

JURIS inSight



A Biannual Journal Publication of
the Department of Jurisprudence and
International Law,
Faculty of Law, University of Ibadan

Journal
Volume 1, No.1 Sept. 2014

Socio-Economic Importance of Copyright Protection

By
Amanim Akpabio, Esq.*

Abstract

When it comes to the issue of copyright protection the interest of authors and that of society strive for ascendancy. Decades before the Universal Declaration of Human Rights in 1948, there was an international convention in 1886 which endorsed the need to protect the rights of authors of literary and allied works in the form of copyrights. Copyright can be seen as a form of human rights attributable to authors of scientific, artistic or literary works subject to the conditions or limitations imposed by law. Copyright law encourages human creativity in the sense that by protecting the rewards that emanate from a person's creativity, he will be motivated to do more. On the other hand, it has been argued that over-protection of the rights of individual authors could have a negative effect on the society which should be given greater liberty to benefit from inventions. This paper overhauls the socio-economic importance of copyright protection and proceeds to advocate a balance between the protection of individual copyrights and the need for our contemporary society to have more liberty to benefit from the ideas of authors.

Introduction

It is impracticable to effectively discuss the socio-economic importance of copyright without touching on the origin of copyright protection. This is because the rationale for the protection and the origin of the protection are inextricably connected. Thus, like Siamese twins, they have to go together. As a learned scholar observed, "copyright as a property right vested in authors viz-a-viz works created by them, seeks to protect the economic and moral interests of the authors."¹ Although there is a remote attempt to trace copyrights to the period between 1041-1048 AD when a Chinese alchemist Pi Sheng conceived of a movable type of printing, there is stronger unanimity among scholars that it was the invention of printing by Johannes Gutenberg in the 15th century that gave birth to modern copyright.² In tracing the origin of copyrights to the 15th century, it has been said that a pattern of exploitation started developing in the printing industries in situations where stationers (equivalent of modern publishers) who acquired literary works from authors for purposes of printing and sale sought exclusive rights

against illegal copiers. Thus, the stationers tried to prevent others from copying the printed work and distributing them or making profit from it to their detriment. They secured series of rights or protections under the Crown.³ According to Richard Stim,⁴ in 1710, England enacted the Statute which granted authors exclusive right to control the publication of their books. For the first time, authors had the legal power to stop others from copying. This grant of rights became known as "Copyrights." In *Keene v. Wheat*,⁵ it was held that "copyright signifies an exclusive right of an author and his assigns to print his literary composition, and republish it in print." From the above, it is apparent that copyright protection was originally in the field of printable works. Over the years and with more inventions and technological sophistication in the world, it became important to protect other forms of creative activities and inventions from exploitation.⁶ This fact was aptly captured by a learned scholar who, in relation to copyright development in America, observed that "initially, copyright law in America protected only books, maps and charts; but over the centuries, the

* Amanim Akpabio, Esq., LL.B.(Hons); LL.M, C.PON (Harvard); B.L; Notary Public For Nigeria, formerly a Researcher, Advocates International, USA, Former Coordinator of Clinical Legal Education of University of Uyo, Currently a Doctoral Student and Lecturer in Department of Private Law, University of Uyo, Nigeria

¹ M. Umaru, "Nature, Subsistence and Scope of Copyright in Nigeria," in J. Asien and E. Nwauche (eds) *A Decade of Nigerian Copyright Law* (Nigeria: Nigerian Copyright Commission, 2002) p.89

² A. Alubo, "Recent Trends in Copyright Law and Practice in Nigeria", 2002 available at <http://dspace.unijos.edu.ng/handle/10485/1286> (accessed June 10, 2012 at 10:05 am) where this point is discussed.

³ F. O. Babefemi, "Intellectual Property , *The Law and Practice of Copyright, Trademarks, Patents and Industrial Designs In Nigeria*, 1st ed.(Nigeria: Justinian Books Ltd, 2007) p. 2.

⁴ R Stim, *Intellectual Property: Patents, Trademarks, And Copyrights* (New York: Delmar Publishers Inc, 1994) p.29.

