

Promoting Disc Jockey (DJ) Business within the Bound of Media Ethics and Law in Nigeria

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ABSTRACT

Copyrights infringement is a common feature globally. In the music industry, the case appears to be uncontrollable. Disk Jockeys (DJs) practitioners in Nigeria play music composed and released by the Artists they may have never come in contact with. They do this without permission from the original owners of such music. It is often done without knowing the legal implications. This study explores the legal implications of copyrights infringement for those in the music industry, especially the Nigerian DJs to understand the implications of copyrights infringement.

Keywords: Disc Jockey, business, media, law and Nigeria.

INTRODUCTION

The greatest resource and bedrock of every civilization is its creativity, innovation and invention. All these boost the economy of a nation. Creativity of a nation, Nigeria inclusive, is covered by the copyright Law. The goal of copyright protection is to encourage dissemination of information, provide employment and economic benefit to the owner, and reserve the ownership of the right in it to the creator of the work. But this right has been constantly bastardised and infringed upon by unauthorized acts of reproduction and distribution on a commercial scale, called piracy [1]. Disc Jockey like every other business has law governing the conduct of the artists in the industry. Every Industry be it oil, telecoms, information technology, banking and the host of others are governed by Laws, providing room for an

efficient, stable and properly regulated sector on behalf of the companies that are into the business [2]. However, the Nigeria Copyright law supersedes all other rules and regulations which we sometimes refer to as laws governing the practice of DJ business in Nigeria. Hence, Dj business is controlled by the Copyright Act enforced by the Nigerian Copyright Commission (NCC) who monitors the legality of the actions of the DJ stars in Nigeria. In the light of this the paper examines the Nigerian copyright law in relation to the protection of musical works and sound recording which are the exclusive rights granted to copyright owners and its infringement; types and causes of infringement and then makes some recommendations for the DJ industry to eradicate copyright infringement by Nigerian DJ Stars.

BACKGROUND OF THE STUDY

Copyright law has a long history. The history of copyright law cannot be complete without the mention of the Statute of Anne. This was the first copyright legislation. The Declaration by King Diarmund while passing judgment in respect of the dispute between Finnain and Columcille in the 6th century in Ireland is said to have ushered copyright into the world [3], The issue that led to the declaration was that Finnain accused Columcille of copying his bible without his permission and requested that

Columcille return the copied work to him. Columcille pleaded in defence that the copy made from the original copy did not take anything away from the original copy and hence no wrong could have been done. In making his decision, King Diarmund declared that "to every cow her calf; and to every book its copy" [4]. This declaration set in motion the principles that protect works of creativity and established that creative works should be covered by copyright law. This same principle has provided guidance in the

development of copyright through the ages even to this present day [5]. It is against this background that the

researcher undertakes to explore how the Nigerian DJs can operate in the ways and manners that respect the law.

STATEMENT OF THE PROBLEM

Infringement on copyright laws in Nigeria has become a common feature. Literary works, musical and artistic creations are in many occasions used in public places for entertainment without the approval of the original owner. This prevents the owner of such works from getting maximum financial benefits from the energy, time and creative investments in the production of the work. At present, the government of Nigeria has risen to the challenge by embarking on a drive to catch and prosecute all those involved in copyright infringement including DJs. The problem of this study therefore is to

provide the DJ stars in Nigeria and those willing to come into the profession with information on copyright laws in Nigeria and prepare our DJs to practice within the bound of law.

Objective

The main objective of this paper is to explore how the DJs in Nigeria can protect themselves against copyright laws.

Research Questions

1. How does the copyright law affect the performance of Nigerian DJs in live shows?
2. How can the Nigerian DJ guide against becoming a victim of copyright laws?

JUSTIFICATION FOR THE STUDY

This is a study whose time has come. In an age where the world is fast going digital and permitting online access to all kinds of music, there is the possibility of DJ practitioners getting the music for public show from the internet without the permission of the original author or creator of such music. Even before the age of internet, it was common to see DJs playing the music of other artists without permission of any form from the original owner of such music. This action infringes upon intellectual property laws that protect novelty ideas and the original creation of artists. The use of such material protected by copyright law put a DJ in a legal battle that can result in a heavy fine against the DJ or imprisonment as the case may be. This is why it has become imperative to undertake this study at this time when the implementation of copyright laws in Nigeria is gaining momentum.

Copyright is a bundle of exclusive rights that are granted to the rights holder for a limited period of time to authorize or prohibit the use of his works subject to certain exceptions and limitations. Copyright protection is granted to original expressions of ideas that have been reduced to tangible formats. [6] opined that "Copyright is the moral and

financial rights creators have over their works". The *New International Webster's Comprehensive Dictionary of the English Language* (2010, p.228) defines copyright as "the exclusive statutory right of authors, composers, playwrights, artists, publishers, or distributors to publish and dispose of their works for a limited time".

Clarification of Conceptual and Theoretical Issues

Who is a DJ?

There are several types of **disc jockey**. Radio **DJs** or radio personalities introduce and play music that is broadcast on Amplified Modulation (AM) Frequency Modulation (FM), digital or Internet radio stations. Club **DJs** select and play music in bars, nightclubs or discothèques, or at parties, raves, or even in stadiums (Anon, n.d). What a Disc Jockey (DJ) actually is and what he does is important to us in order to know the limit we can go to avoid encroaching on other artists fields unless one considers it necessary to shift ground. It is all the more necessary if you take into account all the myths and delusions surrounding the craft of the person behind the deck.

