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REPOGRAPHY IN UNIVERSITY LIBRARIES AND COPYRIGHT LAW

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The idea of ownership of intellectual work has been recognised since long. It is linked to the invention of printing by John Gutenberg. Copyright however did not find expression in the legislation until the seventeenth century.

The copyright law known as Queen Anne's Statute was enacted in England in the year 1710. It was the first law on copyright in the modern sense of the term and it recognized for the first time the existence of an individual right to the protection of a published work. The statute was restricted to books. Later different types of copyright laws sprang up. There are national copyright laws for most countries in the world. Most of the countries belong to one or both of the international copyright conventions; Borne Convention and the Universal Copyright Convention.

Copyright is the legal recognition of rights to control and benefit from the works of authorship. It provides protection to works of authors. Its law are designed to encourage the creation and dissemination of original works. Good copyright law strikes a balance between the interest of the writer and that of the reader. In the course of his study, the modern researcher may have to use one or more articles from a particular journal but not the whole journal. He can not afford to write by hand always and many can not afford to purchase all the books and journals needed for consultations. Such deadlocks are removed by the introduction of reprography or photocopy services.

1. Definitions

Reprography is the mechanical reproduction of print in permanent readable form, including reproductions of microfilm². This definition is not satisfactory because it is too broad. Reprography is therefore better understood by setting down its scope. According to copyright news, reprography includes microcopy, photocopy, duplicating and part of printing³. In this study, reprography shall be used in its narrow sense, to mean photocopying. Harrod defines

reproduction as facsimile of all kinds by any process using light, heat or electric radiation photocopies, microcopies etc.⁴. Also reproduction by methods of duplicating and office printing comes under reprography.

Harrod defines copyright as a procedure whereby the originator of a piece of intellectual property like book, article or piece of music receives due recompense for inventiveness or imagination, expended. In England copyright was originally used by the stationers company to protect publications from its abuse of privacy. It was a marketable commodity and could be traded or assigned between members⁵.

Copyright law plays an important role in the complex world of modern communications. It is the cornerstone of publishing. It is the legal framework within which other media of communications must develop.

2. Methodology

The study covers only seven Nigerian University Libraries. The selected University libraries are: University of Benin, University of Ibadan., Edo State University, Delta State University, Federal University of Agriculture, University of Nsukka and University of Ilorin. The study also covers three colleges of education.

All the University libraries selected were visited and librarians or officers completing the questionnaire provided by the author were interviewed personally. In order to minimize failure in responses the questionnaires were distributed to potential respondents with a note indicating the interviewer's intention to visit them personally and assist in the completion of the questionnaire at fixed dates. Thus, at least two visits were made to every establishment: the first to distribute the questionnaire, and the second to interview librarians and also collect back the questionnaire.

3. Need for Repography

Libraries are national resources for the transfer of information and knowledge. They provide documentation services by preserving and making available essential information materials⁶. It is precisely because the law recognises the important services which libraries give to the public at large in the transmission of information, knowledge and documents that exceptions are allowed to libraries for

the reproduction of published works, provided that such reproduction and the number of copies made are limited to the needs of their activities⁷.

Copyright owners are anxious about the manner in which their works are exploited by others. They want to be assured that their interests are protected by the statutes. Reprography as defined earlier is the reproduction of work by photographic means or by any other processes. The process has several advantages of which the most obvious are as follows;

- * need to acquire a whole work is avoided where only specific article is required.
- * ensures speedy access and processes and time lag to acquire an original work is eliminated. Time is an important factor in deciding whether or not to photocopy a document⁸.

4. Protected Works

The current copyright legislation in Nigeria is the Copyright Decree 1970⁹. Works eligible for protection under the decree comprise literary, musical and artistic works, cinematographic film, sound recordings and broadcasts¹⁰. It is immaterial that the making of the work involved infringement of copyright in some other work¹¹. For a literary, musical or artistic work to be protected it must have an original character, expressed in a permanent form and perceptible to sight or touch. For a work to be eligible for protection the author must also be a qualified person, i.e. he must be a citizen of Nigeria¹².

Published works emanating from or of citizens of countries which belong to a treaty or other agreement to which Nigeria is also a party are protected provided, it is established that the countries concerned provide for protection of copyright in Nigerian works protected under the decree¹³. Nigeria is a member of the UCC. Its member countries are protected in Nigeria also.

4.1 Extent of Protection

Schedule one to the copyright decree provides broadly for copyright protection as follows:

- * Literary, musical or artistic works other than

photographs for 25 years after the end of the year in which author dies¹⁴.

- * Anonymous or pseudonymous literary, musical or artistic works for 25 years after the work was first published¹⁵.
- * Cinematographic films and photographs for 25 years after the end of the year in which the work was first published.
- * Sound recordings for 25 years after year in which the recording was made.
- * Broadcasts for 25 years after the end of the year in which the broadcast took place.
- * Works of governments, state authorities and international bodies for 50 years from the end of the year in which the work was first published, recorded or broadcast¹⁶.