⁵ 14 Fed. Cas. 180, 185

⁶ For instance, engravers, textile designers, sculptures, paintings, drawings and photographs all had legislations to protect their exploitation in series of English Legislations between 1734 – 1862. See Babafemi, *op cit.*, at p.3.

protection of copyright extended to architecture, music, computer programs, movies and videos.”⁷

The recognition and protection of copyrights in the United States Constitution was a symbolic stride on the part of America in developing copyright in National Constitutions.⁸ The Berne Convention of 1886 extended the frontiers of Copyright Convention beyond national boundaries in the sense that the Convention made it possible for the recognition of the copyright of an author in other states or countries, either by the personal connection or first publication in a member state under the principle of national treatment.⁹ The protection and limitations in the field of copyright at the international level was carefully encapsulated in Copyright Act of 1911 which was the first British legislation to bring the various copyrights within a single text, and at the same time give rights, even in unpublished works, a statutory footing.¹⁰

The Universal Declaration of Human Rights in 1948 contained express provisions for the right to protection of the moral and material interests resulting from scientific literary or artistic production of which he is the author.¹¹ This further international endorsement of the very essence of copyrights as a “human right” was followed by the Universal Copyright Convention of 1952.¹² Part preamble to the said Convention actually underscores the importance of Universal Protection of Copyrights when it was stated that:

The contracting states ... convinced that a system of copyright protection appropriate to all nations of the world and expressed in a Universal Convention ... will ensure respect for the rights of the individual and encourage the development of literature, the sciences and arts, persuaded that such a Universal copyright system will facilitate a wider dissemination of works of the human mind and increase international understanding.¹³

⁷R. Stims, *op cit*, p. 8. See also D. Pressman, *Patent it yourself, Your Step-by-Step Guide to Filing at the U.S. Patent Office*, 14th ED. (USA: Delta Printing Solution, 2009) p.21. Where David Pressman said that, “A copyright is another offensive right given by law, this time to an author, artist, composer or programmer to exclude others from publishing or copying literary, dramatic, musical, artistic or software works.”

⁸ Article 1, Section 8 of the United States Constitution, 1787

⁹ See Cornish and Llewelyn *op. cit* at p.350. The Berne Convention was the first copyright convention at a multinational level.

¹⁰ *Ibid.*

¹¹ See Article 27 of UDHR

¹² Universal Copyright Convention of September 6, 1952.

¹³ *Ibid.*

Further developments in international circles have both widened the scope of the protection of copyrights and narrowed concerns for specific aspects of the copyright law. For example, the 1994 Conference on Fair Use of Electronic Environment and the 1996 World Intellectual Property Organization Convention (WIPO) which were held to bring Intellectual Property Law in line with the electronic age.¹⁴ Specific countries have expanded the scope of their copyright protection in recent times.¹⁵ More so, the formation of National and International Copyright and Related Organizations¹⁶ go to buttress the fact that there must be something significant about protection of copyrights.

As far as Nigeria is concerned, being a British colony, the English Copyright Act of 1911 was extended to the geographical area now forming Nigeria by the Order In Council of 1912 until the 1970 Copyright Decree (now Act) was enacted.¹⁷ The need for a more effective copyright administration led to the promulgation of the 1988 Copyright Act now contained in CAP C28 Laws of the Federation of Nigeria, 2004.¹⁸

This paper, which adopts the narrative and interpretative method of research, is divided into three substantive segments and a conclusion. The first segment looks at the scope of copyright protection, both in terms of the conditions and the subjects. The second part identifies the importance of copyright protection with specific reference to the socio-economic aspect of the protection. The third part makes an appraisal of the socio-economic importance and brings to limelight the arguments in favour and arguments against the socio-economic importance of copyright, drawing inspiration from different parts of the world and Nigeria in particular and the conclusion which summarizes the work and makes a few recommendation as distilled from the opinion of jurists, scholars and that of the writer.

What Does Copyright Law Protect?

