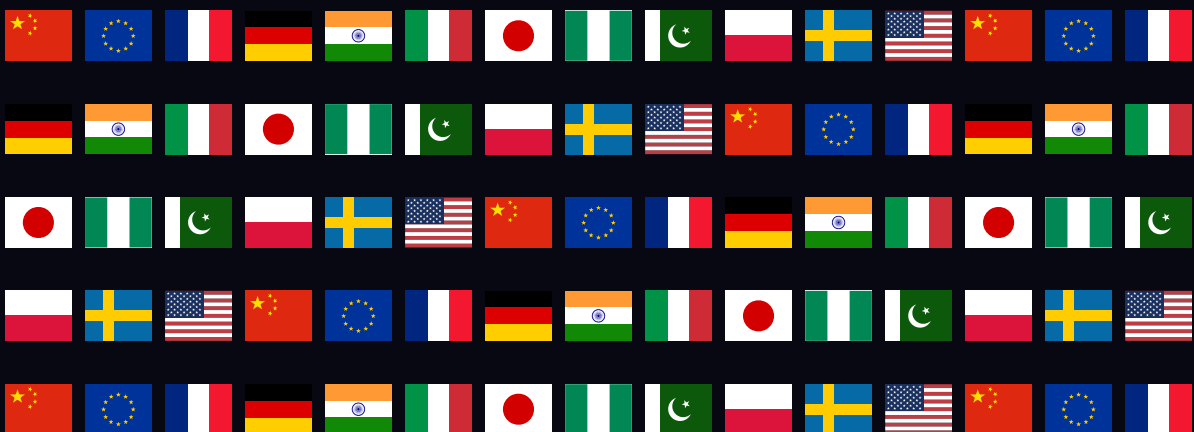


# COPYRIGHT

## Nigeria



# Copyright

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Quick reference guide enabling side-by-side comparison of local insights into copyright issues, including online and digital regulation; extraterritorial application; role of centralised copyright agencies; protectable works and rights; copyright notice, deposit and registration; ownership and transfer; copyright duration, renewal and extension; infringement (liability, remedies, and prevention); relationship to foreign rights; relationship to international copyright conventions; and recent trends.

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## LEGISLATION AND ENFORCEMENT

### Relevant legislation

What is the relevant legislation?

The Copyright Act 2022 (the Act) is the primary legislation regulating, protecting and administering copyright in Nigeria. The Act repeals the erstwhile Copyright Act Cap C28 LFN 2004, which was a re-enactment of the 1988 Copyright Decree enacted by the then military administration. The Copyright Act 2022 responds to the various gaps in the repeal Act and introduces modernity to copyright law in Nigeria

*Law stated - 01 August 2023*

### Enforcement authorities

Who enforces it?

The Nigerian Copyright Commission (the Commission) and copyright officers appointed by the Commission are tasked with the enforcement of the provisions of the Act. The Act may also be enforced by private individuals and entities through the institution of civil action in the Federal High Court.

*Law stated - 01 August 2023*

### Online and digital regulation

Are there any specific provisions of your copyright laws that address the digital exploitation of works? Are there separate statutory provisions that do so?

Yes, there are several innovative provisions of the Act that address and protect the digital exploitation of copyrighted works. The Act introduces a new exclusive right to owners of copyright: the right to make the work available to the public by wire or wireless means so that members of the public can access the work from a place and time independently chosen by them. Furthermore, section 50 of the Act introduces a prohibition against the circumvention of technological protection measures that protect access to copyrighted work. In addition, the Act introduces a notice and take-down regime to allow copyright owners to control the online distribution and access to their copyright.

*Law stated - 01 August 2023*

### Extraterritorial application

Do your copyright laws have extraterritorial application to deal with foreign-owned or foreign-operated websites that infringe copyright?

Generally, the Act is only applicable to foreign-owned copyright and foreign-operated websites if actions done in relation to them or any infringement is considered to occur in Nigeria.

