

In the Realm of Intellectual Property: Cyber Fraud as a Major Challenge to the Copyright Protection in Nigeria

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Abstract

Copyright, the importance of copyright to Nation's economy, the efforts of the Nigeria copyright laws and Copyright Commission to combat breach of Copyright is a crucial issue, all over the world and it is even more a crucial subject in Nigeria. For years now, Nigeria has depended majorly on physical natural resources as the mainstay of the nation's economy which is no more reliable as it used to be the case. It is high time for copyright work to be properly managed for maximum economic benefit in Nigeria. As the World is growing in terms of technology, and with the advent of internet a lot of fraud are being perpetrated at the internet that is frustrating authors and creators of a work, copyright infringement abound on the internet. This work will therefore examine copyright and piracy in Nigeria and more importantly the threat posed to copyright owners at the internet and concludes with suggestions and recommendations on the ways to combat the menace.

Keywords: intellectual property, copyright, cyber fraud and piracy

1. Introduction

The notion that an author should have an exclusive copyright protection in his creation took a firm shape at the beginning of the eighteenth century.¹ The aim of copyright is to protect the creative talents of this country for creativity to be enhanced and subsequently for it to survive. The creator of a work should be able to earn a living out of the exercise of his talent in such a way as to be able to invest and promote his talent, provided the fruits of the talent reap the appropriate fear harvest from their investment. From the time immemorial, man has sought and is still seeking to protect his 'own' property from interference by others. The law of copyright has made it possible for the creator of works of art, authors, musicians, software, broadcast and visual art and so on who are involved in works of intellect to control the use and exploitation of their works.² It will be clear that the motive behind Copyright Law is the prevention of plagiarism, piracy and unauthorized use of intellectual works of others for selfish profit motives without the holders benefit which is of course detrimental to his economic interest of the copyright owner and the Nation at large.

Copyright has been defined as the group of rights relative to original, literary, dramatic, musical or artistic work, whether published or unpublished, vested normal Copyright and related rights are today perceived as instruments for development, as well as providing a secured and stable environment for creative activities.³ The creative industry which comprises all intellectual productions has contributed in no small measure to economic growth and development of creators in the world in general and Nigeria in particular. Surprisingly, the owners of this intellectual creativity are robbed of their rights by pirates who reap where they have not sown. Piracy is a great problem to creative industry globally and Nigeria in particular. It may be said to be a cankerworm in the progress and development of intellectualism, more deadly than EBOLA to human health, and the perpetrators, copyright theft; production of fake, sub-standard and unlicensed products are on the increase.⁴

Hence copyright piracy is a global problem, although more rampant in developing countries such as Nigeria. Copyright piracy has been recognized universally as an enemy of creative arts, intellectualism and creativity. It thwarts genuine investments and corrupts cultural value of a nation. Nigeria status as a favourable destination for foreign direct investment and a place where local creative talent can flourish is in jeopardy due to the activities of individuals who infringe on another's copyright works unjustifiably.⁵ The importance of new ideas, creative work and innovations can never be over-emphasized. Be that as it may in any economy be it developing and developed, for new idea to flourish and have a positive impact on the copyright owners and the

¹ See F. O. Babafemi, *Intellectual Property, The Law and Practice of Copyright, Trade Marks, Patent and Industrial Designs in Nigeria* (Ibadan, Justician Books Limited, 2007) 412.

² J. O. Asein, *The Nigerian Copyright Act with Introduction and Notes* (Ibadan, Sam Bookman, 1994) 2.

³ See "International Study on the Impact of Copyright Law on Digital Preservation," A Joint Report of The Library of Congress National Digital Information Infrastructure and Preservation Program 2008, available at <http://www.digitalpreservation.gov/documents/digital_preservation_final_report2008.pdf> accessed 31 December 2017.

⁴ E. Onyeje, 'Nigeria: Piracy Nigeria's Greatest Challenge in Business', This Day Newspaper, Sept. 20, 2012 Available at <http://www.allafrica.com/stories/2012> accessed 29th March, 2016.

⁵ Y. Akinsuyi, 'NCC Partners Google to Fight Internet Piracy,' This Day Live, available at <<http://www.thisdaylive.com/articles/nccpartnersgoogle>> accessed 15 January 2018.

nation's economy, it needs some *quantum* of protection. To ensure this protection under the law, the creators can be given the right to prevent others from using their work.¹ Therefore there is urgent need to protect copyright from internet fraudsters.