Copyright Law is dynamically broad and in some cases, judicial interpretation of categories of interests protected may differ from country to

¹⁴ See generally “Copyright Timelines” available at <http://www.menc.org/document/copyrightTimeline.pdf> (Accessed June 10, 2012 at 8:14 am)

¹⁵ See for example the Digital Millennium Copyright Act of America which implements WIPO Treaty of 1996 and the Sonny Bound Copyright Term Extension Act which extends copyright in America to the life of the author plus 70 years.

¹⁶ The International Intellectual Property Alliance (IIPA) was formed in 1984 and has an extensive network which analyses copyright laws and enforcement regimes in over 80 countries and seeks improvement of copyright regimes in those countries. See <http://www.iipa.com/aboutiipa.html> (Accessed June 10, 2012).

¹⁷ J.O. Orojo, *Nigerian Commercial Law and Practice Vol.1* (London: Sweet & Maxwell, 1983) p.1128

¹⁸ Babafemi, *op cit.*, at p.5

country.¹⁹ However, the core interests recognized in international conventions are somewhat established.²⁰ A simple way of looking at copyright law is to see it as protecting original ideas of people as expressed in a medium recognizable by the law. As David Pressman puts it:

... a copyright covers only the author or artists particular way of expressing an idea. Thus, while a copyright can provide offensive rights on the particular arrangement of words that constitute a book or play, it can't cover the book's subject matter, message or teachings. Put otherwise, you are free to publish any of the ideas, concepts and information in this (or any) book, provided that you write it in your own words. But if you copy the specific wording, then you'll infringe the copyright of this book.²¹

This point is also corroborated by Stim²² in the following words:

For a work to acquire copyright protection, it must be an original work of authorship that is in a fixed and perceptible form. To be original, under copyright law, means that the author did not copy it from another source and that the work is more than a trivial variation on any preceding work." Originality under copyright law does not mean that the work possesses a high degree of creativity...

On the issue of creativity as a kernel of originality, the law requires some form of industry to be put in to produce or express an idea in a form known to law. Lord O' Connor of the U.S Supreme Court said, "The sine qua non of copyright is originality. However, the standard for creativity is extremely low. It need not be novel; rather it needs to possess a spark or minimal degree of creativity to be protected by copyright"²³

¹⁹ For example, the US Supreme Court decision in *Feist Publications Inc. v. Rural Telephone Service Co.* 499 U.S 340, 1999 which was a far departure from the sweat of Labour doctrine to emphasize creativity in ideas.

²⁰ For example, categories of rights in the Berne Convention of 1886 and the Universal Copyright Convention of 1952.

²¹ Pressman, *op. cit.* see footnote 9.

²² Stim, *op cit* at p.8

²³ See http://www.booksrag.com/wiki/Feist_publications_v._Rural_Telephone_Service (Accessed June 12, 2013, 2:40pm).

The Copyright Act of Nigeria²⁴ addresses the point as follows:

A literary, musical or artistic work shall not be eligible for copyright

Unless-

- (a) Sufficient effort has been expended on making the work to give it an original character;
- (b) The work has been fixed in a 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.

The requirement for some form of creativity informed the U.S Supreme court decision in *Feist Publications Inc. v. Rural Telephone Service Co.*,²⁵ where the court held that a telephone company that compiled, through much work, an alphabetical directory of names could not prevent another publisher from copying the directory, since it had no originality.²⁶ By section 1 (3) of the Copyright Act of Nigeria for instance, a work will not be eligible for copyright protection if at the time when the work is made, it is intended by the author to be used as a model or pattern to be multiplied by any industrial process.