*Law stated - 01 August 2023*

### Agency



## Is there a centralised copyright agency? What does this agency do?

Yes. The Commission, by section 78 of the Act, is tasked with administering copyright in Nigeria. The functions and powers of the Commission are expansive and include the:

- administration, regulation and enforcement of copyright in Nigeria;
- redress of cases of infringement of copyright;
- settlement of copyright disputes, copyright registration, prosecution of crimes and offences under the Act;
- regulation of the activities of collective management societies; and
- conduct of collective management of rights and regulation of the grant of compulsory licences for copyright in Nigeria.

The Commission is also responsible for maintaining a database relating to copyright works and constituting a dispute resolution panel that has the power to resolve disputes arising from the payment of royalties, terms of licences, infringement of copyright and other related matters for which a determination by the Commission is required under the Act.

*Law stated - 01 August 2023*

## SUBJECT MATTER AND SCOPE OF COPYRIGHT

### Protectable works

What types of works may be protected by copyright?

The Act recognises copyright protection for literary works, musical works, artistic works, audiovisual works, sound recordings and broadcasts. The Act also recognises copyright protection in collective works.

*Law stated - 01 August 2023*

### Rights covered

What types of rights are covered by copyright?

Sections 9, 10, 11, 12 and 13 of the Act grant several exclusive economic rights depending on the type of work concerned. The general economic rights that are afforded to all types of works include the right to: reproduce the work; publish the work; communicate the work to the public; distribute the work; broadcast the work; make the work available to the public by wire or wireless means in such a way that members of the public can access the work from a place and at a time independently chosen by them; and make adaptations of the work.

Other exclusive rights granted to specific works are listed below:

- literary and musical works: the exclusive right to perform the work in public, produce, reproduce, perform or publish any translation of the work, and make any audiovisual work or a record in respect of the work;
- artistic works: the exclusive right to include the work in an audiovisual work;
- audiovisual works: the exclusive right to cause the audiovisual work that consists of visual images to be seen in public and of sounds to be heard in public, make any copy of the soundtrack of an audiovisual work, and make a translation of the audiovisual work or any part;

- sound recording: the exclusive right to distribute to the public for commercial purposes: copies of the sound recording, either by way of rental, lease, hire, loan or similar arrangement and distribute to the public for commercial purposes; or copies of the work through sale or other transfer of ownership provided the work has not been subject to distribution authorised by the owner; and
- broadcasts: the exclusive right to the fixation of the broadcast, reproduction of a fixation of the broadcast, adaptation of a fixation of the broadcast, and distribution of a fixation of the broadcast or copies for commercial purposes by way of rental, lease, hire, loan or similar arrangement. With respect to the copyright in a television broadcast, the right also includes the right to control the taking of still photographs from the broadcast.

Additionally, the Act recognises the moral right of authorship and integrity for works protected by copyright in section 14.

*Law stated - 01 August 2023*

## **Excluded works**

### **What may not be protected by copyright?**

Generally, works that do not meet the requirements of originality and fixation are not eligible for copyright under the Act. Furthermore, works intended by the author to be used as an industrial design are not eligible for copyright protection. Additionally, section 3 of the Act lists the following works are ineligible for copyright: ideas, procedures, processes, formats, systems, methods of operation, concepts, principles, discoveries or mere data; official texts of a legislative or administrative nature as well as any official translations thereof, except for their compilations; and official state symbols and insignia, including flags, coat-of-arms, anthems and banknote designs.

*Law stated - 01 August 2023*

## **Fair use and fair dealing**

### **Do the doctrines of 'fair use' or 'fair dealing' exist, and, if so, what are the standards used in determining whether a particular use is fair?**

Yes, section 20 of the Act recognises the doctrine of 'fair dealing' as an exception to the exclusive rights granted to copyright owners. In determining what amounts to fair dealing, the court would be guided by the facts of each case but would consider the following factors:

- the purpose and character of the usage of the copyrighted work;
- the nature of the copyrighted work;
- the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- the effect of the use upon the potential market or value of the copyrighted work.