2. Definition of terms

The Black's Law Dictionary defines Copyright as follows:

"The right of literary property as recognized and sanctioned by positive law. An intangible, incorporeal right granted by statute to the author or originator of certain literary or artistic productions, whereby he is invested, for a limited period, with the sole and exclusive privilege of multiplying copies of the same and publishing and selling them."²

Compinger and Scone James on Copyright have this to say: 'Nothing can with propriety be called a man's property than the fruits of his brain. The property in article or substance according to him by reason of his own mechanical labour is consequently worthy of the protection of law.'³

Copyright is an intangible, incorporeal property, which guarantees the owner the exclusive right to deal with his/her work within a stipulated time as provided under the law.⁴ Copyright has been defined as 'an intangible personal right, vested in the author or originator of a work. The author has the exclusive right to produce literary, dramatic, musical or artistic works given by law for a certain period to an author or to his agent.'⁵ Copyright is an incorporeal intellectual property right vested in a work for the benefit of the owner.⁶ It is a right which the authors have in respect to the work they create, a right to stop others from copying or exploiting the author's work without permission.⁷ Copyright also protects the writers and artist from unlawful reproduction of his materials. It does not protect ideas it is concerned only with the copying of physical material and not with the reproduction of ideas.⁸ Another learned author defines copyright as a curious segment of the law that protects the expressed and recorded contact of someone's intellectual labour. It covers hand bill to an encyclopedia, dramatic work, computer software and so on.⁹

That is why copyright applies to creations which have been realized in concrete form such as literary works, dramatic works, artistic works, sound recordings, television broadcast, radio broadcast, and published works, for a person cannot copy that which does not exist in concrete form so as to be copied.¹⁰ Copyright has been defined as the group of rights relative to original, literary, dramatic, musical or artistic work, whether published or unpublished, vested normally in the creator thereof, giving him monopoly right in the reproduction, multiplication, performance and other exploitation of the verbal or other expression of his idea though not in the ideas themselves¹¹.

In other words, the copyright owner has the sole right to use his property as he wishes and no one else can use the same property lawfully without authorization. The idea being protected need not necessarily be worthy of any special commendation, it may be a compilation of poems good enough for children in a day-care centre, a story, or a composition of songs. In each case, the grants the author copyright in his work in so far as the basic requirement is satisfied. Nowadays, all over the world, the right to peaceful enjoyment of intellectual property has been recognized as a fundamental right that citizens are not expected to be deprived.¹²

3. Need for Copyright Protection

To start with, there is no property more peculiarly a man's property than that which is the product of his mind': if there is good reason for the law to protect any property it may well start with copyright.¹³ As stated by Sterne,

'The sweat of a man's brow and the exudation of a man's brain are as much as a man's own property as the breaches of his backs. Thus, if a person works and

¹ 'Intellectual Property: Protection and Enforcement' available at <<http://www.wto.org/english/thewtoe/whatis/e/tif/e/agram?e.htm>> accessed 24 January 2018.

² Henry Campbell Black, *Black's Law Dictionary* (5th edn West Publishing Company 1981) 304.

³ Compinger and Scone James on *Copyright* (London, Sweet and Maxwell, 1985) 1, 2

⁴ M I O.Nwogu, 'The Challenges of the Nigeria Copyright Commission (NCC) in the Fight Against Copyright Piracy in Nigeria' (2014) 2 *Global Journal of Politics and Law Research*, 1, 1

⁵ M I O Nwogu, 'Copyright Law and the Menace of Piracy in Nigeria' (2015) 34 *Journal of Law Policy and Globalization*, 113, 114

⁶ J. O Asein., *Nigerian Copyright Law & Practice* (2nd edn Abuja, Books and Gravel Publishing Nig.2012)124; T. Orimobi, 'Nigeria: Intellectual Property-Database Right Protection in Nigeria' (2014) <allafrica.com/stories/201409090195.html> 1

⁷ G. Dworkin & R. D. Taylor, *Blackstone Guide to the Copyright, Design, and Patents Act*, (London, Black stone press, 1988) 1.

⁸ E. P. Skone James, *on Copyright* (11th edn, London, Sweet & Maxwell 1993) .3.

⁹ P. Merett *.Intellectual Property Law*, (London ,Sweet & Maxwell ,1996) 21.

¹⁰ E. E. Uvieghara., *Essay on Copyright Laws Administration in Nigeria*, (Ibadan ,Y. Book 1992). 203

¹¹ D.M. Walker, *The Oxford Companion to Law*, (Oxford University Press, 1980) 97

¹² See First Protocol of the European Convention on Human Right, art 1; United Nation Declaration on Human Right, art. 27; African Charter on Human and Peoples Right, art 14 and Constitution of Federal Republic of Nigeria 1999 (as amended), ss. 43 and 44.

