistic work to authorize the production or reproduction of such works. Encyclopedia of librarianship (3rd edition) (1968) defines copyright as the sole right in case of unpublished works to produce or reproduce or publish any literary, dramatic, musical work or any substantial part of a work in any material from whatsoever, provided the author is qualified to hold copyright. Copyright is the exclusive right granted an author and other creative artists to authorize the use of their works in any way. The concept of copyright was devised for the society for two main purposes; to encourage creative people to produce works of culture and to provide incentives for the effective dissemination of these works.

The copyright law is not designed to limit public access to information but to ensure that the public has access to it by protecting the economic and moral rights of authors 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 can claim neither the credit nor the profit economically from the author's efforts. Copyright law does not protect ideas' but exist only when the ideas are put in tangible format such as written works or other form of expression

Copyright violation is the characterized use of materials that is covered by copyright owner's exclusive right such as right to reproduce or perform the copyrighted work or to make derivative work while, photocopying is the making of photographic copy of intellectual property. It can also be seen as the duplication of intellectual materials.

According to Kent (1971), "indiscriminate access may prevent the copyright holder from recovering cost of publication, the very incentive that copyright is to encourage." Aina (2002), states that it is unethical to lift the work of another person verbatim without permission; he stressed that copyright tries to balance the needs of the users and creators. In look at the proliferation of information on the internet and in other information resources in Nigeria, there is need to investigate the effectiveness of copyright law and ascertain the level of the impact on creator. Since due to violation of intellectual work, the authors lack gain from their works and due to excessive photocopying students no longer buy textbooks which brings about economic losses to the society.

Statement of Problem

Copyright violation through photocopying has been an age long problem facing authors and publisher in Nigeria generally and Delta State in particular. The efforts of the writers and publishers have been rendered by these copyright violators who have made their work a profitless venture. This study is therefore targeted at discovering the challenges of violation of copyright law through photocopying and at the same time provides measures through which these challenges can be solved.

Purpose of the Study

The purpose of this research work is to investigate on the following;

- i. The meaning of copyright law.
- ii. To find out if photocopying is a violation of copyright law
- iii. To find out the roles of the library on copyright law
- iv. To investigate the penalties for copyright violation
- v. To investigate the challenges of copyright commission in Nigeria.

Significance of the Study

The researchers fervently hope that this research work shall be of great importance to authors of intellectual work, Researchers, students, lecturers and violators of copyrighted information resources. This research work will create the awareness to those who are unaware that photocopying of information material is a violation of copyright law and to make the offenders stop the act. The study will also explore the penalties placed on the violation of copyright and will make them to abstain indefinitely from duplicating or photocopying of information material without the authorized right, therefore the study will as well fill a wide gap in knowledge.

Research Questions

The following research questions are postulated for the purpose of this research work.

- i. What is the meaning of copyright law?
- ii. How is copyright law violated through photocopying in Delta State University?
- iii. What are the roles of the library on copyright law?
- iv. What are the penalties for copyright violation?
- v. What are the challenges of copyright commission in Nigeria?

Concept of Copy right Law

Ekpo (1992), notes that copyright allows authors to enjoy the full benefits of creative works for a limited period of time. He stressed that for economic value to be enjoyed by its creator; copyright infringement must be viewed seriously. Eisenschitz (1993) observes that the ease of accessing information online has led to the growth of large number of criminal activities, which have brought barriers to access and communication in their wake. ZLU and Hongwei,et al.(2002) agrees that there are several possible legal mechanisms for conventional database protection, such as trade secrets, contract law, and copyright. But on the internet, many databases are made available to the general public for free access, to enforce eliminating the possibility of trade secret protection. Although some database owners have managed to negotiate licensing agreements with their users, it is costly and sometimes impossible to enforce those contracts.

Similarly, Asbrook, (2004) opine that copyright refers to the exclusive right which protects an author, composer or artist from having his work recorded, performed, displayed, translated, distributed or reproduced by way of copies, phonorecords or other version except with his permission, subject to specified limitations. Copyright could be classified in terms of items, rights and term. The items covers the areas of original literary, musical, dramatic and artistic work; cinematographic films, sound records and protection of the form but not the ideas. The rights cover the classes of right of reproduction, right of distribution, right of public performance, right of broadcasting, right of adaptation, right of sale, rental and hire and right of translation. The term covers: life plus 50 years to the author of the work and fifty years in case of other works (Rao, 2003).