DJ is a person who plays recorded music for other people. That's it, no more and no less. We can see from this definition that it doesn't say that DJs necessarily

make music, that they can scratch, or that a true DJ must play vinyl. Actually, most of the myths surrounding the DJ's profession have to do with the fourth word in this definition: "plays." More often than not, people think that a DJ plays music just like a pianist or a violinist does, whereas in reality he or she "simply" plays tracks made by (usually) other people.

Of course, you can play records for your audience in different ways. You can be simply kicking one tune in after the other one has ended. But you can also be adding sound effects, doing smooth transitions between the records so there are no gaps, mixing two or more tracks or, finally, scratching. The end result may be so different from what you hear on the original records that it's appropriate to refer to the turntables as a musical instrument (like in turntablism). Still, the gist of what DJs do remains unchanged: they play tracks (Anon, n.d).

DJs exist in different forms. Talking about types of Disc Jockeys, we have three main types: radio DJs, mobile DJs and club DJs. As you would expect, there are certain specifics to each type.

Radio DJs have to talk a lot. They take listeners' calls, introduce traffic reports, share some celebrity gossip - all this, of course, in addition to playing music on air. (The latter, incidentally, is more characteristic of dedicated radio shows. What you hear on the radio day in and day out comes mostly from the playlists compiled by the station's programme director weeks in advance. Radio DJs don't mess with the records' original sound and play "album," or "radio" versions of tracks that are usually no more than 4 minutes long (Anon, n.d).

A DJ at a wedding, **Mobile DJs**, are the guys who you see spinning at weddings, high school proms or Bar Mitzvahs. They often have their own sound equipment - from mics to speakers to DJ decks - that they bring in with them to the party. The type of events that these DJs have to play makes having a vast collection of music of many genres a must (Anon, n.d)

Mobile DJs do manipulate the sound, but only to a certain extent because of the

variety of music styles that they have to play during a set. As far as the talking goes, it's pretty much limited to occasional announcements and shout outs (Anon, n.d)

Finally, we have the **club DJs**. Club DJs play at night clubs. Surrounded by massive hype, club DJing is arguably the most glamorous category of DJing that exists. Tracks played at a typical club party normally belong to a narrow sub-genre of dance music (like hard house, uplifting trance, nu-disco etc.), and so it's not unusual for a club DJ to "specialize" in a particular genre and position themselves accordingly. Such specialization, incidentally, allows for more freedom in manipulating the tracks played. In clubs, some aspects of such manipulation (like mixing) is a must (Anon, n.d)

Of course, the division of DJs into the three types listed above is not set in stone. A club DJ may have their own radio show, during which they spin dance tracks on air just like they'd do it in a club. And the mobile DJ that you've seen today at your girlfriend's birthday party may also be the resident DJ of one of the local pubs (Anon, n.d).

Development of Copyright Law in Nigeria

Nigeria's copyright history is deeply connected to that of the United Kingdom because of the colonial linkage. Nigeria's copyright history can be traced from two perspectives. The first traces the history to economic and political interests by the United Kingdom which could have been linked to the growing dependence by Nigerians on literary, artistic, musical and other copyright related works originating from the west. [7]. During Britain's colonial rule over Nigeria which lasted for 60 years, a new copyright legislation replacing the Statute of Anne was passed and by virtue of the extension order in council of 1912 of the English Copyright Act of 1911, the English Copyright law became applicable in the Southern Protectorate of Nigeria. The introduction of the English Copyright Law to Nigeria represents the first perspective. [8]. It is without contention however that the

extension of the English Copyright Act of 1911 to Nigeria in 1912 introduced into Nigeria's legal system, a copyright legal framework.

The introduction of the English Copyright Act of 1911, (hereinafter referred to as CA 1911) in Nigeria made very little impact on the ordinary Nigerian's day to day life and this was probably due to cultural differences between the people that originated the CA of 1911 and those to whom it was now being applied in Nigeria [9]. "At the time of the enactment of the CA 1911, writing had become a way of life in the United Kingdom, expressing ideas be they original or non-original in fixed tangible forms had become the general mode of communication and constituted important elements in the 'fixation and originality' requirements for what would qualify as a copyright work" [10].

In Nigeria however, the predominant mode of communication at the time was through verbal and non-written modes. Information was passed down from one generation to the other verbally, that is through word of mouth. Songs were composed and given life not by it's been written down but by it been sung. Many a times, singers pick up their inspiration while performing and songs are delivered extempore [11]. The audience is the only living evidence that the songs exist. Excluding sculptures and other artistic works which were naturally expressed in fixed form, musical and dramatic works were expressed verbally and were rarely expressed as literary works [12].

Furthermore, the Nigerian tradition that favours communal ownership and encourages the spirit of camaraderie and free sharing was at variance with the individualistic and proprietary nature of the modern concepts of copyright. In the eyes of the ordinary person, the laws did not exist and would have been regarded as just another administrative process introduced by the colonial masters. The Act however provided the first legislative framework for Nigeria's administration of a copyright system and provided the basis for further development of Copyright laws in Nigeria. This Act continued in force through independence

in 1960 until 1970 when the first indigenous Copyright Act was promulgated.

The Copyright Act of 1970 was passed as a decree on the 24th day of December in 1970 under the then General Gowon led military government of Nigeria. This was followed by the 1988 Copyright legislation which was passes and became a part of the Nigerian legal system. The Act was promulgated under a military administration and was therefore passed as a decree. The Act has been amended twice, firstly in 1992 and secondly in 1999. In 2004, the laws were re-codified under the laws of the federation of Nigeria.