¹³ Asein., (n 11) 18.

produces something then the product of his skill and labour ought to belong to him or the person who commissions him.”¹

When a man has expended time energy and capital in the production of a work, it would be unfair to deny him the right to elect the way and manner in which and by whom his work should be exploited. Intellectual works are an extension of the authors’ personality and it involves deep emotional and sometimes spiritual values which also deserve respect. Ethically, it is therefore unjustifiable that one man should be allowed to parade and annex another’s work as if they were his. Artist would be encouraged if adequate legal provisions are put in place to protect their interests and there economic relevance would be greater.²

If our art works, music and writings are properly administered, there would be viable sources of foreign exchange. In other to achieve these goals a well-defined legal framework like the Copyright Law is required. If this is not invariably achieved it is very likely that many a brilliant authors whose works could have enriched the society would be discourage from exploiting their talents to the fullest, since the law is unable to provide a conducive atmosphere of protection.³

On the whole, the society benefits from the authors work either through religion, entertainment, business and education; invariably he should be motivated to create more works. The author needs encouragement. However where the society cannot be of substantial help, he may by the exigencies of life, be compelled to look elsewhere and the society would be the one worse for it. In line with this Professor Nathaniel Shaler of Harvard, commenting in 1936, on the special kind of rights an author has to his work.as follows:

“When we come to weigh the rights of the several sorts of property which can be held by man, and his judgment take into consideration only the absolute question of justice leaving out the limitations of expediency and prejudice, It will be clearly seen that intellectual property [particularly copyright] is after all the only absolute possession in the world.... The man who brings out of the nothingness of some child of his thoughts hold his property as a God holds it, by the right of creation... whatever tends to lower the protection given to intellectual property [including copyright] is so much taken from the forces which have been active in securing the advances of society during the last century.”⁴

Even if some will argue that there is need for the society to have a free flow of information in a free market economy, we should borne in our mind what was held by Lord Devlin in *Ladbroke (Football) Ltd v. William Hill (Football) Ltd*⁵ that , Free trade does not require that one should be allowed to appropriate the fruits of another’s labour, whether they are tangible or intangible. The law has not found it possible to give full protection to the intangible. But, it can protect the tangible in certain states and one of them is when it is expressed in words of print.⁶

The underlying legal principle is that the defendant is not at liberty to use or avail himself of the labour of which the plaintiff has been at for the purpose of producing his work” that is to say he is not permitted to “take away the result of another man’s labour or in other words his property.”⁷

4. Legal framework

Although, effort has been made to protect copyright at both national and international level and both are governed by national and international laws .Though this is not the main focus of this paper, but it is important to mention few out of the existing laws.

4.1 International Law on the Protection of Copyright

There are several international laws on the protection of copyright as examined in the foregoing discussion.

4.1.1 The Berne Convention, 1886

It is an international agreement governing copyright and known as “The Berne Convention” for the Protection of Literary and Artistic Works.⁸ Which is tagged International Convention -for the protection of Literary and Artistic Works (ICPLAW), 1886. It is apposite to note that Copyright under the Berne Convention must be automatic; it is prohibited to require formal registration.

¹N. Volanis, “All That is Solid Melts Into Air”: The History of Copyright As A Form of Industrial Regulation and Its Disorientation In The age of information. <www.ballas-pelecanos.com/up/file/8.pdf> accessed 15 January 2017

²Adebambo Adewopo, ‘An Address by the Director General, Nigerian Copyright Commission’, *Public Launch of Strategic Action Against Piracy(STRAP)* 3rd May, 2005 at Sheraton Lagos Hotel and Towers.

³A.I. Kekere, *An Appraisal of Civil Remedies Under the Nigerian Copyright Act* (LL.M Dissertation Submitted to Obafemi Awolowo University, Ile-Ife 2011) (Unpublished).

⁴H. Porsdan, *Legally Speaking, Contemporary American Culture and The Law* (United State, University of Massachusetts Press1999) 202.