Based on the above, private use, use for parody, satire, pastiche or caricature, or use for non-commercial research and private study, criticism, review or reporting of current events may be considered fair dealing under the Act.

*Law stated - 01 August 2023*



## Architectural works

### Are architectural works protected by copyright? How?

Yes. The Act defines artistic works to include works of architecture in the form of building models and is, therefore, protected by copyright. Section 10(3) of the Act provides that copyright in a work of architecture shall also include the exclusive right to control the erection of any building that reproduces the whole or a substantial part of the work either in its original form or in any form recognisably derived from the original, but not the right to control the reconstruction in the same style as the original of a building to which the copyright relates.

*Law stated - 01 August 2023*

## Performance rights

### Are performance rights covered by copyright? How?

Yes. Part VIII of the Act recognises protection for performers' rights and affords performers similar exclusive rights to those granted to a copyright holder in an eligible work. Section 63 of the Act grants the exclusive right to control, in relation to their performance, the following Acts:

- fixation of their unfixed performance;
- reproduction of a fixation of their performance, in any manner or form;
- distribution to the public by sale or other transfer of ownership, of a fixation of their performance, or copies, that have not been subject to a distribution authorised by the performer;
- broadcasting or communicating to the public an unfixed performance of such performer, unless the performance used in the broadcast or communication to the public is itself a broadcast performance;
- renting or lending to the public or public lending of a fixation or copies of the fixation of their performance irrespective of the ownership of the copy rented or lent; and
- making available to the public their fixed performance by wire or wireless means in a way that members of the public may access them from a place or at a time individually chosen by them.

The Act also recognises moral rights, the right to be identified as the performer and the right of integrity for performers, which are inalienable during the performer's lifetime. The duration of performer's right is 50 years commencing from the end of the year when the performance was first fixed.

*Law stated - 01 August 2023*

## Neighbouring rights

### Are other 'neighbouring rights' recognised? How?

Yes. The Act recognises the protection of only two neighbouring rights – performers' rights and expressions of folklore. The Act protects the rights of performers in their performances by granting them exclusive economic and moral rights similar to those afforded to copyright holders.

On a related note, Part IX of the Act also protects the expressions of folklore (traditional cultural expressions) from unlawful commercial exploitation. Section 74(1) of the Act provides that expressions of folklore are protected against reproduction, communication to the public by performance, broadcasting, distribution by cable or other means; and

adaptation, translation and other transformation when these expressions are made either for commercial purpose or outside their traditional or customary context. The Act recognises exempted acts that do not require the approval of the Commission including private and domestic use, utilisation for purposes of education, utilisation by way of illustration in an original work of an author, the borrowing of expressions of folklore for creating an original work of the author (provided that the extent of this utilisation is compatible with fair practice) and the incidental utilisation of expressions of folklore. The infringement of rights in the expression of folklore may make the infringer liable for breach of statutory duty and liable for a criminal offence under the Act.

*Law stated - 01 August 2023*

## **Moral rights**

Are moral rights recognised?

Yes. The Act recognises the protection of moral rights in section 14. The Act recognises three moral rights – the right to claim authorship, the right of integrity (the right to object to the distortion, mutilation or other modification of, and any other derogatory action in relation to a work, where this action would be or is prejudicial to the author's honour or reputation) and the right to object to false attribution of authorship. These rights have historically been inalienable and perpetual. However, the Act has altered this position and section 14(3) now provides that moral rights shall not be transmissible during the life of the author and shall subsist for the duration of the copyright in the work.

*Law stated - 01 August 2023*

## **COPYRIGHT FORMALITIES**

### **Notice**

Is there a requirement of copyright notice?

No, the Act does not provide for copyright notice.

*Law stated - 01 August 2023*

What are the consequences for failure to use a copyright notice?

Not applicable.

*Law stated - 01 August 2023*

### **Deposit**

Is there a requirement of copyright deposit?