How Copyright Law works in Nigeria

Copyrights generally relate to questions of who has the right to Copy and control the distribution of original works. Copyrights protects a literary, musical, dramatic, choreographic, pictorial or graphic, audiovisual, or architectural work, or a sound recording, from being reproduced without permission from the copyright owner. [13]. Copyright is a legal system that protects the creative outputs of authors by granting them exclusive rights to control the use of their creations for a limited time, subject to certain limitations, exceptions and statutory licensing arrangements allowing use and exploitation without the author's consent. Copyright is one of the two major heads of the field known as Intellectual Property and Intellectual Property has been defined by the World Intellectual Property Organisation (WIPO) as "creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce". Copyright covers literary, artistic, musical and dramatic works. It also covers under a copyright related right regime, broadcast, sound recording and cinematograph film works [14].

Copyright as an emerging field of law is gradually assuming prominence in Nigeria. It is a term which has not lent itself to a precise definition. Copyright is indeed erroneously perceived as being self-defining, meaning 'the right to copy.' The Copyright Act Cap C28 Laws of the

Federation of Nigeria 2004 (the Act) defines copyright as 'copyright under this Act.' This definition is imprecise, ambiguous and consequently begs the question. It then means that one has to go through the entire gamut of the provisions of the Act to be able to arrive at a precise meaning of the term copyright. However, a painstaking x-ray of the relevant provisions of the Act (ss. 6, 7 and 8) offers the meaning of copyright as the exclusive right to do or authorise the doing of certain acts in relation, to the work in which the right subsists. The court in *Adenuga v Ilesanmi Press and Sons (Nig) Ltd* (1991) held that Copyright is the exclusive right to control, to do or authorise the doing of any of the acts restricted to the copyright owner. Copyright also means a property right in an original work of authorship (such as literary, musical, dramatic choreographic, pictorial, graphic, sculptural architectural works; motion pictures and other audiovisual works and sound recordings) fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt, distribute, perform and display the work [15].

Copyright law protects expression of ideas and not the ideas themselves. It protects creative expression that has been reduced to a tangible form. Copyright is one among the intangible, incorporeal, invisible and abstract proprietary rights granted by law to the author or originator of a tangible corporeal, visible and real object. In the words of [16], copyright, apart from being a proprietary right, is a means of empowerment and economic sustenance of the owner for his or her labour and skills expended in the creation of the work. This is worthy of protection from undue appropriation from those who will want to reap where they did not sow [17].

The creative industries protected by copyright law forms a very important part of Nigerian cultural and economic development. They contribute greatly to national wealth. But these creative arts have been ravaged by acts of piracy. Copyright piracy is the unauthorized

reproduction of copyright works, like films, books, music, phonograms, drawings, photographs, broadcasts and computer softwares. The worst hit industries by the acts of piracy are the film and music industries [18]

From the foregoing, copyright is an intangible personal right, vested in the author or originator of protectable work. It confers exclusive right in relation to an eligible work and has fixed duration. It is a creation of statute. It subsists in original literary, Musical and artistic works, films, sound recordings and broadcast. It is an abstract property incorporated in a physical property, although the ownership of the latter need not necessarily be vested in the holder of the former. It confers to the owners of the said works the exclusive right to copy, reproduce, publish, distribute, and adapt the work in any material form and so on. However, these rights are subject to exceptions as provided under the Act (Second Schedule). It protects both published and unpublished works. In Nigeria, copyright is regulated by the Copyright Act Cap C28 Laws of the Federation of Nigeria (LFN) 2004. Any person who performs the acts restricted to copyright owners without permission or licence is liable to copyright infringement [19]

The right is protected to the extent that laws and norms support it, and it is threatened to the extent that technology makes it easy to copy. Strengthening the law while holding technology constant, makes the right stronger. Proliferating copying technology while holding the law constant, makes the right weaker. In this sense, copyright has always been at war with technology. Therefore, it is important that the law should be Strengthened [20]

Legal Issues Arising from Copyrights Protection

Intellectual property was not always recognized as a single field of law. Historically, the fields of patent, copyright, and trademark developed independently. In the late 20th century, however, legal experts began to recognize that these various fields of law had a

great deal in common because they all pertained to intangible products of the mind [21]. According to the authors, in all branches of intellectual property, the legal system seeks to balance two competing concerns. On the one hand, protection must be strong enough to encourage authors and inventors to invest the necessary effort in innovation. On the other hand, the law must also allow people some freedom to use the intellectual property of others [2]. This is because artistic, technological, and commercial progress always requires building on the work of others. To strike this balance, all branches of intellectual property law confer general rights on creators but also limit those rights with a variety of exceptions [8]. For example, in patent law, a scientist may use someone else's invention to conduct experiments. Similarly, copyright law allows a literary critic to quote passages of a novel in a review [10]. Under trademark law, a company may use a competitor's brand name in a comparative advertisement. In all these ways, intellectual property law tries to be flexible enough to protect the property rights of the creator while also allowing the public to benefit from the protected work. In the United States and other countries, intellectual property has gained increased protection with advances in technology and international trade. However, some countries still tolerate the widespread sale of counterfeit versions of intellectual property products, such as software, movies on videotape, brand-name athletic goods, and even patented medicines [14]. Violations of intellectual property rights cost the owners of the rights billions of dollars each year. These costs stem from lost royalties and sales in markets dominated by counterfeit products. In an attempt to reverse this situation, most nations of the world signed the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) in 1994. Administered by the World Trade Organization (WTO), TRIPS strengthened legal protection for intellectual property around the world. In the last years of the 20th century, the growth of the Internet

and related digital technologies began to pose new problems for intellectual property owners. Unauthorized parties began using trademarks as domain names for Web sites, which made it difficult for consumers to find the trademark owner's official Web site. Copyright owners found that their works, particularly music and movies, could be perfectly duplicated by parties using file-sharing software. New devices were sold that made it possible to defeat copy-control features, such as those designed to prevent duplication of digital video discs (DVDs). Some nations of the world have attempted to respond to these developments by adopting several new laws protecting intellectual property. These laws became controversial. On the one hand, intellectual property owners claimed that the laws failed to provide full protection against unauthorized use of their property. On the other hand, various consumer groups argued that the laws interfered with the public's rights to engage in free speech and may also invade privacy