⁵1964]1 All E.R.465

⁶Asein. (n 11)19

⁷ibid

⁸*It was first accepted in Berne, Switzerland ,on the 9 September, 1886*

The Berne Convention also put in place three objectives to achieve. First, the Berne Convention requires its signatories to treat the copyright of works of authors from other signatory countries (known as members of the *Berne Union*) at least as well as those of its own nationals. For example, Nigeria copyright law applies to anything published or performed in France, irrespective of where it was originally created. i.e. to give nationals of another member state the same rights as its own citizens enjoy in respect of Copyright. Secondly, to maintain a minimum standard to content, scope and duration of Copyright. Thirdly, to ensure that no formality is required for a foreigner's work to be protected in the member states.¹

4.1.2 The Universal Copyright Convention(UCC), 1952

The UCC is led by the American, and it is similar to the fundamental principles of Berne convention. States can maintain membership of both. Each Contracting State undertakes to provide for the adequate and effective, protection of the rights of authors and other copyright proprietors in literary, scientific and artistic works, including writings, musical, dramatic and cinematographic works, and paintings, engravings and sculpture.² There exist certain formalities. It relates to such conditions as deposit, registration, notice, notarial certificates, and payment of fees for manufacture or publication in the contracting state. As regards these formalities it depends on the disparity allowed by the national law of each contracting state. The only universal formality that is applicable to all contracting states is that the symbol © must be inscribed on all copies of the work at a position preceding the name of the author. It is worthy of note that there is no similar requirement under the Berne Convention. Although the Nigeria copyright Act is silence about formal registration and symbolic inscription.

4.1.3 Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) 1995

Beside the above, Nigeria has signed up to the Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) which seeks to establish new rules and disciplines concerning the provision of adequate standards and principles concerning the availability, cope, effective and appropriate means for the enforcement of trade-related IPRs amongst others. This she did with the intention of creating an avenue for the rapid development and appreciation of intellectual property, brand names and quality products as an intangible business asset.³ Part III of the TRIPS Agreement⁴ obliges Members to establish a comprehensive enforcement regime so as to permit effective action against any act of infringement of IPRs covered by the Agreement. These procedures also require “expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements.”⁵ In relation to the IPRs covered by the TRIPS Agreement, members are enjoined to make available civil judicial procedures for the enforcement of those rights to rights holders.⁶

In cases involving infringements of IPRs, it is important that courts be empowered to award damages that both compensate the right holders and deter potential infringers from engaging in illegal activities.⁷ The agreement also makes provision for Ancillary orders such as injunction, delivery up for destruction, corrective advertising, and account for profit amongst others. A key feature of the TRIPS Agreement is the member obligation to introduce border measures for the protection of IPRs.⁸ Given the concern about the trade in pirated and counterfeit goods which precipitated the interest of GATT⁹ in intellectual property protection, it was probably to be expected that the architects of the TRIPS Agreement would look to the customs authorities to assist in the interdiction of this trade.¹⁰ It is obviously more effective to seize a single shipment of infringing products while they are in transit, rather than to await their distribution in the market.¹¹ Section 4 of Part III of the TRIPS Agreement establishes a scheme for suspension of the release into circulation of suspected counterfeit trademark or pirated copyright goods. This suspension may be on the application of a right holder or pursuant to ex officio action by the border authorities.

4.2 Municipal Law

It is the law that governs copyright within Nigeria. The first Copyright Protection Act was passed in 1970 and repealed in 1988, known as Nigeria Copyright Act. It has been amended in 1992 and 1999 and is now embodied in the Law of the Federation of Nigeria.¹² The Copyright Act protects works that are created or authored by a

¹ Berne Convention of 1886, art. 2

² Universal Copyright Convention (UCC) 1952, art. 1

³ See generally, A. Adeleye, Intellectual Property Rights Enforcement in Nigeria: Regulatory Agencies to the Rescue, *University of Pennsylvania Journal of International Law*, (2016) available at <<http://pennjil.com/intellectual-property-rights-enforcement-in-nigeria-regulatory-agencies-to-the-rescue/>> accessed 1 January 2017.

⁴ Agreement on Trade-Related Aspects of Intellectual Property Rights 1995, arts 41–61

⁵ TRIPS Agreement, art. 41

⁶ Adeleye (n 29).

⁷ TRIPS Agreement, art. 45

⁸ *ibid.*

⁹ The General Agreement on Tariffs and Trade (GATT) is a multilateral agreement regulating international trade

¹⁰ Adeleye (n 29).

¹¹ *ibid.*

¹² Cap.C28, LFN 2004 (previously Cap.68 LFN, 1990).