The Encyclopedia of Library and information Science (1971) viewed copyright as the exclusive, legally secured right to publish and sell the substance and form of a literary, musical or artistic work. Another comprehensive definition is the one given by kent (1972). He described copyright as the right generally secured by law to authors of literary, dramatic, musically secured by law to authorize the production or reproduction of such work. The

Encyclopedia of Librarianship (3rd edition) (1968) also described copyright as the sole right in case of unpublished or published works to produce or reproduce or publish any literary dramatic, musical work or any substantial part of a work in any material from whatsoever, provided the author is qualified to hold copyright.

The Copyright Act, Chapter 68, law of the Federation of Nigeria, 1990, identifies works that will have copyright protection in section 1 of the Act. They are literary works, musical works, artistic works, cinematography films, sound recording and broadcast. Copyright law protects the rights of authors and creators and their creative and intellectual products. Ekpo (1992), Bainbridge 1999 ; Unsworth 2001; Okwilagwe 1998; Kawooya, 2007. Copyright law also seeks to promote the free flow and exchange of information by providing ways that third material may be reproduced or communicated Kawooya (2007) observes that copyright law establishes public interest in literary and artistic creation including use of knowledge products for scholarship and research without recourse to the right holder. Users of an intellectual work must recognize and acknowledge the right of its creator the author has certain rights which are not necessarily economic. Cornish, (1999) stated that Cambridge University distinguishes four categories of rights;

- i. The right to be identified as the author or creator
- ii. The right not to have work subjected to derogatory treatment;
- iii. The right not to have a work falsely attributed to the author, and
- iv. The right of privacy of privately commission photographs and films.

In a related view, copyright law conform move to international copyright standards particularly with regards to the duration of copyright protection and to the formalities of copyright deposit, registration and notice. These changes have been greatly influenced by the most important international copyright treaty. The Berne convention for the protection of library and artistic works (828 i.e N.T.S.221, S. treaty DOC. No 99-27).

Violation of Copyright Law through Photocopying

Ngangu (1984) defines photocopy as an adaptation of photography whereby copies can be produced directly from the originals without the need for recreation of the image, for instance, by typing, to make a master for subsequent reproduction". Mason (1968) defines photocopy "as the making of copies by a photographic process. These copies, according to him, should be such that could be read with naked eyes or without the use of an optical device" The unabridged webster's 3rd international dictionary (1966) defines photocopy as a negative or positive photographic reproduction of graphic matter as drawing or printing. From the above definitions, it could be deduced that photocopies are the exact replica of the original materials produced without the preparation of master plates.

Repro-Nig (2004) posits that one of the biggest threats to intellectual property in Nigeria is the phenomenon of photocopying. Photocopying, the reprographic reproduction of printed matter has become so widespread that in several Nigerian university photocopied materials have practically replaced printed texts and instructional materials that are protected under Nigerian copyright Law. Oyinloye (2000) opines that there is a growing culture of students and lecturers relying on photocopies, with lecturers selling handouts as substitutes for books, thousands of pages of author's works are photocopied daily without being paid for. This unauthorized photocopying of intellectual works is an infringement of copyright regulations. Authors of books and other literary materials are made to suffer from the impact of modern technologies writing is slow, cerebral, and strenuous and can be risky. According to Oyinloye (2000) authors deserve to reap the fruits of their labour.

Repro Nig. (2005) posits that interest in photocopying having the potential of being used to violate the rights of authors is not sudden. According to them, the unauthorized use of copyright works through photocopying has for several decades been of great concern to authors and publishers in many countries. By 1990 it was estimated that over 300 million pages of copyright protected materials were being made annually. In 2004, this figure approached 400 billion considering the enormous rise in enrollment in Nigerian university system, increase in the demand for information and the advances in copying techniques. The concern stems from the fact that this massive and mostly illegal reproduction translate to huge financial losses for the right holder.

