SAFEGUARDING THE INTELLECTUAL PROPERTY OF ONLINE CONTENT CREATORS IN A TIME OF DIGITAL INVASION

by

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Intellectual property refers to creations of a person’s mind such as innovations, artistic and literary works, designs, names, symbols, and images that are used in commerce. Intellectual property gives creators, inventors, and businesses legal rights to their intangible assets, allowing them to control and protect their creations from unauthorized use or reproduction.

Safeguarding the intellectual property (IP) of online content creators is becoming increasingly challenging in an era of rapid digital advancements, where content is easily shared, copied, and redistributed. With the rise of platforms for video, music, art, and written content, protecting creators’ original work requires not only traditional legal protections but also new strategies to address modern technological realities.

In a time of digital invasion, the landscape for content creators is ever-evolving. While new technologies and tools provide exciting ways for creators to protect and monetize their work, the digital age also comes with heightened risks of infringement and exploitation. By understanding their rights, using available technologies to track and protect their work, and seeking legal assistance, when necessary, creators can better safeguard their intellectual property and continue to thrive in an increasingly digital world.

LEGAL FRAMEWORK FOR IP PROTECTION IN NIGERIA

1. Copyright Act (as amended in 2022):

The Copyright Act is the primary legal framework for protecting intellectual property in Nigeria. It provides protection for original literary, musical, and artistic works, including digital content like blogs, music, videos, software, and digital art. The Act grants the author exclusive rights over the reproduction, distribution, performance, and adaptation of their work. This includes the right to control how their work is used on digital platforms.

Copyright protection is automatic once a work is created and fixed in a tangible form, meaning that online content creators do not need to formally register their works to enjoy protection (although registration helps in enforcement).

1. Nigerian Communications Commission (NCC):

The NCC is responsible for regulating the communications and digital infrastructure in Nigeria. It oversees the activities of internet service providers (ISPs) and telecommunications companies, ensuring that platforms that host content comply with IP regulations.

The NCC can also play a role in addressing online infringement, particularly when platforms are involved in hosting or distributing infringing content.

1. Nigeria Data Protection Regulation (NDPR):

The NDPR, implemented by the National Information Technology Development Agency (NITDA), seeks to protect personal data and ensure privacy, which is relevant to content creators whose works might be compromised through data breaches or unauthorized sharing.

The regulation ensures that personal data collected in relation to content creators' works is protected and used responsibly.

1. Trade Marks Act:

While the Copyright Act protects the content itself, the Trade Marks Act covers the protection of brand names, logos, and other distinctive marks used by content creators to identify their works or products online. Content creators can register their trademarks to prevent misuse of their names or logos by others in digital spaces, including social media and websites.

1. Cybercrime (Prohibition) Act, 2015:

The Cybercrime Act addresses a range of online offenses, including identity theft, cyberstalking, and cyber fraud. It can also be used to address content theft and the illegal reproduction or distribution of copyrighted content on digital platforms. It criminalizes acts of hacking and unauthorized access to online works, offering a legal route to take action against those who steal or misuse digital content.

TYPES OF INTELLECTUAL PROPERTY RIGHTS

There are several types of intellectual property, each designed to protect different kinds of creations. They are as follows;

1. Copyright:

Copyright protects the original works of authorship which includes books, music, films, art and software. The Nigerian Copyright Act provides automatic protection for the creators of original works, including digital content like videos, images, music, and software. This law helps protect creators' rights against unauthorized use, reproduction, or distribution. Any unauthorized reproduction, distribution, or performance of copyrighted works is an infringement, entitling the creator to legal remedies which includes injunctions, damages, and even criminal penalties. .

1. Trademark:

For content creators who build their personal or business brands, trademark protection is critical. This protects brand names, logos, and slogans from unauthorized use. Content creators can register their unique logos or name to prevent others from using them in a confusing or misleading manner.

Where infringement arises from a trademark which is not registered, it cannot be enforced. Content creators can file complaints with the Nigerian Trade Marks, Patents, and Designs Registry to protect their trademarks.

The Act does not permit the registration of certain Trademarks. They include; Marks which are deceptive or scandalous, contrary to law or morality, names of chemical substances, Identical and resembling trademarks

1. Patent:

This guarantees a monopoly in respect of Inventions or innovations that are new, useful, and non-obvious, such as new technologies, devices, or methods. Rights in a patent subsist for a period of 20 years from the date of filing of the relevant patent application and it is non-renewable.

1. Trade Secret

This protects confidential business information or processes that provide a competitive edge, such as formulas, recipes, or marketing strategies

1. Design Rights

This protects aesthetic aspects of a product’s design, including its shape, color, and texture. Example of this is the design of a luxury handbag or the unique shape of a car.

IMPORTANCE OF INTELLECTUAL PROPERTY RIGHTS

Content creators need to safeguard their intellectual property because it is vital for encouraging creativity, ensuring financial fairness, and fostering an environment where innovation can thrive. Some key importance is highlighted below:

1. Ownership and Control: IP allows creators to retain ownership of their work and decide how it’s used, preventing others from profiting off their ideas without permission.
2. Monetization: Creators can monetize their IP through licensing, selling, or commercializing their work.
3. Encourages Innovation: By protecting ideas, IP encourages creators to continue innovating and sharing new work with the world.
4. Business Asset: IP can become a valuable asset, allowing creators and businesses to build a brand, attract investors, or sell licenses to others.

In short, IP is a way to protect the ideas and creations that make someone’s work unique and valuable. It grants the creator exclusive rights to use and profit from their work, providing an incentive to innovate and create.