Nigerian or persons that are not Nigerian but domicile in Nigeria. It also protects works of other persons that are first published in Nigeria.¹

Relevantly, the Nigerian Patents and Design Act² provides for a grant made by the relevant government authorities within a country to protect new inventions or improvements thereon that are considered to have improved the way(s) the earlier inventions were made or used.³ The criterion for granting a patent under the law and indeed globally is that the invention must be patentable.⁴

Also, the Nigerian Trade Marks Act of 1965⁵ was passed to protect trademark as well as registration of trademarks for purposes of enforcing the right of ownership. Trademark under the Act means, except in relation to a certification trade mark, a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods, and some person having the right either as proprietor or as registered user to use the mark, whether with or without any indication of the identity of that person, and means, in relation to a certification trademark, a mark registered or deemed to have been registered under section 43 of this Act.⁶

4.3 Institutional Framework

The legal regime governing copyright at national and international level also set up some institutional framework for its administration. The international conventions on copyright are administered by WIPO⁷. While the Nigerian Copyright Commission (NCC) are enforced collectively by The Nigeria Police Force, the Nigerian Custom and Exercise Department and the Federal High Court. WIPO had two major objectives which include:

1. to promote the protection of the intellectual property throughout the world through cooperation among member states and
2. to ensure administrative cooperation among member states. It also gives technical assistance to developing countries, and also disseminates information on copyright.⁸

5. Cyber Fraud and its Challenges on Copyright

According to OECD Recommendation of 1986 Cyber fraud includes computer related crime is also considered as any illegal, unethical or unauthorized behaviour relating to the automatic processing and the transmission of data.⁹ With the advent of computer age, and as technology improves, the rise of technology and online communication has not only created a dramatic increase in the incidence of piracy, it has also lead to the emergence of what appears to be copyright infringement. Both the increase in the incidence of piracy and the possible emergence of new copyright infringements pose challenges to copyright owners. The Internet is one of the fastest-growing areas of technical infrastructure improvement.¹⁰

Nowadays, Information and Communication Technologies (ICTs) are universal and the trend towards digitization is increasing. The request for Internet and computer connectivity has led to the incorporation of computer technology into products that have usually functioned without it, such as cars and buildings. Electricity supply, transportation infrastructure, military services and logistics – virtually all current services depend on the use of ICTs. Here are some of the challenges faced by the copyright owners.¹¹

5.1 Distributions of product over the internets

Companies that distribute products directly over the Internet are facing legal problems with copyright violations. Their products are being downloaded, copied and distributed without their consent for example by offering the download of files containing music, movies or books.

¹ Nigerian Copyright Act 1999, s.1, 26 and 33

² Cap. P2 Laws of the Federation of Nigeria 2004

³ See Patent and Design Act, sec. 1; Babafemi, (n 1) 342.

⁴ *ibid.*

⁵ Cap T13 of the Laws of Federation of Nigeria, 2004.

⁶ Trademark Act 1965, s. 67

⁷ WIPO, *World Intellectual Property Organization*, The Convention came into force in 1970, it is a specialized Agency of the United Nations charged with the responsibility of copyright administration .

⁸ P. Ocheme, *The Law and Practice of Copyright in Nigeria* (Zaria, Ahmadu Bello University Press Ltd., 2000) 154.

⁹ Organization for Economic Cooperation and Development (OECD) *Analysis of Legal Politics in the OECD Areas* (1986) 2. OECD was established in 1961. It is located in Paris, France. It brings together governments of countries committed to democracy and market economy so as to assist other countries development, contribute to the growth of world trade, maintenance of financial stability, raise standard of living and boost employment.; Emilio C. Viano 'Cyber Crime: Definition ,Typology and Criminalization' in Emilio C. Viano (ed) *Cybercrime, Organized Crime, and Societal Responses: International Approaches* (Springer 2016) p.3.

¹⁰ Jegede Ajibade Ebenezer, Segun Joshua and Olorunyomi Bankole , State Failure, Youths Dual Victimization and Unabated Error Of Internet Crime In Nigeria. (2015) journal of law and applied 19.

¹¹ See Sieber, *Council of Europe Organized Crime Report* 2004, p. 140

5.2 The switch from analogue to digital

Copyright-related offences With the switch from analogue to digital, digitization has enabled the entertainment industry to add further features and services to movies on DVD, as well as languages, subtitles, adverts and bonus material. CDs and DVDs have showed more sustainable than records and videotapes. Digitization has opened the door to new copyright violations.¹ The basis for current copyright violations is fast and accurate reproduction. Before digitization, copying a record or a videotape always resulted in a degree of loss of quality. Today, it is possible to duplicate digital sources without loss of quality, and also, as a result, to make copies from any copy.²