A cardinal aspect that intellectual property protects is the specific subjects or areas covered by the law. According to Pressman: "Some specific types of work that are covered are books, poetry, plays, Songs, catalogues, photographs, computer programs, advertisements, Labels, movies, maps, drawings, sculpture, prints and art productions, game boards, rules and recordings."²⁷ Under the Copyright Act of Nigeria, the specific subject areas covered are literary works, musical works, artistic works, cinematograph films, sound recordings and broadcasts.²⁸ In *Masterpiece Investments Ltd & Anor v. Worldwide Business Media Ltd & 2 Others*²⁹ the Defendants unlawfully copied and duplicated the work of the plaintiffs without their consent in a Business magazine, the defendants were awarded the sum of

²⁴ Cap C28 Laws of the Federation of Nigeria, 2004, See section 27(1).

²⁵ (*Supra*).

²⁶ D. Pressman, *op.cit.* gives more insight to this case at p.22. See also the Nigerian case of *Offrey v. Olla* (UNREPORTED) HOS/23/68 where the court held that copyright will exist in a given product if that product is the result of some substantial or real expenditure of mental or physical energy and the labour or skill is not a negligible or common place one. See further Fagbemi *op.cit.* pp.11-12

²⁷ Pressman, *ibid*, p.22

²⁸ Copyright Act of Nigeria *op.cit* 3:1 (1).

²⁹ Unreported Suit No. FHC/L/20/91.

₦400, 000.00 because of the vulgarization of the work, unjust enrichment and their indifference to the suit.³⁰

The subject matters protected by copyright laws keep expanding from year to year.³¹ Presently, the rise of information technology has brought such a wide range of issues to the front burner. For example, the protection of databases,³²e-books and telephone related issues.³³As rightly observed in relation to the International Intellectual Property Association (IIPA):

As technology rapidly changes, IIPA is working to ensure that high levels of copyright protection and effective enforcement become a central component in the legal framework for the growth of global, electronic commerce. Strong protection and enforcement, both in law and in practice, against the theft of intellectual property are essential for achieving the full economic and social potential of global e-commerce.³⁴

India has been said to be one of the first 15 countries to protect computer programmes. This was done by amending the copyright law in 1984.³⁵In the recent Australian case of *Roadshow Films and Others V. iiNet*³⁶the court in Australia had cause to pronounce on a case involving illegal file sharing in internet network as it relates to copyright. The court held that iiNet was not responsible if an internet user uses that system to bring about copyright infringement since the law does not recognize any positive obligation on any person to protect the copyright of another.

The scope of copyright protection raises an inevitable question as to why there is in existence this volume of protection and why certain activities are

not protected or are excused. A pertinent answer to this inquest will narrow our mind to the very essence of this work which is the importance of copyright.

Importance of Copyright Protection

General Importance

Several reasons have been advanced for the protection of copyright. These reasons underscore the importance of the protection given to copyrights and to a large extent, explain, rightly or wrongly why certain activities may not amount to infringement of copyrights. From a general stand point, the importance of the protection of copyright can be seen from a social, economic, political, educational, technological, moral and cultural perspective. In examining the importance of copyright protection, it has been observed that:

The international norms and national laws on copyright and related rights, while recognizing that the promotion of creativity, cultural and information production is an important public interest, also take into account other public interests such as those which relate to the availability to the public of all information necessary for the participation in social and political activities, public education, scientific and scholarly research etc. For these purposes, these norms and laws contain appropriate exceptions to and limitations on the rights of copyright and related rights owners.³⁷

The above quotation raises several issues, some of which bring out not only the scope but draw one's attention to the importance of copyright protection. Since the marrow of this paper is on the social and economic perspective of copyright protection, discussions on the general importance will be made in passing to make room for more detailed considerations of the focus of this paper.

From the social standpoint, it is important to provide for orderliness in society by ensuring that people do not just prey on the works of others to their own benefit. The absence of a legal mechanism to delimit the procedures to be followed in exploiting the works of others would put society in a state of anarchy; as authors of works would have to resort to self-help in a bid to curb exploitation of their works or pirates will also have a field day. Thus, copyright laws enhance some sort of societal stabilization and

³⁰ T. Oduwono, "Nigerian Copyright Law: Juridicial Overview" in J.O. Asien & E.S. Nwauche (Eds) *A Decade of Copyright Law in Nigeria* (Nigeria: Nigerian Copyright Commission, 2002) p.63-64.