No. While the deposit of a work is part of the copyright registration process, the Act does not provide for a requirement of copyright deposit.

*Law stated - 01 August 2023*

What are the consequences for failure to make a copyright deposit?

Not applicable.

*Law stated - 01 August 2023*

## Registration

Is there a system for copyright registration, and, if so, how do you apply for a copyright registration?

Yes. Section 87 of the Act provides that the Commission shall establish and maintain a register of works and individuals may apply in the prescribed manner to register an eligible work. However, registration does not confer copyright on a work. Presently, registration of works is done via the Commission's Nigerian Copyright e-Registration System.

*Law stated - 01 August 2023*

Is copyright registration mandatory? If voluntary, what are the benefits of registration?

Copyright registration is not mandatory under the Act. Section 4 of the Act provides that eligibility for copyright does not require any formality and hence registration is voluntary. Further to section 43 of the Act, registration of a work confers the following presumptions in a civil or criminal action:

- that copyright subsists in the work that is the subject matter of an alleged infringement;
- that the name appearing on the work purporting to be the name of the author is the name of such author;
- that the name appearing on the work purporting to be that of the publisher or producer of the work is the name of that publisher or producer;
- where the author is dead, that the work is an original work; and
- that it was published or produced at the place and on the date appearing on the work.

*Law stated - 01 August 2023*

What are the fees to apply for a copyright registration?

The regulatory fees applicable for copyright registration are as follows:

- copyright registration fee: 10,000 naira;
- issuance of certified true copy of certificate: 5,000 naira;
- issuance of certified true copy of form: 5,000 naira; and
- issuance of certified true copy of a work (paper-based only): 5,000–15,000 naira (depending on the number of pages of the literary work).

*Law stated - 01 August 2023*

What are the consequences for failure to register a copyrighted work?

There is no consequence for failing to register a copyrighted work, as copyright registration is voluntary.

*Law stated - 01 August 2023*

## OWNERSHIP AND TRANSFER

### Eligible owners

#### Who is the owner of a copyrighted work?

As a general rule, ownership of copyright vests in the author. The Act defines who an author is different for different types of works. Thus, an author, in the case of:

- an audiovisual work, means the person by whom the arrangements for the making of the audiovisual work were made, unless the parties to the making of the audiovisual work provide otherwise by contract between themselves;
- collective work, means the person responsible for the selection and arrangement of the collection;
- a photographic work, means the person who took the photograph;
- a sound recording, means the person by whom the arrangements for the making of the sound recording were made; and
- a broadcast transmitted from within any country, means the person by whom the arrangements for the making or the transmission from within that country were undertaken.

On a related note, the general rule of author ownership of copyright does not apply to copyright in a collective work. Rather, section 29 of the Act provides that copyright in a collective work shall vest in the person on whose initiative or direction the work was created.

*Law stated - 01 August 2023*

### Employee and contractor work

#### May an employer own a copyrighted work made by an employee?

The general rule is contained in section 28(1) of the Act, and it provides that copyright shall initially vest in the author, except as otherwise provided in an agreement. The Act provides different definitions for who an author is, depending on the type of work, but generally, the author in an employer–employee relationship will be the employee. This position may be modified by an agreement between the employee and employer. Unlike the repealed Copyright Act, the Act does not require the agreement modifying the author ownership to be by a contract in writing. Nevertheless, a written agreement is still advised.

On the other hand, based on section 28(2) of the Act, works created by government employees shall be owned by the employer (ie, the government, ministry, department, agency of government or prescribed international or inter-governmental organisation).

*Law stated - 01 August 2023*

#### May a hiring party own a copyrighted work made by an independent contractor?

The same rules that apply to employer–employee relationships also apply to independent contractor arrangements. Copyright initially vests in the author, except as otherwise provided in an agreement. The Act does not require the agreement modifying the author ownership to be by a contract in writing. On a related note, works created for the government or government agencies by independent contractors shall be owned by the relevant government or

government agency and not the author.