5.3 File-sharing software system

The most common copyright violations include the exchange of copyright-protected songs, files and software in file-sharing systems or through share hosting services and the circumvention of Digital Rights Management (DRM) systems.³ File-sharing systems are peer-to-peer-based network services that enable users to share files,⁴ often with millions of other users. After installing file-sharing software, users can select files to share and use software to search for other files made available by others for download from hundreds of sources. Before file-sharing systems were developed, people copied records and tapes and exchanged them, but file-sharing systems permit the exchange of copies by many more users. Peer-to-peer (P2P) technology plays a vital role in the Internet. In 2007, over 50 per cent of consumer Internet traffic was generated by P2P networks.⁵ The number of users is growing all the time – a report published by the OECD estimates that some 30 per cent of French Internet users have downloaded music or files in file-sharing systems, with other OECD countries showing similar trends. File-sharing systems can be used to exchange any kind of computer data, including music, movies and software. Historically, file-sharing systems have been used mainly to exchange music, but the exchange of videos is becoming more and more important.⁶ The technology used for file-sharing services is highly sophisticated and enables the exchange of large files in short periods of time. First-generation file-sharing systems depended on a central server, enabling law-enforcement agencies to act against illegal file-sharing in the Napster network. Unlike first-generation systems (especially the famous Napster service), second-generation file-sharing systems are no longer based on a central server providing a list of files available between users. The decentralized concept of second-generation file-sharing networks makes it more difficult to prevent them from operating. However, due to direct communications, it is possible to trace users of a network by their IP- address.⁷ Law-enforcement agencies have had some success investigating copyright violations in file-sharing systems.

More recent versions of file-sharing systems enable forms of anonymous communication and will make investigations more difficult.⁸ File-sharing technology is not only used by ordinary people and criminals, but also by regular businesses.⁹ Not all files exchanged in file-sharing systems violate copyrights. Examples of its legitimate use include the exchange of authorized copies or artwork within the public domain.¹⁰ Nevertheless, the use of file-sharing systems poses challenges for the entertainment industry.¹¹ It is unclear to what extent falls

¹ Chris Toumazou, John B. Hughes and Nicholas C. Battersby *Switched-currents: An Analogue Technique for Digital Technology* IET, 1993 p.3.

² Besides these improvements, digitization has speeded up the production of copies and lowered the costs that were one of the key drivers for the industry to perform the transition to digital-based technologies. See Sieber, (n 47) 148.

³ W.Baesler, 'Technological Protection Measures in the United States, the European Union and Germany: How much fair use do we need in the Digital World' (2003)8, *Virginia Journal of Law and Technology*, 1, 8-9; J.P.Cunard, K.Hill, C.Barlas, 'Current Developments in the Field of Digital Rights Management', available at: <www.wipo.int/documents/en/meetings/2003/scer/pdf/scer_10_2.pdf> accessed 6th April, 2016.

⁴ S.Saroiu, P.K.Gummadi, S.D.Gribble, 'A Measurement Study of Peer-to-Peer File Sharing Systems' available at: www.cs.washington.edu/homes/gribble/papers/mmcn.pdf, See United States Federal Trade Commission, Peer-to-Peer File-Sharing Technology: Consumer Protection and Competition Issues, p. 3, available at: <www.ftc.gov/reports/p2p05/050623p2prpt.pdf> accessed 6 April 2016. Federal Trade Commission, Peer-to-Peer File-Sharing Technology: Consumer Protection and Competition Issues, page 3, available at: <www.ftc.gov/reports/p2p05/050623p2prpt.pdso> accessed 6 April 2016.

⁵ See: Cisco, 'Global IP Traffic Forecast and Methodology, 2006-2011,' 2007, p. 4, available at: <www.cisco.com/application/pdf/en/us/guest/netso/ns537/c654/cdcont_0900aecd806a81aa.pdf> accessed 6 April 2017.

⁶ See: OECD Information Technology Outlook 2004, p. 192, available at: <www.oecd.org/dataoecd/22/18/37620123.pdf> accessed 6 April 2015.

⁷ For more information on investigations in peer-to-peer networks, see: Investigations Involving the Internet and Computer Networks, NIJ Special Report, 2007, page 49 et seq., available at: <www.ncjrs.gov/pdffiles1/nij/210798.pdf> accessed 6 April 2017.

⁸ I.Clarke, O.Sandberg, B.Wiley, T.H.Hong, Freenet: A Distributed Anonymous Information Storage and Retrieval System, 2001; Chothia, Chatzikokolakis, A Survey of Anonymous Peer-to-Peer File-Sharing, available at: <www.spinellis.gr/pubs/jml/2004-ACMCS-p2p/html/AS04.pdf> accessed 30 December 2016; J.Han, Y.Liu, L.Xiao, R.Xiao, A Mutual Anonymous Peer-to-Peer Protocol Design, 2005.