³¹ Stim *op.cit* at p.8, where he said that, "initially copyright law in America protected only books, maps and charts, but over the centuries, the protection of copyright law has been extended to architecture, music, computer programs, movies and videos..."

³² For further discussion of protection of Database, see M. Akpan "Protection of Database" in J. O.Asien & Nwauche,E.S (Eds):*A Decade of Copyright Law in Nigeria* (Nigeria: Nigerian Copyright Commission, 2002) p.203-223.

³³ See J. Glasner, "Critics weigh in Copyright Act", 2002. Available at <http://www.wired.com/techbiz/media/news/2002/12/56963> (Accessed June14, 2012 at 12:18 pm).

³⁴ See <http://www.iipa.com/aboutiipa.html> (Accessed June 12, 2012 at 5:08 pm)

³⁵ S. Alikhan, "Role of Copyright in Cultural and Economic Development of Developing Countries: The Asian Experience". Available at <http://www.reics.org/pdf/wpo-43pdf>(Accessed June 14, 2012 at 9:50pm).

³⁶ (NO 3) 2010 FCA 24(3). Available at www.iinet.net.au/press...20100402-federalcourtjudgment.pdf (Accessed November 12,2012 at 8:05pm).

³⁷ See http://www.wipo.int/edocs/mdocs/arab/en/wipo_cr_krt_05/wipo_cr_krt_05_10.pdf. Accessed June 12, 2012, 7:51am).

prevent some form of anarchy.³⁸ From the economic standpoint, there has been a historical paradigm to the effect that everyman is entitled to the fruit of his labour. Thus, financial proceeds accruing or accruable from such sweat should be protected.³⁹ Politically, it has been stressed that, "an appropriate copyright system is also indispensable for the participation of international cultural and economic cooperation. Without this, a country may not be able to attract foreign investments in a number of important fields."⁴⁰ From the educational standpoint, without protecting copyrights, it will promote a system of academic dishonesty as evidenced in acts such as plagiarism. Thus, the existence of copyright laws encourages academic researches and integrity in the academic field. On the other hand, by providing windows which allow for reasonable exploitation of copyrighted works for researches and teaching, a sort of orderliness is created.⁴¹ Technologically speaking, the protection of copyright has a lot of significance. The growth of the internet, telephone devices and other computer based programmes, if not protected by copyright law attracts huge financial losses to the industries supported by the technological advancement. By providing copyright protection for these technological devices, the files or information of the owners are to a large extent preserved and it encourages growth in the industry.⁴² The moral aspect of the protection of copyright has generated a lot of sympathy through the years. Article 27(2) of the Universal Declaration of Human Rights specifically provides for the protection of "moral" interests of authors. It has been argued that if the moral interest of an author, producer or designer is not protected by law, it will dampen his enthusiasm to invent or to be creative.⁴³ Thus, by making laws for the protection and enforcement of these rights, it serves as a sort of morale booster. In terms of the cultural importance of copyright, it has been said that, "An efficient and well balanced system for the protection of copyright and related rights is necessary for the preservation of national culture and identity."⁴⁴ Thus, by protecting

copyrights, authors of works of art that reflect the peculiar culture or values of a certain people will be encouraged to continue in their creativity, thereby attracting tourists to the areas and ultimately boosting the economy of the place. Having had a general overview of some key facets that demonstrate the importance of copyright protection, it is pertinent to address in specific terms the socio-economic importance of copyright protection.