Exceptions to Copyright Protection

[13] noted that it is vital be aware that there are some exceptions to copyright protection. According to the authors, every general rule there has an exception; the Copyright Act has stipulated circumstances where someone may use or appropriate another person's intellectual property. Listed below according to [7] are some of such circumstances as stipulated by the relevant provisions of the copyright Act LFN 2004:

- Fair dealing for purposes of research, private use, criticism or review or the reporting of current events, subject to the condition that, if the use is public, it shall be accompanied by an acknowledgment of the title of the work and its authorship except where the work is incidentally included in a broadcast;
- The inclusion in a film or a broadcast of an artistic work situated in a place where it can be viewed by the public;
- The reproduction and distribution of copies of any artistic work permanently situated in a place where it can be viewed by the public;

- The incidental inclusion of an artistic work in a film or broadcast;
- The inclusion in a collection of literary or musical work which includes not more than two excerpts from the work, if the collection bears a statement that it is designed for educational use and includes an acknowledgment of the title and authorship of the work;
- The broadcasting of a work if the broadcast is approved by the broadcasting authority as an educational broadcast;
- Any use made of a work in an approved educational institution for the educational purposes of that institution, subject to the condition that, if a reproduction is made for any such purpose it shall be destroyed before the end of the prescribed period, or if there is no prescribed period before the end of the period of twelve months after it was made;
- The making of a sound recording of a literary or musical work, and the reproduction of such a sound recording by the maker or under licence from him, where the copies thereof are intended for retail sale in Nigeria and the work has already been previously recorded under licence from the owner of the relevant part of the copyright whether in Nigeria or abroad, subject to such conditions and to the payment of such compensation as may be prescribed;
- The reading or recitation in public or in a broadcast by any person of any reasonable extract from a published literary work if accompanied by a sufficient acknowledgment provided that such reading or recitation is not for commercial purpose;
- Any use made of a work by or under the direction or control of the Government, or by such public libraries, noncommercial documentation centers and scientific or other institutions as may be prescribed, where the use is in the public interest, no revenue is derived there from and no admission fee is charged for the communication, if any, to the public of the work so used;
- The reproduction of a work by or under the direction or control of a broadcasting authority where the reproduction or any copies thereof are intended exclusively for a lawful broadcast and are destroyed before the end of the period of six months immediately following the making of the reproduction or such longer period as may be agreed between the broadcasting authority and the owner of the relevant part of the copyright in the work.
- The broadcasting of a work already lawfully made accessible to the public and subject (without prejudice to the other provisions of this Schedule) to the condition that the owner of the broadcasting right in the work shall receive a fair compensation determined, in the absence of agreement, by the court;
- News of the day publicly broadcast or publicly communicated by any other means;
- The communication to the public of a work, in a place where no admission fee is charged in respect of the communication, by any club whose aim is not profit making;
- The making of not more than three copies of a book (including a pamphlet, sheet or music, map, chart or plan) by or under the direction of the person in charge of a public library for the use of the library if such a book is not available for sale in Nigeria;
- The reproduction for the purpose of research or private study of an unpublished literary or musical work kept in a library, museum or other institutions to which the public has access;
- Reproduction of published work in braille for the exclusive use of the blind, and sound recordings made by institutions or other establishments approved by the government for the promotion of the welfare of other disabled persons for the exclusive use of such blind or disabled person.

There are several justifications or theories for implementing copyright law. These include economic and cultural norm theories. Under the economic theory, copyright protection aims to promote creativity by rewarding the creative authors while ensuring that the users

have access to the works [19]. Furthermore, copyright prevents free riding by third parties by providing an incentive to create. According to that theory, property rights in creative works are instruments that help in the achievement of economically efficient allocation of information goods [15]. The theory presupposes that authors need incentive to create and the unauthorized use of works will deter authors from creating. Copyright law is thus seen to exist to provide a marketable right for the creators and distributors of copyright works which in turn creates an incentive for production and dissemination of new works. The question as to whether or not copyright protection stimulates production and distribution of knowledge is highly debatable especially in the digital era. There are scholars who believe that copyright protection impedes access to knowledge in developing countries. However, recent studies by the African Copyright and Access to Knowledge indicate that there are several other factors that contribute to the limited access to knowledge in developing countries [9].

The material to be copyrighted must be in a fixed form, anything that is not recorded is not Copyrightable. Copyrights do not protect ideas, procedures, processes, and systems, methods of operation, concepts, principles, or discoveries; thus a dance move cannot be copyrighted (because it is not fixed), though a video of it could be [7].

Works Eligible for Copyright under Nigeria Copyright Act.

Works eligible for Copyright the world over are generally similar but there exist some differences depending on the jurisdiction. Under the Nigerian Copyright Act, six works are particularly mentioned as eligible for copyright. They are as follows: literary, musical and artistic works; cinematograph films, sound recordings and broadcasts. The first three works form the core of copyright while the last three, are by products of the first three. They are the economic and commercial end of the first three and are

referred to as neighboring or related rights.