⁹ Regarding the motivation of users of peer-to-peer technology, see: B. Grokster 'Efficiency in Music' (2005)10 *Virginia Journal of Law and Technology*, 1, available at: <www.vjolt.net/vol10/issue4/v10i4_a10-Belzley.pdf> accessed 30 December 2017.

¹⁰ For more examples, see: Supreme Court of the United States, *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 125 S.ct.2764 (2005), available at: <http://fairuse.stanford.edu/MGM_v_Grokster.pdf> accessed 30 December 2016.

¹¹ Regarding the economic impact, see: S. J Liebowitz, 'File-Sharing: Creative Destruction or Just Plain Destruction' (2006) 49 *Journal of Law and Economics* 1, 2

in sales of CD/DVDs and cinema tickets are due to the exchange of titles in file-sharing systems. Research has identified millions of file-sharing users and billions of downloaded files. Copies of movies have appeared in file-sharing systems before they were officially released in cinemas at the cost of copyright-holders. The recent development of anonymous file-sharing systems will make the work of copyright-holders more difficult, as well as that of law-enforcement agencies. The entertainment industry has responded by implementing technology designed to prevent users from making copies of CDs and DVDs such as content scrambling systems (CSS), an encryption technology preventing content on DVDs from being copied. This technology is a vital element of new business models seeking to assign access rights to users more precisely. Digital rights management (DRM) describes the implementation of technologies allowing copyright-holders to restrict the use of digital media, where customers buy limited rights only (e.g. the right to play a song during one party). DRM offers the possibility of implementing new business models that reflect copyright-holders' and users' interests more accurately and could reverse declines in profits.

5.4 Unauthorized download

Unauthorized download is considered to be cyber fraud. The authorized download from a website is permissible. However, any product that is copyright protected cannot be sold by any organization or an individual that is not authorized. Unauthorized downloading influences in sale of this product. Most of the crimes are committed because of available software tools to download. There are many issues that lead to illegal downloading such as, obtaining products with low price or free, there is no need for personal information, they are available worldwide. The entities that are most affected by illegal download through use of internet are: movies, programs, music, confidential and protected information, internet data etc.¹ One of the biggest difficulties with these technologies is that copyright-protection technology can be circumvented. Offenders have developed software tools that enable the users to make copy-protected files available over the Internet free of charge or at low prices. Once DRM protection is removed from a file, copies can be made and played without limitation. Efforts to protect content are not limited to songs and films. Some TV stations (especially pay-TV channels) encrypt programmes to ensure that only paying customers can receive the programme. Although protection technologies are advanced, offenders have succeeded in falsifying the hardware used as access control or have broken the encryption using software tools. Without software tools, regular users are less able to commit such offences. Discussions on the criminalization of copyright violations not only focus on file-sharing systems and the circumvention of technical protection, but also on the production, sale and possession of "illegal devices" or tools that are designed to enable the users to carry out copyright violations.

6. The Nigerian Perspective to the Challenges posed to Copyright at the Internet.

The Cyber Crime (Prohibition, Prevention, e.t.c.) Act, 2015² was enacted purposely to combat cybercrimes. Nigerian was optimistic that it will have positive effect as to mitigate cybercrime in Nigeria. Unfortunately the drafters of the Act were not able to come up with something worthwhile. For instance Sec 7 (2) of the Act provides as follows "It is an offence to commit online fraud using a cyber cafe and to make perpetrators liable on conviction to a fine of either 41,000,000.00 or a three years prison terms or both."³

Also, Section 7(3) of the Act provides that there was connivance by the cyber owners the latter will be given of an offence and liable upon conviction to a fine of 42,000,000.00 or 3 years imprisonment. The provision available for copyright infringement has some lope holes that encourages the infringers Experience has shown that Nigerian usually harp on the inadequacies of the laws to further their selfish interest. Accordingly, the time is due for this kind of research because we cannot continue to live with those inadequacies on our law, otherwise it will collapse the copyright industries, the fines are not enough and the prison term not adequate for it is not commensurate to the gravity of the offence.

7. Ways to Prevent Online Fraud in respect of Copyright

African countries in which Nigeria is inclusive have been criticized for dealing inadequately with cybercrime as their law enforcement agencies are inadequately equipped in terms of personnel, intelligence and organization, and the private sector is also lagging behind in curbing cybercrime with the result that the fight against cybercrime is lagging behind.⁴ It is submitted that international mutual legal and technical assistance should be rendered to Nigeria by corporate and individual entities to effectively combat cybercrime in Nigeria. Nigeria countries need to build partnerships to combat internet crime and corruption.