Socio-Economic Importance of Copyright Protection

A discourse on the Socio-Economic importance of copyright protection amounts to fixing a searchlight on how copyright protection enhances the Social and Economic life of the stakeholders in the copyright industry. By stakeholders, this writer means the authors of the work, the consumers and ultimately the country and the international community. This point was aptly captured by Yusuf Aboki as follows:

"The economic jurisprudence behind the copyright law is nothing other than the need to secure economic advantages for owners of copyright in particular, and society in general...."⁴⁵ It is crucial to itemize and briefly discuss the socio-economic importance of copyright in order to address the main gist of this subject.

i. Protection of Copyright increases the wealth of the nation:

The chain effect of copyright protection results in increasing the Gross Domestic Product (GDP) of countries.⁴⁶ Researches undertaken in different countries have shown that countries that have an effective regime of copyright protection generally had incremental value in their GDP both in terms of employment, export and other indices.⁴⁷

ii. Protection of Copyright stems the loss of Economic value from theft, infringement and piracy:

It is important to protect copyright because once these rights are protected by appropriate laws it minimizes the issues of theft, infringement and piracy thereby preserving the social order in society.⁴⁸

³⁸ See J. Glasner, *op.cit.*, for arguments for and against protection of copyrights. Also the issues pertaining to registration of copyrights serve as a sort of notice of the existence of a copyright so as to deter others.

³⁹ Old decisions on copyright leaned heavily on the sweat theory. See for example, *Cramp & Sons V. Frank Smythson Ltd (1994) Ac. 329*, *University Of London Press Ltd V. University Tutorial Press Ltd (1916) 2 CH. 601*.

⁴⁰ See note 38 above.

⁴¹ See for example, paragraph 1 of the forth schedule to the Copyright Act, Cap C28, Laws of the Federation of Nigeria, 2004 which allows reasonable exploitation for educational purposes.

⁴² For more detailed discussions, see I. M. Oluze: "Impact of Digital Technology" in Asien & Nwauche *op.cit.*, pp 176-186.

⁴³ Stim, *op.cit.*

⁴⁴ M. Fiesor, "The Importance of Copyright and Related Rights For Economic Development with Special Reference to the Position of SME's (2005)". Available at

www.wipo.int/edocs/mdocs/arab/en/wipo_cr_krt_05_10doc (Accessed June 12, 2012, 4:45pm)

⁴⁵ Y. Aboki, "Economic and Cultural Bases for Copyright Protection", in Asien & Nwauche, *op.cit.*, p.80

⁴⁶ See Alubo, *op.cit.*, where he stated that "creativity that copyright protects has contributed a reasonable percentage to the Gross Domestic Product (GDP) of developed countries around the world."

⁴⁷ R Picard and T. Toivonen, "Issues in Assessment of the Economic Impact of Copyright", *Review of Economic Research on Copyright Issues*, vol. 1(1) 2004, pp. 27-40.

⁴⁸ *Ibid.*

iii. Protection of Copyright enhances the monetary value or worth of the work:

Once a work is exposed to infringement of any sort, such as infringed or pirated copies, in the case of books and cassettes for example are usually sold at undervalue. The original work is usually forced to experience a price fall because people generally want to save cost.

iv. Protection of Copyright enhances societal understanding and appreciation of these rights:

The preamble to the Universal Convention on Copyright stated among others as follows, "... a universal system will facilitate a wider dissemination of works of the human mind and increase international understanding."⁴⁹

v. Protection of Copyright enhances the industrial development of the nation:

As Shahid Alikhan⁵⁰ observed

Globalization is transforming the world economy with the increasing

Internalization of corporate activities, importance of the protection of

Intellectual property rights is widely recognized as a determining factor in safeguarding the results of technological development as well as engendering, nourishing and sustaining national creative endeavour.

Once there is assurance that there are laws to protect copyrightable works, the rapid development of such industries become manifest.⁵¹

vi. Protection of Copyright increases international trade and transfer of knowledge.

One of the key elements of the Universal Copyright Convention of 1952 is the provision for protection of published and unpublished works not only in the states of origin but the reciprocal protection of such works in member states to the Convention⁵². By such recognition and protection of works by foreign authors, there is a wide room for products produced in one country to be sold freely in another country.

⁴⁹ 1952.

⁵⁰ *Op.cit.*

⁵¹ One can see from the music industry in Nigeria, where several recording studios are springing up, more musical albums are produced and there is a growing confidence in all the stakeholders that there are not only in legitimate business but that there are legal sanctions against those who want to shortchange them. See for example *Island Record Ltd & Ors v. Pandim Technical Sales And Services Ltd (1993)* FHC 318 for suits brought by companies to protect copyrights.