A survey carried out by the Reproduction Right Society of Nigeria (REPRONIG), Nigeria's collecting society in the print medium tagged National Survey on Photocopying in Nigerian Tertiary Institution carried out Between July and September 2004 across selected Nigerian Universities show that an average student makes approximately 1.52644 copies in one session. Of this Number, 1,239 copies are protected by copyright law. This Translates to a whopping 620 million copies of copyright protected materials in one session considering that tertiary institutions in Nigeria have an enrolment figure of above 50,000.

Similarly, according to the survey carried out by the Reproduction Rights Society of Nigeria (2004) it was found that academic staff makes an average of 773 photocopies annually. Of this number, 523 copy pages are protected by copyright law. In all, between students and academic staff in Nigeria tertiary institutions, a whopping 730 million photocopies are made in one session. The Reproduction Rights Society of Nigeria (2004) survey also found that among the materials photocopied most often textbooks were the most abused at 55 percent while significant photocopying was also made from journals, newspapers, magazines and encyclopedias. The materials photocopied mostly originate primarily from Nigeria, United States of America, Britain, France and from the internet. A significant proportion of materials photocopied could not be accounted for with regard to origin as the copied materials did not have adequate bibliographic data.

Oyinloye (2000) explains that there is a shortage of the books needed in Nigeria to establish and sustain literacy. Indigenous publishers cannot meet the growing demand for books and 80 percent of books in tertiary institutions are imported from overseas. Booksellers are finding it difficult to sell their wares. In the universities many students cannot afford to buy books. They rely heavily on the libraries stock of books and journals which are most often inadequate and non-current. Lack of foreign exchange for imported books and insufficient local production have resulted in a shortage of essential reading materials in educational institutions. The result is therefore an unbridled use of photocopying.

Challenges and Achievement Of Copyright Commission In Nigeria

Nigeria is a vast country with many institutions of different levels of education; there are several Researches on perception of copyright law as a correlate to its infringement in Nigeria. Obor (1991) noted that effectiveness of Copyright Administration in Nigeria with Particular Reference to the Metropolis of Ibadan and Lagos. Ngwang (1996) frowned at constraints to the Effective Implementation of Copyright Law in Nigeria. Ojielo, (1997), protection of Authors' Rights and Intellectual Creativity in Nigerian Universities While, Oga, (1997), reveal that the Nigerian Copyright Commission still have much to do in the areas of enlightenment and enforcement of the copyright law. For example, Ngang (1996) is of the view that the Nigerian Copyright Commission needs to work much harder. Therefore he recommends that;

- i. The efforts being made by the commission towards educating the public should also focus on issues like the use and importance of the banderole, the antonpilar, the benefits of collecting societies and the damage caused by piracy.
- ii. Intellectual property law should as a matter of necessity be thought in all tertiary institutions in the country. The copyright law should possible be made either a core course or a compulsory course in relevant departments like Library Science, Information Science, Communication arts and the Faculty of Law, to name only a few. If this is done, it will be a significant advancement because it will have multiplier effect on the populace.
- iii. Indigenous languages like Igbo, Yoruba and Hausa should be used to reach out to the masses during seminars and workshops. The Commission's Newsletters and foot bills should also be published in the local languages so that a great number of right owners who are not lettered in the English language could be reach too.

However, recent research shows that the NCC has been generally effective. Ojielo (1997) notes that the Nigerian Copyright Commission has been carrying out its statutory functions very effectively. The study also discovered that the most successful operational strategies used by NCC in combating infringement are enlightenment campaign and the accession of Nigeria to international copyright conventions. The Nigerian Copyright Commission has made tremendous achievements nationally and internationally. The commission has with much candour successfully

carried out all the functions assigned to it by Decree 47 of 1988. These achievements were made through unusual innovation, imagination and unprecedented commitment to national course of developing the intellectual sphere of our national life. However, Alubo (2011) opined that any study on the owner of copyright in Nigeria cannot be ignored.