¹A. Nuredini, 'Challenges in Combatting the Cybercrime'(2015) 5 *Mediterranean Journal of Social Sciences* 592, 595.

²The Cyber Crime (Prohibition, Prevention, e.t.c) Act, 2015. It was enacted Cyber Crime Act 2015 which was signed into law on the 8 May 2015.

³The Cyber Crimes (Prohibition, Prevention, Act 2015, s. 7(2)

⁴Charles Arinze Obiora, James Ebipere Jacob Tiebiri and Onwunyi Ugochukwu Mmaduabuchi, Cybercrimes And The Challenges Of Economic Development In Nigeria journal of social development (2017) 6

Nevertheless, most law enforcement personnel are not equipped with the requisite technological knowledge while most cyber criminals are experts in computer technology. In combating these crimes there is the need for education and human capacity development which is one of the most viable approaches. Furthermore, Universities, Schools of higher learning and academic institutions should devise specific courses tailored to allow the next generation of Judges and Lawyers become skilled in what is a challenging but lucrative area.¹

It is further recommended that the legislature and Senate Committees tasked with combating crime take this issue to the forefront of the initiatives with a view to ensuring that the best brains on the issue not only from a legal and technical point of view but also on experience are actually consulted and involved in the process. This is necessary so that we generate appropriate sections and wordings as well as anticipate what is on the perspective so that laws that constitute the framework are not archaic and unproductive when passed. Development associated by fast expansion of information technology and automatization of work activities in all life spheres in modern society brought a number of facilitations, while on other side it brought a deliberate misuse of these technological achievements, while creating a number of problems and threats for individuals and groups, as well as for society in general. Because of its global attraction the computer crime, the general act in preventing and combating requires the advancement in co-operation and codified action of all states to combat successfully the cybercrime. For cybercrime is not a problem that can be dealt with only at the national level.² The war against computer crimes is a duty of the entire society, which in Nigeria can be achieved by taking actions to create an international co-operation in matching judicial legislation with developed countries.

8. Conclusion

This paper has examined the importance of copyright to Nation's economy, the provisions of the Nigeria Copyright laws and effort of the Copyright Commission to combat breach of copyright and piracy in Nigeria and more importantly the threat posed to copyright owners through the internet. In the course of the discussion, the work observed that the needed proactive step is yet to be taken to fully eradicate the menace. The paper equally posits that there is the need to change the disposition of government and its agencies towards appreciating the work of art, intelligence and knowledge, then, the needed protection for copyright works will necessarily ensue. To achieve this, the staff of the agencies saddled with the responsibility of protecting and enforcing breach of copyright should be trained and re-trained to appreciate the nature of their jobs and what it entails.

The paper also recommends that Nigerian courts that are empowered by law with civil and criminal jurisdiction on copyright issues should be more proactive when such cases are brought before it. While the paper does not recommend the establishment of a separate court for the adjudication of copyright cases, it vehemently proposed that the issue of copyright be removed from the exclusive list of the Federal Government and be placed under the concurrent list so that both State High Court and Federal High Court can both adjudicate upon it. This is pertinent considering the incessant report of breach of copyright and how it has become an act of impunity in Nigeria rather than a prohibited act. The Chief Judges of these courts can equally develop the Court to see that issues of copyright, patent, trademark and piracy are assigned to a Judge that either specializes on them or one that is well experienced by virtue of cases handled over the years.

In the course of the research, it was observed that the agencies saddled with the task of enforcing the copyright laws encounter challenges one of which is the difficulty to apprehend the perpetrator of the breach, most particularly the perpetrators of cyber fraud who could commit the breach of copyright even outside the jurisdiction of Nigerian courts. The global partnership, promulgation of reciprocal enforcement regimes for the enforcement of copyright laws as well as private public partnership with copyright owners can be developed to effectively tackle the breach. It is believed that with these practical suggestions and recommendations on the ways to combat the menace of breach of copyright, the cyber aspect of the breach of copyright and piracy which is now increasing in an alarming rate will drastically reduce.

¹Computer Crime & Intellectual Property Section (CCIPS) at U.S. Department of Justice, Field Guidance on New Authorities That Relate to Computer Crime and Electronic Evidence Enacted in the USA Patriot Act of 2001.

²Scores of nations, especially in the developing world, lack laws governing cyberspace crimes and are woefully short on computer-savvy investigators and the technology required to go after sophisticated hackers.