⁵² See generally Articles 11 and 111 of the Convention.

vii. By limiting the duration of protection the society stands a chance to exploit and develop the original expressions.

Several countries have time limits for the protection of copyrights.⁵³ Once the period expires, the work falls into public domain and may be freely exploited. The importance of the limitation is that the expressed idea does not become extinct with the death of the author. Society stands a chance to come up with newer methods of doing the very thing the author did, thereby adding intellectual value to the society.

viii. Copyright laws provide some form of standard for measuring the reward accruable to authors

In balancing the need to protect the commercial interests accruable to owners of copyrights and the need for the society to benefit from the work the law strikes a balance by making provision for the consent or permission of the author to be obtained and in some cases some sort of commission, compensation or fee is charged by the authors. Copyright law also protects such activities.⁵⁴ Recently, the Australian High Court started hearing on the statutory cap on royalties payable by commercial radio stations for the use of sound recordings. The Phonographic Performance Company of Australia (PPCA) which brought the Appeal to the High Court argued that "there is no economic or social justification for Australian Government, protection of the billion dollar commercial radio industry in negotiating a royalty rate with record company artists."⁵⁵ The case demonstrates the extent to which the law is involved in creating a standard for the authors and society in copyright issues.

Appraisal of Socio-Economic Importance of Copyright Protection

A painstaking appraisal of the Socio-Economic importance of Copyright protection from the origin of the law, its development through the years, and its application in different countries, as has been exposed in this paper, reveals a few concerns. Firstly, the Socio-economic importance of copyright protection is sometimes difficult to trace because the paradigm is often dependent on the philosophical foundation of the country. For example, a capitalist system leans more on preserving the wealth or monopoly of persons (individuals and corporate) for a

⁵³ For example, in USA copyright could last for as long as the life of the Author plus 70 years etc, see Pressman, *op. cit.*, p.22, In Nigeria, it is for 25 years from the death of the author. See sections 3 and 4 of the Copyright Act of Nigeria, *op. cit.*

⁵⁴ See for example schedule 2 paragraph (i) of the Copyright Act of Nigeria, *op.cit.*

⁵⁵ <http://www.copyright.org.au/news-and-policy/show-news/id/1953/> (Accessed June 14, 2012, 12:43pm)

very long duration thereby reducing the chances of societal benefit,⁵⁶ while other systems that are a bit socially inclined lean more on the side of making the public to enjoy the benefit of the work.⁵⁷ In criticizing the review of the 1998 Digital Millennium Copyright Act, USA, a certain critic said, "In balancing the rights of the public domain against commercial interest, I say that public officials need to favour the public domain".⁵⁸

Secondly, overprotection of copyrights can sometimes hamper development, thus the economic value of such a protection becomes meaningless.⁵⁹ Thirdly, the interpretation given by various courts on the types of works that can be protected by copyright actually raises questions on the "Universal" nature of the protection available to the copyright owners. This is because their works are supposed to have reciprocal protection in other countries who are signatories to some international conventions.⁶⁰

Fourthly, whereas some provisions in international and National laws on copyright are quite lofty and demonstrate the premium placed on Socio-economic aspects of copyrights, the absence of some provisions creates room for devaluing the importance of these rights. For example, in an international study of provisions of selected national legislations on penalizing obstruction of consumers exercise of user rights, it was asked if there are such provisions in their national laws and it was found that none of the selected countries said 'yes'.⁶¹

Fifthly, the slow pace of specific legislations with astronomical rise in technology could create room for losses in these emerging areas. As Ikechukwu Olueze⁶²said, "It is rather disturbing to note that existing legal framework is grossly

inadequate to cope with the challenge posed by contemporary digital technology . . ."

Finally, the level of awareness of the extent of copyright protection is rather low and this is very poor for the society at large.⁶³ The effect is that persons may be found guilty of things which they do not even know as offences.⁶⁴ There is a dire need for better strategies to be adopted to cause an understanding of these rights as envisaged in the preamble of the Universal Copyright Convention of 1952.