For a work to be eligible for copyright under the act, sufficient effort must have been expended on the work to give it an original character and it must have been fixed in a definite medium directly perceivable or perceivable with the aid of any device or machine. The fact that the making of a work involved some form of copyright infringement would not alone constitute grounds for ineligibility [10].

Intellectual Property Right/Copyright

The intellectual property right is an umbrella term for various legal entitlements, which attach to certain names, written and recorded media, and inventions. It refers broadly to the creation of the human mind and it is assuming increasing importance in every facet of life today unlike what it used to be before the advent of modern science and technology. There are two branches of intellectual property, namely, copyright and industrial property. Copyright deals primarily with literary, musical, and artistic creations while industrial property right deals with patents, trademarks, and industrial designs [16]. Intellectual property is an intangible form of property, as opposed to personal property or real property, which is concrete and much more easily defined. It is the result of the creation of the brain or the mind, which is then manifested or interpreted in a form that has a physical dimension and possesses exclusive property right [13]. Examples include images, symbols, names, designs, and literary and music works. Intellectual property broadly includes such areas as copyright, trademarks, patents, and industrial designs.

[8] defined intellectual property as "property from original thought protected by law: Original creative work manifested in a tangible form that can be legally protected, example by a patent, trademark or copyright". [6] further noted that intellectual property "is an intangible asset because it has no physical form; it is a category of intangible right protecting commercially valuable works, products and services of the human intellect". The

area of law that deals with and oversees the creation of intellectual property patents, copyrights, trademarks and trade secret laws, the protection of intellectual property rights; and the legal pursuit of those who infringe on another's right to his/her intellectual property is known as Intellectual Property Law.

Historical Development of DJ Business

Disc Jockey business in the world developed in stages. The first stage came around 19th century and spanned over to the 1940s. The second phase was between 1950s to 1960s. This was followed by the third phase which was between 1960s-70s. Then came the DJ of the 80s and the big time of 1990s before the final

explosion of the business from the 2000 till date.

In 1857, a man named Leon Scott invented the phonoautograph, the first device to record sound. He was followed shortly by Thomas Edison's phonographic cylinder which first allowed for playback of recorded sounds. The first audio radio broadcast came in 1906, and the first ever disc-jockey took his place in history in 1909. Ray Newby of California was only 16 at the time, and he played records from a small transmitter while he was a student in college. By 1910, radio broadcasting had become a normal, yet still exciting part of life.



Phonoautograph

The Early Days: 19th Century - 1940's

The term disc jockey was not coined until the 1930's. The World's first DJ dance party was thrown by Jimmy Savile in 1943, who played jazz records for his guests. A few years later, Savile became the first man to use turntables to keep the music in continuous play. The first discoteque opened in Paris, Whiskey A Go-Go, in 1947. Thereafter came the development in the DJ world of 1980s. In the 90s, DJ business had its big time and

from the year 2000 till date, DJ business has continued to develop faster.

The Disco: 1950's - 1960's

In the 1950's, radio Djs would appear in person to host sock hops for kids all over the country. In Kingston, Jamaica, promoters calling themselves DJs would throw giant dance parties in the streets, and Djs would blast their beats from huge PA systems. Discoteques continued to spawn themselves throughout the United States and Europe. New equipment hit the market, such as the mixer, allowing Djs to

have more control over their tunes. In 1969, a dj by the name of Francis Grasso began popularizing beat matching, seamlessly mixing his songs so the dancing never had to stop. But the popularity of Djs in clubs began to slump in the late sixties, and the party was moved to the streets.

The Streets: 1960's - 1970's

The boroughs of New York City became the breeding ground for experimentation. In 1973, KoolHerc made a name for himself as the "father of hip-hop," laying down the jams for huge block-parties, mainly in the Bronx. It was KoolHerc who started mixing two identical records together, at the same time, extending the parts of the records he thought had the best booty-shakin' beats. This technique was called "break."

This was the time when turntablism really grew became a fashionable. No longer were Djs simply picking out songs and playing them. They were now artists and musicians of their own, manipulating songs to create new and exciting beats for people to enjoy for hours. Bands were formed who produced their music electronically from beginning to end, a totally new concept.

Hip-hop and electronic music blended, bringing in the disco era of the 1970's. These new dance clubs were pioneers in that they did away with live acts completely, leaving DJs to do their thing all night. In 1975, a hip-hop DJ called Grand Wizard Theodore accidentally discovered the scratching technique, when a DJ manually moves the record up and down on the needle, warping the sound.

The Warehouse: 1980's

In the early 80's, a club in Chicago called The Warehouse opened up, and the DJs that spun there began to create a whole new sound. It was called house music, after the club, and was disco-inspired and heavily electronic. Resident dj was Frankie Knuckles. House music remains today one of the biggest and brightest genres of electronic dance music. It usually keeps it simple with a 4/4 beat, and heavy use of drum machines and

samplers, and of course, a solid heavy baseline.

In 1985, the Winter Music Conference formed in Ft. Lauderdale, Florida, becoming a mecca of sorts for djs of all kinds and styles to come together and compare techniques. To this day the conference is a week of ongoing parties, culminating in the 2-day Ultra Music Festival held in Miami. It is always a fantastic show.

The Big Time: 1990's - Turn of the Century

By the early 90's, rave was the scene and acid house was the dance music of choice. Acid house is quite like house music, but with a lot of emphasis on repetitive hooks and trance-like sounds. The popularity of the rave scene, especially in Europe, brought djs into celebrity status.