4.2 Relaxations

Schedule 2 to Nigerian copyright decree 19 provides for exceptions to the rights of the copyright owner. As far as photocopying is concerned they may be summarized as follows:

Fair dealing with a literary, musical or artistic work, or cinematography film for purposes of research, private use, criticism or review, or the reporting of current events does not constitute an infringement of copyright, provided that if its use is public, an acknowledgement is made of the title and authorship of the work.

Acknowledgement is necessary where the work is incidentally included in a broadcast¹⁷. It will have to be considered whether or not there is likely to be any competition between the original and the infringing copy.

“Fair dealing cannot be defined in precise terms. It is capable of application in several circumstances depending on the facts of the case¹⁸. Generally such factors as purpose and character of use, nature of work involved, degree of substantiality of part taken, and effect of use on the value of the original work need to be considered. The primary issue in the case is whether the photocopying of a complete journal article is a fair use. The comments of the

commissioner of the court of claims could be criticised on several grounds. The presumptions are that photocopying of whole document intended to be substitute for the original work are not done generally for users. Libraries photocopy articles from journals and extracts from books. Libraries make full copies only to preserve the original when the latter is out of print. It is not generally correct that individuals and institutions needing parts of copyright works would consider copying whole works as the latter is expensive.

So long as photocopies are, not of such a length as to make it unnecessary for the user to buy the original work and so long as the copies are not for sale but for personal use for study or research, they would seem to qualify as for fair use.

5. Research Purpose

The present law relating to photocopying imposes many hindrances on copying materials for teaching and research. There is a need to amount the law giving some relaxations. But the economics of publishing is also important to learning and merely sweeping the regulations to one side would be unlikely to provide a satisfactory solution. It would be short-sighted to sacrifice the interest of authors and publishers for the sake of such economies in education as might be achieved by copying. It would also be immoral. There may however, be an urgency of need which overrides economic considerations and may in the interests of society need to override proprietorship eventhough the use of the copyright property falls outside the definitions of fair or reasonable copying. In the fields of study and research it may be that even though a copy of the original work can be obtained more cheaply than a photocopy can be made of the part needed the user will prefer to pay the higher price rather than wait for a copy to be obtained.

The weakness of copyright law in any case, is that once someone owns or has free access to a copy of work it is virtually impossible to prevent him doing with it whatever he likes, provided he does not try to use copies of it or parts of it in competition with the copyright proprietor. Similarly, any institution may use a work for educational purposes provided that any reproductions made are destroyed by the end of a prescribed period, or by the end of one year if no period is prescribed. It does not constitute any infringement

where use is made of a work under the direction or control of the Government, by university libraries. Similarly, the communication to the public free of charge of a work by a non-profit-making organization does not constitute an infringement of copyright²⁰. Broadcasting authorities can also reproduce a work on public interest²¹. The term public in relation to libraries could be interpreted to mean libraries that open to the public free of charge as against fee paying ones. Libraries attached to commercial organizations cannot take advantage of these exceptions since they could in the long run be regarded as profit-making.

6. Nigerian Universities

Table 1 gives details of the responses obtained against the number of questionnaires distributed. The table shows that 61 questionnaires were completed and returned out of 100 distributed. The highest rate of response was obtained from Edo State University Library. 50% was obtained from libraries of University of Benin, University of Nigeria, and College of Education, Ekiadolor. 75% was obtained from University of Ibadan. From three others 10% responses was obtained.

Table 1: Response rate

	Name of University	Questionnaire distributed	Response received	Percentage
1.	University of Ibadan	20	15	75
2.	Edo State University, Ekpoma	15	11	98
3.	University of Benin	10	5	50
4.	University of Agriculture, Abeokuta	5	2	10
5.	Delta State University Abraka	10	1	10
6.	University of Nigeria Nsukka	10	5	50
7.	University of Ilorin	5	2	10
8.	Federal College of Education, Oyo State	5	3	60
9.	Agbor College of Education, Agbor	10	6	65
10.	College of Education, Ekiadolor, Benin City	10	5	50
		100	61	61

All the universities and colleges of education selected and interviewed by the author have a central library and some faculty and college libraries. In almost all the universities the faculty/college libraries come under the administration of the University Librarians. The acquisition and processing of all books and journals are done by the university central libraries. In other universities also both college and faculty libraries have good working relationship with the central libraries. The University Librarian is consulted only at the time of preparation of estimates. The faculty and college librarians are responsible to the Deans of faculties or Heads of colleges to which they are attached.