*Law stated - 01 August 2023*

## **Joint and collective ownership**

### **May a copyrighted work be co-owned?**

Yes. The Act recognises joint and co-ownership of copyright. The Act defines work of joint authorship to mean a work produced by the collaboration of two or more authors in which the contributions of the authors are merged into an inseparable or interdependent part of a whole. Similarly, the Act recognises that persons shall be deemed to be co-owners of copyright if they share a joint interest in the whole or any part of a copyright or they have interests in the copyright in various works comprised in a production of two or more works.

*Law stated - 01 August 2023*

## **Transfer of rights**

### **May rights be transferred? If so, what rules and procedures apply?**

Yes. Copyright is deemed to be moveable property under the Act and is transferable by way of assignment, testamentary disposition or the operation of law and the rules guiding the transfer of copyright are provided in section 30 of the Act. The general principles of contract apply to the transfer or assignment of copyright and there is no requirement to register the transfer of copyright with any authority. For there to be an effective assignment of copyright, the agreement must be in writing otherwise, the assignment will not be enforceable. Furthermore, it is possible for the copyright in a future work to be assigned, however, such an assignment will not be effective if it seeks to transfer all the future works of the author.

*Law stated - 01 August 2023*

## **Licensing**

### **May rights be licensed? If so, what rules and procedures apply?**

Yes, the owner of copyright may grant exclusive or non-exclusive licences to third parties and the rules guiding the licence of copyright are provided in section 30 of the Act. The grant of an exclusive licence to do an act, which is controlled by copyright, must be in writing, otherwise the grant shall have no effect. On the other hand, the grant of a non-exclusive licence does not have to be in writing and may be oral or inferred from the conduct of the owner of the copyright. There is no requirement to register licences granted over copyright.

*Law stated - 01 August 2023*

### **Are there compulsory licences? What are they?**

Yes, the Act recognises compulsory licences in sections 31, 32 and 35, which are non-exclusive licences granted by the Commission for various purposes, including to produce and publish translations of literary works and for public interest. A compulsory licence may be granted by the Copyright Commission upon the application of a qualified person and subject to the payment of the prescribed fee (including royalties to the owner of the copyright).

*Law stated - 01 August 2023*

## Are licences administered by performing rights societies? How?

Yes. The Act recognises the existence of collective management organisations (CMOs), which are defined as organisations representing copyright owners, which have principal objectives, including the negotiation and granting of licences and collection and distribution of royalties in respect of copyright works. For a CMO to operate in Nigeria, it must represent a substantial number of owners of copyright in any category of works protected by the Act and must be registered by the Commission. Primarily, CMOs administer the copyright of copyright owners who are their members. CMOs may also issue licences permitting the use of works of owners who are not their members subject to the conditions listed in section 88(19) of the Act. The Act also provides that the Copyright Commission shall not approve another CMO in respect of any category of copyright works if the Commission is satisfied that an existing approved CMO adequately protects the interests of copyright owners in that category of work.

*Law stated - 01 August 2023*

## Termination

### Is there any provision for the termination of transfers of rights?

No, the Act does not provide for the termination of transfer of rights.

*Law stated - 01 August 2023*

## Recordal

### Can documents evidencing transfers and other transactions be recorded with a government agency?

No, the Act does not require the registration of transfers, assignments, licences or other transactions on copyright to be registered with a government agency. However, with the presumption of ownership granted to owners of registered copyright, we expect that the Copyright Commission would establish a procedure for the registration of documents evidencing transfer of copyright in the near future.

*Law stated - 01 August 2023*

## DURATION OF COPYRIGHT

### Protection start date

#### When does copyright protection begin?

Section 18 of the Act provides that copyright protection commences when the work is created or made.