Conclusion

Copyright protection has grown from the book industry to music, poetry, cinematography, architecture, computer programme, the internet, telecommunications and other widening aspects of technology. The bottom line is that, the law on copyright came in with a mission to reward creativity, protect various interests which have also widened with the generations of copyright.

This paper has been able to briefly identify the interests protected by copyright laws at national and international levels. The paper has attempted to examine the importance of copyright protection from a general and Socio-Economic perspective. Upon a careful appraisal of the Socio-Economic importance of copyright protection, the paper has highlighted a few lapses which call for positive action, some at specific national levels while others require international harmonization. This writer submits that there is a dire need to create a more solid balance between the protection of the economic interests with the social concerns, and on that note a few actions are now recommended. First, the level of monitoring of the implementation of copyright treaties must be increased. For instance, Article X (1) of the Copyright Convention⁶⁵makes provision for states to adopt domestic measures for implementing the convention but there is no provision for monitoring the implementation. Secondly, it is important to have periodic international training of Judges who deal with copyright matters on international criteria for interpreting the copyright legislations in order not to defeat the Socio-Economic importance of copyright.

⁵⁶ For example, when America extended copyright protection to 70 years after the death of an author; and in some works, a total period spanning up to 95 and 120 years. See Pressman, *op.cit.*, p.22

⁵⁷ The Berne Convention of 1886 had a period of 25 years after the life of the Author, this is the same timeframe adopted under the Copyright Act of Nigeria, *op.cit.*

⁵⁸ J. Glasner, "Critics weigh in on Copyright Act" *op.cit.*

⁵⁹ See <http://copyright.laws.com/international-copyright/wto-trips/wto-trips-criticism>. (Accessed June 12, 2012,6:16pm)where the issue of new technology that could help poor nations was elaborately discussed.

⁶⁰ For example, in *Morovie-Fline v. National Association Of Fire Equipment Distributors*, 1983 F. SUPP 11167 where the court held that merely providing the facilities for public use by third party did not make the defendant liable to the plaintiff, unless it was proved that it financially benefitted from the infringement act of the defendant. Also the decision in *Feist v. Rural* (SUPRA) which radically moved from the sweat doctrine to more emphasis on creativity.

⁶¹ Available at <http://www.consumersinternational.org/news-and-media/press-releases/2011/04/brazil.-egypt-and-united-kingdom-among-worst-copyright-regimes-in-the-world.-new-consumer-study-reveals>(Accessed November 12, 2012,7:35 am).

⁶² Olueze, "Impact of Digital Technology" in Asien and Nwauche, *op. cit.*, p.183

⁶³ Asien & Nwauche, *op cit.*, at p.45.

⁶⁴ The Copyright Act of Nigeria, provides for the Nigerian Copyright Commission, but the level of awareness done by the commission has to go beyond the satellite towns into the villages, some of the information should be translated into local languages for better understanding.

⁶⁵1952.

Thirdly, National legislatures should expedite action on updating their copyright laws to meet with the increasing infringement of copyrights through software programmes, databases, telecommunications and internet files.⁶⁶ Fourthly, appropriate royalties should be given to owners of works that are used by the broadcasting stations in line with the recommendation of the Nigerian Copyright Commission⁶⁷ and as canvassed by the performing society in Australia.⁶⁸

Finally, the evolution of further copyright laws at the international plane should take into consideration the social and economic standards of less developed countries so that they can take full benefit of these rights instead of hampering development. Indeed the Socio Economic importance of copyright protection is only meaningful when there is a balance of commercial and social interests not only at the national level but at the international level.

⁶⁶ For example the Digital Millenium Act, 1998 of USA has provisions for protecting various forms of Digital Copyright Programs; Pressman, *op.cit.*

⁶⁷ J. Asien, & E. Nwauche, *op.cit.*, p 46

⁶⁸ See footnote 59.