Methodology

The research design used for this study is the survey method. The population of this study is restricted to students of Delta State University Abraka. The total numbers of students are enlisted according to their faculties. The sample used for this research work is the random sampling whereby 0.2% was randomly sampled from the total population of Delta State University Students. This is mathematically illustrated below.

$$3849 \times 0.2 = 77$$

100

Therefore, the researchers have randomly sampled 77 students to respond to the questionnaire posed. The research instrument used to collect the required data was questionnaire. The questionnaire constructed for this work was subdivided into two sections A and B. Section A deal with the Bio – data of the respondents, while Section B is based on questions of copyright law through photocopying in Delta State University Abraka. The questionnaire were personally administered to the students of Delta State University after which, it was retrieved same day by the researchers. After the questionnaires were collected from the respondents, the researchers used simple percentage statistical data for analysis.

Analysis and Discussion of Findings

1. Table 1: Meaning of Copyright Law

S/n	Questions	Sa	%	A	%	SD	%	D	%	Total	Total
i.	Copyright is the right given to an author of a work	46	60%	12	16%	13	17%	6	8%	77	100
ii.	Copyright is the right to own and control an information materials	77	77%	0	0%	0	0%	0	%	77	100
iii.	Copyright allows authors to enjoy the full benefits of creative work	51	66%	12	16%	9	11%	5	7%	77	100

From the above table 1, the meaning of copyright law was discussed by the researchers. 46(60%) of the respondents strongly agreed that copyright is the right given to an author of a work .Similarly, 77(100) of the respondents strongly agreed that copyright is the right to own and control an information material while 51(66%) of the respondent stated that copyright allows authors to enjoy the full benefits of creative work. These finding is supported by earlier study from Oyinloye (2000) who submitted that authors deserved to reap the fruits of their labour. This implies that copyright law is meaningful to the existence of an author of a publication as stated by Ekpo (1992) that copyright law allows authors to enjoy the full benefits of creative works for a limited period of time. While Alubo (2011) advocated for more study on the issues of owner of copyright in Nigeria

Table2: Violation of Copyright Law

S/n	Questions	Sa	%	A	%	SD	%	D	%	Total	Total
iv.	Students rely in photocopying of intellectual work.	57	4%	12	16%	8	10%	0	0%	77	100
v.	Students substitute books for photocopying	36	4%	6	8%	7	9%	28	36%	77	100
vi.	Textbook is the most abused by students through photocopying	77	100%	0	0%	0	0%	0	0%	77	100

From table 2 above, Figure (iv), shows that 57 (74%) of the respondents rely on photocopying of intellectual work to meet their information needs, this findings appears high and precarious but Repro Nig. (2005) posits that unauthorized use of copyright works through photocopying has for several decades been of great concern to authors and publishers in many countries, which means it's a global problem. The above table further reveals that 36(47%) of the respondents also strongly agreed that students substitute books for photocopying, although this was disagreed by 28(36%) of the respondents. However, it was discovered that textbook is the most abused information material by students as stated by 77(100%) of the respondents. This finding synchronizes with earlier finding from the Reproduction Rights Society of Nigeria (2004) survey which found-out that among the materials photocopied most often textbooks were the most abused at 55 percent while significant photocopying was also made from journals, newspapers, magazines and encyclopedias.

Table 3: Role of the Library on Copyright Law

S/n	Questions	Sa	%	A	%	SD	%	D	%	Total	Total
vii.	Copyright has always been a very relevant issue for libraries	22	28%	13	17%	35	46%	7	9%	77	100
viii.	Libraries allow users to make copies of materials for search	77	100%	0	0%	0	0%	0	0%	77	100
ix.	Library copyright policy is normally derivable from the existing applicable international policy	42	55%	11	4%	19	24%	5	7%	77	100

From the table 3 above, figure (iv) 35(46%) strongly disagreed that copyright has always been a very relevant issue for libraries. This means that libraries have not been playing a prominent role in the issue of copyright. All the respondents 77(100%) stated that libraries allow users to make photocopies of materials for research while 42(55%) respondents strongly agree that library copyright policy is normally derivable from the existing applicable international policy as noted by Adomi (2008), Rao (2003). However, Kent (1971) harkens on the need to regulate indiscriminate access, as it may prevent the copyright holder from recovering cost of publication, the very incentive that copyright is to encourage.