In all the universities and colleges of education, photocopying services are decentralised. The faculty and college libraries operate their services and maintain their own statistics separately from those of the main libraries. In some circumstances it was possible to obtain data for the university central libraries separately. Almost all the university libraries and colleges of education selected for study have facilities for direct photocopying services. They all charge different amounts per page. University of Ibadan, for example, charges 50 K per page, University of Benin and Nigeria charged N 1.00 per page, Edo and Delta States Universities N 1.00 per page. University of Ilorin charges 75k per page, while the three colleges of Education also charge N 1.00 per page. Library of University of Agriculture, Abcokuta does not have photocopying services in their library.

Photocopying services in the libraries are limited to members of the institutions and departments they serve. Various reasons were given for this. Some say this is so because the services are subsidized by the institutions concerned. Some feel they have so much requests from members of staff and students they could not possibly entertain requests from the general public. What emerges from the foregoing discussion is that the library rates are un-economic. This is caused by high cost of photocopying materials and also of photocopying machines. In all the university libraries for instance about 80% of work photocopied are mainly articles from journals and extracts from books and documents.

6.1 Revenue from Photocopying

From most of the university libraries covered it was not

possible to obtain reliable statement of accounts for revenue of income and expenditure. In these libraries photocopies made for the university offices were never paid for. Only the university central libraries appointed regular staff for the photocopying services. The reason for this is obvious. The faculty and department libraries have in most cases only single machines, and the demand is not heavy enough to necessitate the appointment of regular staff. In most university libraries selected author found that money for the service is budgeted for annually by department to which the service is attached. For example, payments made for services are credited to photocopying account in some university libraries. But in some others the money received is daily paid to the university librarian's account. It is out of this money that expenses covering photocopying services are met.

Estimated figures of work done were given by the various university libraries. Accounts of most of the libraries show that during the peak period that is during the examination, the photocopying services are used to the maximum. Income is also more at that time.

6.2 Materials and Purpose

There is a common trend in the nature of materials photocopied by the academic community. The students and staff of universities most often photocopied extracts and documents for their research work. The articles and extracts take about 86.2% while other documents take about 80%. The ratio of articles and extracts of documents is approximately 50:50. Whole works are the least photocopied items and manuscripts come next in the ascending order.

In libraries of colleges of Education, documents come upto 1/5 of the total amount of photocopies done. Articles and extracts take the second position 2/1 ratio. While the least is the photocopying of whole works. In almost all the university libraries emphasis is mostly on articles and extracts, followed by documents, whole works and manuscripts in descending order.

Items copied	Percentage
Articles/ extracts	50.1
Documents	20.5
Whole volumes	05.0
Manuscripts	25.1
	<hr/> 100.0
Purpose of photocopying	
Teaching/research	63.0
Original out of print	12.0
Office use only	15.0
Personal use (other than research)	10.0
	<hr/> 100.0

The main objective of photocopying in university libraries is to foster teaching and research. In almost all the academic libraries copying for teaching and research take about 60%. While office use takes about 15%. Emphasis at the moment is on teaching and it is in the field of research that photocopying is mostly needed. In most university libraries, photocopies of original articles or books can be made. Rare materials photocopied are placed in special collections of the libraries.

7. Awareness of Law

Almost all the officers interviewed in university libraries confessed that they are ignorant of the existence of the copyright decree and its provisions in respect of photocopying. Some university libraries have evolved copyright declaration systems designed to ensure that use is within the fair use exceptions. They have in their attempt to obtain permission of copyright encountered some difficulties. This is a result of lack of contact addresses of copyright owners. It is said that some sizeable portions of the items photocopied do not involve copyright infringement because they are not within the subject-matter of copyright or are covered by exceptions to copyright protection as previously mentioned.

Only few out of ten libraries studied are familiar with copyright provisions regarding photocopying. Some libraries request users to

complete copyright declaration based on the English system of copyright law.

The Nigeria Copyright Decree does not necessitate any declarations to be made in respect of photocopies²². But is essential to ensure the purpose for which a photocopy is needed limiting it to fair dealing for educational purposes.

In the case of some university libraries that do photocopying for purposes of addition to collection or for out of print materials, express permission of the author must have to be obtained. Some such materials are theses, Nigeriana, Africana materials and gaps in journals and newspapers.

The greatest difficulty they are facing is locating the copyright owner. All Heads of departments who make requests to photocopy official materials must sign a form and the departmental stamp must be affixed on the form, before the senior staff incharge of reprography will approve the materials to be photocopied for the Head of department.

7.1 Copying Control

Most photocopying units are ignorant of the copyright law operative in the country. Some librarians are aware that rules and regulations exist for the control of photocopying. But none has correct details of the law nor its provisions. The result is that the service are being offered under a state of fear and uncertainty. Most of the university libraries felt very guilty for what they do, despite the fact that they copied mainly documents outside the protection of copyright.