*Law stated - 01 August 2023*

## Duration

### How long does copyright protection last?

The duration of the copyright depends on the type of work and the owner of copyright, as follows:

1. literary, musical or artistic works other than photographs: 70 years after the end of the year in which the author dies;
2. works created by or under the control of a government, an agency of government or a prescribed international body: 50 years after the end of the year in which the work was first made available to the public or 50 years after the work was created, if not made available to the public within that time;
3. audiovisual works and photographs: 50 years after the end of the year in which the work was first made available to the public with the consent of the author or 50 years after the work was created, if not made available to the public within that time;
4. sound recordings: same as (3);
5. broadcasts, 50 years after the end of the year in which the broadcast first took place; and
6. anonymous or pseudonymous literary, musical or artistic works: 70 years after the year in which the work was first made available to the public with the consent of the author or 70 years after the work was created, if not made available to the public within that time, provided that when the author becomes known, the duration of copyright shall be the same with (1) above.

*Law stated - 01 August 2023*

### Does copyright duration depend on when a particular work was created or published?

Yes, copyright duration may depend on the date of creation or publication of certain types of work. Generally, section 18 provides that copyright shall commence when the work is created or made. However, section 19 of the Act provides specific cases, such as works created by or under the control of a government, an agency of government or a prescribed international body, audiovisual works, photographs, sound recordings and anonymous or pseudonymous literary, musical or artistic works, where the duration of copyright may be determined with reference to when the work is first made available to the public.

*Law stated - 01 August 2023*

### Renewal

#### Do terms of copyright have to be renewed? How?

No, the Act does not recognise the renewal of copyright.

*Law stated - 01 August 2023*

### Government extension of protection term

#### Has your jurisdiction extended the term of copyright protection?

Yes. By virtue of the first schedule of the Copyright Act Cap C28 LFN 2004, the duration of copyright in literary, musical or artistic works other than photographs was increased from 25 years under the repealed Copyright Act 1970 No. 61 Cap 161 LFN 1970. The duration of copyright in cinematograph films and photographs, sound recordings and broadcasts was also increased from 25 years to 50 years respectively.

*Law stated - 01 August 2023*

## COPYRIGHT INFRINGEMENT AND REMEDIES

### Infringing acts

#### What constitutes copyright infringement?

Section 36 of the Act provides for a wide range of acts that constitute infringement. Generally, the Act recognises the doing, without the permission of the copyright owner, of any of the exclusive rights held by copyright as constituting copyright infringement. The Act lists the following acts as constituting copyright infringement:

*'(a) does or causes any person to do an act which constitutes a violation of the exclusive rights conferred under the Act;*

*(b) imports or causes to be imported into Nigeria any copy of a work which if it had been made in Nigeria would be an infringing copy under the Act;*

*(c) sells, offers for sale or hire any work in respect of which copyright is infringed under paragraph (a) above;*

*(d) makes or has in his possession, plates, master tapes, machines, equipment or contrivances used for the sole purpose of making infringing copies of the work;*

*(e) permits a place of public entertainment or of business to be used for a public performance of the work, where the performance constitutes an infringement of copyright in the work, unless the person permitting the place to be used was not aware and had no reasonable ground to suspect that the performance constitutes an infringement of the copyright;*

*(f) permits within its premises the reproduction of a copyright work; or*

*(g) performs or causes to be performed for the purposes of trade or business or the promotion of a trade or business, any work in which copyright subsists.'*

For copyright infringement to be established, the alleged copyright owner must be able to prove a causal connection between their work and the alleged infringing work (ie, a high likelihood that the defendant copied their work and substantial taking by the defendant).

*Law stated - 01 August 2023*

### Vicarious and contributory liability

#### Does secondary liability exist for indirect copyright infringement? What actions incur such liability?

Yes. While the Act does not recognise an express distinction between primary and secondary infringement of copyright, the Act recognises indirect copyright infringement. Section 36(a) provides that copyright is infringed by any person who, without the authorisation of the owner of the copyright, does or causes any person to do an act that constitutes a violation of the exclusive rights conferred under the Act. Based on this provision, a principal may be liable for the acts of their agent, similar to the principles of vicarious and contributory liability.