Table 4: Copyright Commission in Nigeria

S/n	Questions	Sa	%	A	%	SD	%	D	%	Total	Total
x.	Copyright is a crime punishable in Nigeria	51	66%	7	9%	13	17%	6	8%	77	100
xi.	Copyright punishment is not too serious in Nigeria	49	64%	8	10%	6	8%	14	18%	77	100
xii.	Copyright law offenders faces criminal charges	60	78%	8	10%	0	0%	9	12%	77	100

From table 4 above, there are penalties for copyright violation in Nigeria as stated by the respondents. 51(66%) strongly agreed that copyright is a crime punishable in Nigeria, 49(64%) of the respondents stated that copyright punishment is not too serious in Nigeria. 60(78%) strongly agreed that copyright law violators faces criminal charges while 8(10%) also agreed to this fact. This implies that the violation of copyright law is a crime punishable in many countries including Nigeria as stated by Okwilagwu (1991) and Scott 2008. However, Kawooya (2007) recommended that users of an intellectual work must recognize and acknowledge the right of its creator the author, since he has certain rights which are not necessarily economic.

Table 5: Challenges of Copyright Commission in Nigeria

S/n	Questions	Sa	%	A	%	SD	%	D	%	Total	Total
xiii.	A lot needs to be done to enforce copyright law in Nigeria	45	58%	13	17%	10	13%	9	12%	77	100
xiv.	Nigerian copyright commission has been ineffective over the years	48	62%	15	19%	2	3%	12	16%	77	100
xv.	Language is a barrier to copyright law console and education in Nigeria	32	42%	17	22%	21	27%	7	9%	77	100

From the table 5 above, the challenges of copyright commission in Nigeria was discussed. From figure (xiii) 45(58%) of the respondents strongly agree that a lot needs to be done to enforce copyright law in Nigeria. Figure (xiv) also recorded that 48(68%) of the respondents strongly agree that Nigerian Copyright Commission has been ineffective over the years. Earlier studies by Ojielo (1997) reveal that the Nigerian Copyright Commission has been carrying out its statutory functions very effectively. His study also discovered that the most successful operational strategies used by NCC in combating infringement are enlightenment campaign and the accession of Nigeria to international copyright conventions. The above table further reveals that language barrier has been deduced by the respondents as a challenge to copyright law crusade and education in Nigeria. This finding is affirmed by Oga, (1997) whose study revealed that the Nigerian Copyright Commission still have much to do in the areas of enlightenment and enforcement of the copyright law. Ngang (1996) however advised that Indigenous languages like Igbo, Yoruba and Hausa should be used to reach out to the masses during seminars and workshops. The Commission’s Newsletters and foot bills should also be published in the local languages so that a great number of right owners who are not lettered in the English language could be reached too.

Conclusion

It is observed that copyright law in tertiary institution is a good step at making authors to enjoy the fruit of their labour if adequate penalties is placed on every defaulter and the library should step up in their role to ensure an effective functioning of copyright law. It is also discovered that libraries allows students to photocopy information materials in the tertiary institutions. It is also observed that a lot needs to be done by the Nigerian copyright commission to effectively maintain the rules and regulations guiding copyright law operation by ensuring that penalties is given to every offender. Also, it was revealed that copyright is a crime in the Nigerian constitution. The researchers also discovered that the ineffectiveness of copyright law is the undoing of the copyright commission. However, language barriers were also discovered by the researcher as a challenge facing the effective operations of copyright law in the tertiary institutions in Delta State. Finally, the researcher discovered that copyright law was highly violated through photocopying by students of Delta State University Abraka.

Recommendations

Due to the findings gotten in this study, the researcher recommends the following;

1. That the libraries should derive a better means of effecting copyright law in the tertiary institutions.
2. That the Nigerian copyright commission should wake up to the challenge and protect the authors form pirates
3. That libraries should stop photocopying of materials in the libraries
4. That adequate measure of penalty should be given to every offender irrespective of status.
5. That copyright law offenders should face criminal charges

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