# CHALLENGES OF SAFEGUARDING INTELLECTUAL PROPERTY IN THE DIGITAL AGE

In this digital age where digital content rapidly spreads, protecting and preventing intellectual property rights has become quite difficult. Some difficulties which it poses are highlighted below;

1. Easy Replication: Digital content can be easily copied and shared across platforms without the creator's consent. A single click or upload can make content available to a global audience, often before the creator has had a chance to protect or monetize it. This makes it much harder to control who uses the work and in what manner.
2. Anonymity: The internet allows individuals to remain anonymous, making it difficult for content creators to track or identify those who steal or misuse their work. Additionally, content can be shared globally, and laws governing Intellectual property can vary significantly from one country to another, making enforcement complicated.
3. Piracy: Illegal distribution of movies, music, software, and books, is a significant problem in the digital space. Peer-to-peer file-sharing and streaming services make it easier for people to bypass traditional distribution channels and access pirated content.
4. Lack of Awareness: Many content creators might not be fully aware of how to protect their work or understand the legal complexities surrounding IP rights in the digital world. Even when they do take protective steps.
5. Enforcement: enforcement of Intellectual Property rights can be costly and time-consuming, often requiring legal action to stop infringement.
6. Platform Challenges: Content is often uploaded to platforms like social media, video-sharing sites, or file-sharing services where IP violations can go unnoticed or be overlooked. These platforms may not always have effective systems in place to prevent or quickly remove infringing content, and the process for filing complaints is often cumbersome.
7. Modified or Derivative Works: With digital tools available, infringers can easily alter or transform a creator's original work (e.g., remixing a video or photoshopping an image), making it harder to prove that the content is an infringement of IP. This creates a "gray area" where it's more difficult to enforce IP protection without clear evidence of direct copying.
8. Copyright Complexity: Copyright laws are often complex, especially in the case of new forms of digital content like memes, remixes, or user-generated content. It can be unclear who holds the rights to a piece of content, especially when it’s been altered, combined, or used in a non-traditional way.
9. Cost of Enforcement: Even when content creators know their rights are being violated, pursuing legal action or sending takedown notices is often expensive and time-consuming. Many creators, particularly independent ones, lack the resources to enforce their rights effectively.
10. Speed of Technological Change: The digital landscape is constantly evolving, with new platforms, technologies, and ways of sharing content emerging all the time. This rapid change makes it difficult for legal systems to keep up with new ways in which IP may be infringed upon.

In summary, the ease of copying and sharing digital content, combined with the global and often anonymous nature of the internet, makes it much harder to protect and enforce intellectual property rights. Content creators often face significant challenges in both preventing and responding to infringement.

WAYS TO PROTECT INTELLECTUAL PROPERTY IN THE DIGITAL AGE

1. Registering Copyright and Trademarks:

Although copyright protection is automatic, it is advisable for Nigerian content creators to register their works with the Nigerian Copyright Commission (NCC) to facilitate easier enforcement in case of infringement. Trademark registration can help safeguard the names, logos, and brands associated with the creator’s work.

1. Using Digital Watermarks and Tracking Technologies:

Content creators can incorporate digital watermarks or employ other technologies to track and identify unauthorized use of their content. This helps in detecting online piracy and may serve as evidence when pursuing legal action.

1. Understanding and Using Licensing:

Online content creators should understand the importance of licensing agreements, where they can license their works for specific uses. Platforms like YouTube offer tools such as Content ID to identify and manage copyrighted content.

1. Engagement with Social Media Platforms:

Content creators should understand the terms and conditions of digital platforms they use and how to report infringements. Social media platforms have dedicated processes for content takedowns in case of copyright violations.

1. Legal Support and Advocacy:

Content creators can seek support from legal professionals or advocacy groups that specialize in intellectual property. Additionally, the government and other stakeholders should continue to raise awareness about IP laws and offer more resources for creators to protect their works.

1. Education and Awareness

Creator Education: Content creators should be educated about IP protection, copyright laws, and how to safeguard their work. Providing accessible resources on topics such as registering works, using licenses, and using tools like watermarks or metadata could go a long way.

Public Awareness Campaigns: Raising awareness about IP rights among the general public can help discourage piracy and the illegal use of content. By educating users on the importance of respecting creators' rights, society can foster a more supportive culture for original creators.

1. Collaboration with Legal Advisors or IP Professionals

Since navigating IP laws in the digital era can be complex, creators might consider working with IP attorneys or legal experts to understand their rights fully and protect them. A legal professional can help with registration, licensing, and contracts, ensuring that creators have more power over how their work is used.

CONCLUSION

In a time of digital invasion, the landscape for content creators is ever-evolving. While new technologies and tools provide exciting ways for creators to protect and monetize their work, the digital age also comes with heightened risks of infringement and exploitation. By understanding their rights, using available technologies to track and protect their work, and seeking legal assistance when necessary, creators can better safeguard their intellectual property and continue to thrive in an increasingly digital world.

Safeguarding intellectual property for online content creators in Nigeria is a multi-faceted issue that involves legal frameworks, technological solutions, and awareness. Although Nigeria has legal provisions in place, challenges such as piracy, enforcement difficulties, and the international nature of digital platforms remain. Content creators need to understand their rights, actively protect their works, and seek legal redress when necessary. At the same time, continuous updates to legal frameworks and collaboration between content creators, platform providers, and government agencies can strengthen IP protection in the digital age.

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