*Law stated - 01 August 2023*



## Available remedies

### What remedies are available against a copyright infringer?

Section 37(2) of the Act provides that, in a civil enforcement action, the party claiming shall be entitled to several reliefs, including damages, injunction, accounts or other remedies as is available in corresponding proceedings in respect of infringement of proprietary rights. Other available remedies include orders for inspection and seizure, forfeiture and destruction.

*Law stated - 01 August 2023*

## Limitation period

### Is there a time limit for seeking remedies?

The Act is silent on a time limit for seeking remedies under the Act. However, there may be limits placed on seeking certain remedies under the limitation laws of a state. Furthermore, section 104(2) provides for the limitation of actions against the Copyright Commission through the requirement of a pre-action notice.

*Law stated - 01 August 2023*

## Monetary damages

### Are monetary damages available for copyright infringement?

Yes. Section 37(2) of the Act recognises the relief of damages for copyright infringement and the courts are willing to grant monetary damages where a plaintiff is able to prove copyright infringement.

*Law stated - 01 August 2023*

## Attorneys' fees and costs

### Can attorneys' fees and costs be claimed in an action for copyright infringement?

Yes. This is a matter of civil procedure that is guided by the applicable civil procedure rules.

*Law stated - 01 August 2023*

## Criminal enforcement

### Are there criminal copyright provisions? What are they?

Yes, there are several criminal copyright provisions contained in the Act. The Act provides for copyright liability with respect to copyright infringement and several offences relating to the administration of copyright in Nigeria. Section 44 provides for criminal infringement of copyright for the following acts:

*(a) makes or causes to be made for sale, hire or for the purposes of trade or business any infringing copy of a work in which copyright subsists;*

*(b) imports or causes to be imported into Nigeria, other than for private or domestic use, a copy of any work*

*which, if it had been made in Nigeria, would be an infringing copy;*

*(c) has in his possession, any plate, master tape, machine, equipment, device or contrivance for the purposes of making any infringing copy of any such work;*

*(d) sells, lets for hire or for the purposes of trade or business, exposes or offers for sale any infringing copy of a work;*

*(e) distributes for the purposes of trade or business any infringing copy of a work;*

*(f) has in his possession other than for his private or domestic use, any infringing copy of a work;*

*(g) has in his possession, sells, lets for hire or distributes for the purposes of trade or business or exposes or offers for sale or hire any copy of a work which if it had been made in Nigeria would be an infringing copy;*

*(h) distributes to the public for commercial purposes, by way of rental, lease, hire, loan or similar arrangement, copies of a work in which copyright subsists;*

*(i) communicates to the public or makes the work available to the public by wire or wireless means in such a way that members of the public are able to access the work from a place and at a time individually chosen by them for commercial purposes*

*(j) does any of the acts specified under section 13(1)(a)-(e) of this Act, in respect of a broadcast;*

*(k) aides or procures any of the offences listed above'*

The offences listed above are punishable with a fine of at least 1,000, 10,000 or 1 million naira or imprisonment for a term of at least three or five years, or both, depending on the offence. Furthermore, section 46 of the Act extends the criminal liability for copyright infringement done by corporate bodies to their principal officers, including directors, managers and secretaries, except if they are able to prove that the offence was committed without their knowledge and that they exercised all due diligence to prevent the commission of the offence.

The Act also provides for other copyright-related offences, including the offence of making or importing into Nigeria a technology or device for the circumvention of a technology protection measure, offences in relation to performer's rights, expressions of folklore and false registration of copyright.