Digital music was expanding. CDs became quite popular in the 90's, which in turn led to the creation of the mp3 format. Internet radio found its start in this decade as well. Electronic music began to bleed into other genres, and it became common place for rock bands to have their own dj member.

In 1998, a programme called Final Scratch was released, which allowed djs to work with mp3 files on their turntables by using special coded vynils. Although it took some time for djs to adapt to the new technology, this jump would become a revolutionising moment for dance music lovers of all kinds.

What it Is: 2000's and Beyond A programme called Serato Scratch Live hit the stage in 2004, and has since become the standard for turntable Djs who want to blend their vinyl collection with their extensive mp3s. In 2006, the programme came out with its own mixer to make the process even smoother. There is even a plug-in for the programme that allows Djs to manipulate music videos the same way they work their records. But you don't even need to work the old turntables anymore if you don't want to. Many djs work their music by mp3 alone, with special electronic tables that are worked and manuevured just like real records, only there isn't anything on them.

Dance music continues to evolve its sound. These days' house music Djs are experimenting with different filters and effects to create jarring, noisy dance beats. Mash-up is hitting the scene hard as well, in which a dj will mix two songs together, the beat from one and the vocal track from another most often, to create a catchy new sound. And now, with DJ Hero hitting shelves of game stores everywhere, it seems the world of Djs will never stop growing.

Nigerian Copyright Commission

The 1999 amendment to the Copyright Act amongst other things established a body responsible for all matters affecting copyright in Nigeria known as the Nigerian Copyright Commission. Although the Nigerian Copyright Act was passed in 1988, it was not until August 1989 that the Nigerian Copyright Council was established by virtue of Decree No.47 of 1988 and in 1996 government approved that it become the Nigerian Copyright Commission. The 1999 Amendment to the Act gave legislative effect to government's earlier approval. The Nigerian Copyright Council then was only saddled with copyright administrative responsibilities but with the amendments to the Act, its mandate was extended to cover enforcement and it became a full-fledged enforcement agency with perpetual succession. The Commission was given certain powers such as powers to grant compulsory licenses, approval of organisations desirous of operating as collecting societies, powers to make regulations subject to the approval of the Minister and powers to appoint copyright inspector inclusive of all police powers. The combined effect of these provisions upgraded the status of the Commission from an administrative agency to an enforcement agency [12].

In addition to the responsibility provided in Section 34 (3)a, that is, to administer all matters affecting copyright in Nigeria, Section 34 (3) b-f of the Act provides for other functions of the Commission as follows: i) monitor and supervise Nigeria's position in relation to international conventions and advise government thereon; ii) advise and regulate conditions

for the inclusion of bilateral and multilateral agreements between Nigeria and any other country; iii) enlighten and inform the public on matters relating to copyright ; iv) maintain an effective databank on authors and their works; v) be responsible for such other matters as relate to copyright in Nigeria as the Minister may from time to time direct [17].

Goal and Effect of Copyright Protection

The modern concept of copyright law postulates that the primary purpose of copyright is to promote the public welfare by the advancement of knowledge, with the specific intent to encourage the production and distribution of new works for the public; it provides incentive for creators by granting them exclusive rights to reproduce and distribute their works. [1]. Copyright protection is not intended to inhibit the free flow of information and ideas. As observed by the United States District Court in *Gero v Seven-up Company*, the goal of copyright protection is to encourage dissemination of ideas by protecting the embodiment or expression of an idea in a creative work and reserving the right in it to the creator of the work. What is being advanced here is the optimization of economic benefit of copyright without prejudicing the owners' proprietary interest in his work. In the words of [5], copyright, apart from being a proprietary right, is a means of employment and economic sustenance of the owner. He states further, that a creator of copyright work expends some labour and skill in his creation. This is worthy or worth of protecting from undue appropriation by those who would like to reap from where they did not sow As rightly noted in *Oladipo Yemitan v Daily Times & Gbenga Odunsanya* (1980), the function of copyright law is to protect from annexation by other people the fruits of another's work, labour, skill or taste [2]

Legal Implications of Copyright Law for DJ's

Over the last 20 years, the law has become quite strict around the

implications of using copyrighted material in creative works, including music and audio. Thanks to the advent of technology, sampling, ripping, and recreating have become easier and more accessible than ever before [13]. At the same time, technology has allowed for copyrighted works to be easily detected on platforms such as Sound cloud and YouTube. For the most part, this means producers making a track or DJ's recording a mix, have to be careful what they use in their works and where they distribute such things [11]. Likewise, producers have to be very careful when using other people's music in their own creations; they have to have the permission to do so [20].

However, in this big pool of copyright stuff, there is a term that industry professionals, as well as other DJ's/Producers, like to throw around: 'fair use'. If you have heard it, must have asked yourself what this means? With regard to producing music, using copyrighted material without permission is illegal in the majority of countries around the world. Nigeria is a case in point where using copyright material in producing music is illegal [1]. This is especially true when monetizing your music, which can have hefty financial and

legal implications. Monetization of music implies producing music in commercial quantity for sale to the public.

While music producers and performers in the entertainment industry are generally regulated by copyright laws in Nigeria, there are some groups in the industry that face more risks than the others when it comes to infringing on copyright laws. For instance. You can plead 'fair use' when distributing produced music for free, but it's still a risk to take and you can still end up in a legal pickle [5].