Publicity of the Nigerian copyright decree and its provisions is necessary to create an awareness among those involved on their rights and limitations with regard to photocopying. For librarians, a knowledge of the copyright law is imperative. Institutions training librarians ought to examine the possibility of including copyright in their training programmes. The Nigerian Publisher's Association should also give the matter the attention it deserves.

Knowledge of the copyright law is inevitable if effective use is to be made of our photocopying facilities. The exceptions to copyright are sufficiently handsome under the Copyright Decree and lack of

knowledge of them could constitute an inhibiting factor. Under the present state of ignorance every copier is afraid of being used as a scapegoat.

8. Economic Factors

In most of the university libraries good photocopying machines were lacking. When the operators were asked why that was so, they said that the cost of new photocopying machines and consumables is very high. This is why most university libraries having photocopying machines charge up to N1.00 per page. In some university campuses private photocopying services are cheaper than the ones in the university library. The reason was that the commercial photocopying use low quality materials than the libraries. The net result of the foregoing analysis is that photocopying has adverse financial implications both for the copying establishment and those who pay for the service.

The authors may as well have suffered financial losses as a result of photocopying. The instance of loss would be where photocopies serve as substitutes for original works, and thereby reduce economic potentials of the original. Generally, this situation arises when whole works are copied. It has, however, been indicated that various university libraries copied whole works. This they did due to urgency when the original is out of print or not readily obtainable. Therefore, the copies made could not possibly compete with the original. It has also been established that it is usually more expensive to photocopy a document than to buy the original. So it cannot be established now that it represents a loss to an author.

8.1 Educational Factors

In universities, teaching staff direct student to photocopy some full text books that will be relevant to their work or research. Universities in Nigeria are thousands of kilometers away from the seats of great publishing industries in Europe, U.S.A. and North East Asia. Publication from overseas take a long time to reach this country. And when they arrive eventually, the cost of the books becomes very high in the light of the low rate of the Naira today in the world market. In case of current journals there have been instances of delay upto one year before they are received in Nigeria,

even though they are on subscription basis.

In the circumstances, photocopying, has proved valuable in satisfying the information needs of the academic community. For most of the new university libraries, the acquisition of backfiles of journals could present serious problems. They are expensive and difficult to get. In such a situation, the library is compelled to rely heavily on photocopying. Under the copyright decree photocopies made under these circumstances fall within the exceptions to copyright protection. Above all, libraries and educational institutions are among the organizations authorised under most copyright systems of world to reproduce documents in the course of their activities without necessarily infringing law, provided the stated conditions are fulfilled. Copyright practices in Nigeria today do not offend against any of the laid down principles regarding photocopying by academic community.

9. Suggested Strategies

Copying devices of various types have become so common and so freely used that the duplication of copyrighted works cannot be effectively controlled. It is unrealistic therefore to think that intellectual property in the form of copyright can be protected in absolute terms most especially in a developing country like ours, where the need for information is great. The problem has even been accentuated by the present unfavourable economic condition.

The system of payment for copying right to the publishers or authors needs the remittance of small amounts. Their collection and dispersal is administratively cumbersome and costly. However, if authors and publishers are prepared as they are in the United Kingdom to give a general licence for the making of copy with only modest reservations, the size of the problem will at once reduce. Authors and publishers have no wish to stand in the way of education or research. They have a right that their work should not be used "unfairly" without compensation. When the use to be made by others of their work is likely to be extensive in terms of length or number of copies they should also have an opportunity to exercise their proprietorship by deciding whether or not such use is likely to affect the commercial success of their own product.

Even if authors are compensated the value of substantial fee might also be completely lost if copies of the original work remain

unsold because of copying. A system which allow the making of single copies of a particular length without the need for prior permission or payment, coupled with a licensing system for making copy of longer extracts and multiple copies, with an upper limit on the length and numbers beyond which copies might not be made without prior permission, might be the answer. However, useful strategies can be suggested to minimise abuse and deliberate illegal exploitation of intellectual property in our society.

There is a need to raise the level of awareness of people about the copyright law. As people become more and more enlightened and informed, they will learn to operate within the confines of the law and illicit copying will diminish, the imperfections of the law notwithstanding. In the absence of any formal registration of copyright works and in a situation where many publishers do not recognize the importance of putting the copyright notice or the copyright symbol on their publications it is difficult to know the copyright owner and it is easy for an infringer of copyright to plead ignorance. It therefore stands reasonable to ask all the sundry to give support to the National copyright information centre set up by the National Library, to disseminate information about copyright to make it perform its work more effectively.

We must also devise ways of monitoring the volume and extent of photocopying permissible in libraries, and the law must include specific and detailed conditions and guidelines on use, number of copies, and price to be charged. The agency created to administer copyright must undertake this monitoring as one of its functions.

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