*Law stated - 01 August 2023*

## **Online infringement**

### **Are there any specific liabilities, remedies or defences for online copyright infringement?**

The Act introduces a notice and takedown regime for online copyright infringement, which creates specific liabilities, remedies and defences. Section 54 of the Act provides the owner of copyright in a work the remedy of issuing a notice of infringement to a service provider requesting the takedown of any infringing content on the service provider's system or network. Further to section 55, service providers have a mandatory obligation to expeditiously take down or disable access to infringing content after receiving a notice of infringement. The takedown obligation imposed on service providers creates an obligation on them the service provider may be liable for copyright infringement if they refuse to comply with a notice of infringement. Should a service provider comply with the notice of infringement, they are afforded a defence under section 55(6) which provides that a service provider shall not be liable to any person for any action taken in compliance with the notice and take down procedure and done in good faith. On the other hand, a service provider who fails to comply with a valid notice shall be liable for this failure as a breach of statutory duty and for infringement of copyright to the same extent as the person responsible for placing the infringing content on the service provider's system or network.

**Prevention measures**

How may copyright infringement be prevented (including, for example, customs enforcement measures and any technological notable developments)?

There are various mechanisms included in the Act to prevent copyright infringement. First, the Act provides for custom enforcement measures in section 53. Under this provision, the owner of copyright in a work may give notice in writing, requesting the Copyright Commission to notify the Nigerian Customs Service, during the period specified in the notice, to treat as prohibited goods any work in respect of which the copyright owner's right has been infringed. Further to this, the Comptroller-General of Customs or other customs shall intercept and impound these infringing works.

In addition, the Act has introduced a notice and takedown regime which provides owners of copyright with a further remedy against online infringement. In relation to this, the Act provides for a 'stay down' provision in section 54(3) to ensure that infringing content is not reuploaded on a service provider's platform.

Law stated - 01 August 2023

**RELATIONSHIP TO FOREIGN RIGHTS****International conventions**

Which international copyright conventions does your country belong to?

Nigeria is a party to the following international copyright conventions:

- Berne Convention for Protection of Literary and Artistic Works
- Universal Copyright Convention
- Agreement on Trade-Related Aspects of Intellectual Property Rights
- World Intellectual Property Organization (WIPO) Copyright Treaty
- WIPO Performances and Phonograms Treaty
- Marrakesh Treaty to Facilitate Access to Published Works to Visually Impaired Persons and Persons with Print Disabilities
- Beijing Treaty on Audiovisual Performances

Law stated - 01 August 2023

What obligations are imposed by your country's membership of international copyright conventions?

Nigeria is a party to several international copyright conventions that impose several obligations, including the obligation to protect audiovisual performances under the Beijing Treaty, the obligation to protect performances, phonograms, computer programs and compilations of data or other materials (databases) under the WIPO Treaties and the obligation to facilitate access to copyrighted works for visually impaired persons and persons with print disabilities. With the passing of the Act in 2022, Nigeria has taken significant strides in complying with its obligations under several treaties.

Law stated - 01 August 2023

## UPDATE AND TRENDS












### Key developments of the past year

Are there any emerging trends or hot topics in copyright regulation in your jurisdiction? Has there been any new copyright legislation passed or proposed within the past 12 months?

Yes. The Copyright Act 2022 was only recently signed into law by the President of the Federal Republic of Nigeria in 2023. There are many innovations of the new Act that would soon become hot topics and the subject of copyright regulation, including the introduction of a comprehensive notice and takedown procedure, the creation of a copyright dispute resolution panel and the new benefits for copyright registration.

*Law stated - 01 August 2023*

## Jurisdictions

	<b>China</b>	TianTai Law Firm
	<b>European Union</b>	Witzel Erb Backu & Partner Rechtsanwälte mbB
	<b>France</b>	Dechert LLP
	<b>Germany</b>	Meissner Bolte
	<b>India</b>	Anand and Anand
	<b>Italy</b>	Studio Legale Jacobacci & Associati
	<b>Japan</b>	Anderson Mōri & Tomotsune
	<b>Nigeria</b>	Udo Udoma & Belo-Osagie
	<b>Pakistan</b>	Ali & Associates
	<b>Poland</b>	Kobylanska Lewoszewski Mednis
	<b>Sweden</b>	TIME DANOWSKY Advokatbyrå AB
	<b>USA</b>	Jenner & Block LLP