According to [3], the story is different in the world of DJing. The author states that in the world of DJing, use of copyrighted material is a whole different ball game. This is one of those times where that term 'fair use' comes into play:

- playing **your own music** (or official remixes you made) is absolutely fine, because 99% of the time, you own the rights to your own music, unless you gave a label exclusive rights to it, in which case the person to whom right is given to becomes the exclusive owner of the music until the expiration of the agreement.
- Playing **other people's tracks** requires royalties to be paid to those artists. But such royalty is hardly paid in Nigeria except perhaps to purchase the song [5].



Source: Russell, 2017.

When a DJ plays live at a venue and mixes a collection of tracks, the venue usually pays the licensing fees for the songs that the DJ's play, 99% of the time, to a Performing Rights Organisation (PRO for short) [8]. In the U.S., this is an organisation like ASCAP or BMI, In Australia, it's called APRA AMCOS), and in Nigeria, you a DJ is safe in the hand of the law when you are registered with or affiliated to Copyright Society of Nigeria (COSON) [10].

By implication, DJ's do not have to worry about breaching copyright law by playing other people's tracks, when he/she assure that he/she is covered by the licensing fees paid for the songs by the venue (e.g. hotel) because the venue covers the DJ. But what about if we play a sample of an old track and create a live remix out of it, technically creating a 'new work' using copyrighted material? In many countries (including the U.S.), DJing is considered a '*non-fixed medium of expression*', meaning that because a live set is not directly reproducible and distributable, there is a lot more flexibility in the use of

copyrighted material in this particular circumstance [20]

Under the Copyright Act, a work is fixed in a tangible medium of expression 'when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is 'fixed' . . . if a fixation of the work is being made simultaneously with its transmission [4].

Modern DJ Technology and Copyright

"Once you add something to the vocabulary, you do not want to continue to go back to that same way of doing things, because that is what everybody else is doing now." - *DJ Shadow*. In the era of digital DJ technology, playing hybrid DJ/live sets has become more common - including:

- using formats like Native Instruments' 'Stems' to recreate remixes live
- playing acapellas and samples over tracks,

- using Ableton to combine a variety of songs, samples, and stems to create unique new works live [2].

Since live shows fall are not fixed mediums, this also gives producers who may have some tracks and/or remixes that contain such material, to play them live without worrying about what could happen as a result, and provides a legal alternative to releasing them. This gives DJs and producers a lot of creative freedom and expression while playing live, and people love hearing a flip or another take on someone else's track they all love and know. That this doesn't mean you can play full songs that you have not legitimately purchased, as any final recording released has to still be owned by you to be allowed to play it. This simply means that you can use those works in new ways without worrying about getting a lawsuit [2].

Set Recordings

One important note comes into play in regards to performing live and recording it. While the set itself in the moment is not considered a 'fixed medium of expression', any recordings, video or audio, technically still can breach copyright [6]. You can still get into legal troubles when uploading recorded sets to places that do not allow that kind of material. Sites that are allowed to hold DJ sets include Mixcloud and (maybe) Soundcloud. Platforms like YouTube are still a gray area, and DJs need to make sure they 100% have permission to put other people's works in a mix there, especially when monetizing content. Some uploads manage to get away with it, but it can only be a matter of time.

In summary, the main takeaway is that DJs have a lot more creative freedom in the booth versus in the studio. See what cool things you can do in your DJ set to spice it up, remix a classic, chop some acapellas over your tunes, and do it all live.

Please remember, that if you come across any grey-areas, or need further clarification, this article does not negate the need for legal advice. The law is very complex and everyone's circumstances are different, and the laws differ from

country to country, sometimes slightly, sometimes largely. To throw another curveball, the law is constantly changing, and some of the things mentioned in this article can change over time. If you are confused or come across a serious issue, the best thing to do is to find a lawyer in your country. Ask them all the tough questions and you will get legal clarification.

COSON Signs Copyright Agreement with Disc Jockey across Nigeria

On November 1, 2016, the Copyright Society of Nigeria (COSON) signed a landmark copyright agreement with Disc Jockeys across Nigeria. The leadership of Disc Jockeys Association of Nigeria, (DJAN) negotiated the deal and could be argued to have obtained the most favorable deal on behalf of their members. The deal also went a long way to addressing the issues surrounding DJ's respect of intellectual property. DJ Jimmy Jatt and many other DJAN leaders get credit for working tirelessly to ensure the signing of the agreement [4].

As a result of the agreement every member of DJAN, must obtain a copyright license from COSON with immediate effect and during public performances of musical works or sound recordings, members have a copy of the copyright license issued by COSON and shall present such license for sighting at the request of any accredited COSON agent or representative.

By the terms of the agreement, protection is offered to all licensed Disc Jockeys from the infringement of the relevant copyright in musical works and sound recordings in a public performance. The agreement does not however protect corporate bodies, owners of event venues, public or commercial facility owners, whose venues or facilities are associated with the public performance.

The agreement suggests that every licensed Disc Jockey shall not engage in the public performance of musical works or sound recordings in a venue or facility not licensed for the public performance of music or in support of a brand or corporate organization which has not obtained the appropriate copyright

license for the public performance of musical works and sound recordings. We need to also acknowledge the contributions of TadeAdeyemi (DJ cool) for his inputs in making the signing of

THEORETICAL FRAMEWORK

This paper is based on economic theory and natural rights theory. Under the economic theory, copyright protection aims to promote creativity by rewarding the creative authors while ensuring that the users have access to the works. Copyright prevents free riding by third parties by providing an incentive to create. According to the theory, property rights in creative works are instruments that help in the achievement of economically efficient allocation of information goods [7]. The theory presupposes that authors need incentive to create and the unauthorised use of works will deter authors from creating. Copyright law is thus seen to exist to provide a marketable right for the creators and distributors of copyright works which in turn creates an incentive for production and dissemination of new works [9]. The question as to whether or not copyright protection stimulates production and distribution of knowledge is highly debatable especially in the digital era. There are scholars who believe that copyright protection impedes access to knowledge in developing countries. However, recent studies by the African Copyright and Access to Knowledge indicate that there are several other factors that contribute to the limited access to knowledge in developing countries. [18].

The natural rights theory on the other hand centre on the person of the author who is thought to deserve a just reward for his/her intellectual labour to have a natural right in his creations; whoever invests in time and effort in the production of goods and services is entitled to the exclusive rights to control or prohibit their use. The author is protected as an author in his status as a creator because a bond unites him to the object of creation [5]

Paul Goldstein addressing the issue of philosophical foundations of copyright

this agreement possible. It is expected that DJAN members nationwide will not disappoint COSON in the protection agreement.

law noted the following: On one side are lawyers who assert that copyright is rooted in natural justice, entitling the authors to every last penny that other people will pay to obtain copies for their works. These are the copyright optimists; they view copyright's cup of entitlement as always half full, only waiting to be filled still further. On the other side of the debate are copyright pessimists, who see copyright's cup as half empty; they accept that copyright owners should get some measure of control over copies as an incentive to produce creative works, but they would like copyright to extend only as far as necessary to give incentive, and treat anything more as an encroachment on the general freedom of everyone to write and say as they please [5]

Copyright protection is seen as an incentive to the authors to create works that may in turn be used to spur economic growth. Copyright creates a system whereby the copyright owner is granted the exclusive right to use or exploit his work [8].

Copyright Infringements

An important part of the legislation is the infringement provisions of the Act which provide for both civil and criminal actions which may be instituted simultaneously. The Act specifically states amongst other things when prescribing copyright infringement that

Copyright is infringed by any person who without the license or authorisation of the owner of the copyright (a) does or causes any other person to do an act, the doing of which is controlled by copyright; (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 this section of this Act;...(Id. at. Section 15 (1) as cited in Ola, 2014, p.14).

Infringements of copyrights would include things like, copying or

reproducing an original work without permission; creating of a new work directly derived from the original work, for example by translating to another language or performing or displaying the work in public [16]. In Nigeria, copyright laws are commonly infringed on. This is because of cultural factors that permit a Nigerian to share with other Nigerians on the basis of social connections and living together. Hence, piracy is pervasive in Nigeria because of the fact that many people are not even aware that they are infringing copyrights. Wide spread awareness must therefore be created as an integral part of evolving the law [14].

There is also a tendency for Copyright holders in Nigeria to sleep on their rights rather than enforce copyrights through litigation; which has further impact on how much local precedent we have for Copyrights cases [2]. In the event of an infringement, the copyright owner, assignee or exclusive licensee may bring an action before the Federal High Court and may claim for damages, injunctions and/or accounts. Ignorance is a defense to copyright infringement, but it must be proved that at the time of the infringement the defendant was actually unaware and had no reasonable grounds to suspect that copyright subsisted in the work. In such situations, plaintiffs are not entitled to damages but rather account for profits in respect of the infringement [3]. The Act criminalizes copyright infringement with Section 20 of the Act providing conviction or fine and conviction and fine punishment to those found guilty. It provides that where a person is found guilty of making or causing to be made for sale, hire or other commercial purposes any infringing copy, or imports or causes to be imported into Nigeria a copy of any work which if it had been made in Nigeria would be an

infringing copy, or makes, causes to be made or has in his possession, any plate, master tape, machine, equipment or contrivances, for the purpose of making any infringing copy of any such work, such a person shall be liable to a fine of an amount not exceeding N1,000 for every infringing copy or a term of imprisonment not exceeding five years, or to both such fine and imprisonment. The criminal provisions with stiff penalties have been tested in the courts and have in many ways served as deterrence to further copyright infringements [11].

Court Convictions: In the cases of **NCC V Godwin Kadiri**, **NCC V Michael Paul** and **NCC V Emordi Henry Chukwuma** all on charges infringing broadcast rights, the defendants were all found guilty. In the case of **NCC V Godwin Kadiri**, which held in the Benin judicial division, the defendant was sentenced to serve a 6 ½ years jail term with no option or fine and is being made to serve two jail terms. In **NCC V Emordi Henry Chukwuma** and **NCC V Micheal Paul** which were heard in the Abuja and Lafia jurisdictions of Nigeria, they were both sentenced upon conviction to pay fines of N10, 000 and 5,100 respectively. Convictions have been made with regards to infringements of other works. In **NCC V Nwoke Isreal (NCC V NWOKE ISREAL, FHC/L/159C/2013, (Federal High Court, Lagos 6/05/2013))**, the Lagos judicial division of the Federal High Court, convicted and sentenced the defendant to 1 year imprisonment without the option of fine for infringing upon literary rights. In **NCC V. Anoke Celestine** on charges bordering on infringements of sound recording and cinematograph film rights, the Benin judicial division of the federal high court sentenced the defendant to 10 months imprisonment.

CONCLUSION

The business of Djing belongs to the profession of artists. Like every other production of artists, Djing is not left out by the provisions of copyright laws. Those in the profession are safe from the law of copyright as provided by the Copyright Act of Nigeria. Infringement on

the law is punishable in Nigeria. Hence, there is need for all practicing DJs in Nigeria to register with corporate bodies that could protect them from any offence of copyright infringement. DJAN members are advised to be law abiding as

this will give us the respect and dignity

that the profession thrives on.

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