

INTELLECTUAL PROPERTY RIGHT OF ACADEMIC LIBRARY: CHALLENGES AND PROSPECTS

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Article Info

Keywords: Academic Library, Copyright, Intellectual Property, Rights, Law

DOI

10.5281/zenodo.15576174

Abstract

Over the course of several centuries, the concepts of copyright and other forms of intellectual property rights (IPR) have undergone significant evolution and expansion. Initially established to afford publishers control over the reproduction and dissemination of their works, these rights have since broadened to encompass protections for a diverse array of creators, including writers, artists, photographers, filmmakers, software developers, and numerous others. In recent years, the phrase "access to information" has gained prominence. Currently, it is essential for various sectors such as business, education, and research, influencing literacy rates, economic development, and overall quality of life. Information repositories, including archives, libraries and museums, have been instrumental in fostering a democratic society by facilitating access to a wide spectrum of knowledge, ideas, opinions and cultural, scientific and educational resources for all community members. Libraries, through various legal mechanisms such as licensing agreements, exceptions to national copyright legislation, legal deposits and the public domain, provide essential access to this wealth of information.

Introduction

An academic library is an integral component of a higher education institution and is designed to complement the curriculum and research requirements of faculty and students in a complementary manner. These libraries are established within higher education settings to facilitate learning, teaching, and research activities. Furthermore, they play a crucial role in shaping curricula across various departments within their affiliated institutions. In Nigeria, a substantial number of universities are equipped with academic libraries. As noted by Lawal (2007), the country currently hosts 89 universities and numerous polytechnics and colleges, all of which are associated with academic libraries. For an academic library to operate effectively, it is essential to protect its intellectual property rights. Copyright, a form of intellectual property, grants owners the authority to protect their creations. It protects "tangible" expressions of original works, including music, visual arts, and architectural designs. Reddy and

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Kumari (2012) asserted that intellectual property encompasses any mental creation used in commerce, such as inventions, industrial designs, literary and artistic works, and symbols. The primary categories of intellectual property include patents, trademarks, copyrights, and trade secrets (McJohn 2009).

Trademark

The Paris Convention established provisions for protecting trademarks across various nations. It safeguards state emblems, marks, and other identifiers, while the TRIPS agreement introduces further stipulations. Under the TRIPS framework, trademarks can include specific terms, such as names, numbers, color combinations, and various combinations of these elements. A trademark is a visible marker that distinguishes the goods or services provided by an individual or organization. This marker can take the form of a word, letter, number, name, sign, signature, symbol, design, or phrase, which is commonly referred to as a "brand name." Its primary application is in the commercial sector. A unique trademark signifies the nature and quality of a product or service and assists consumers in identifying and selecting goods and services. The initial registration period can last up to 10 years, after which it is subject to renewal at regular intervals. This distinctive trademark plays a crucial role in helping consumers recognize and purchase products or services that meet their needs.



Fig 1. Key Component intellectual property

Patent

Intellectual property in the form of a patent grants the holder the authority to prevent others from developing, utilizing, or commercializing their innovations. Patent law safeguards any novel and advantageous alterations to existing techniques, machinery, manufacturing processes, or compositions of matter (Kiklis, 2014). The Patents

Act of 1970 provides the patentee with a fully statutory right, which is applicable only to innovations that are both novel and beneficial. A patent is an exclusive right conferred by a country that prohibits others from using, producing, or selling the invention for a specified duration. Once granted, a patent remains valid for 20 years from the date of application, contingent upon payment of the annual renewal fee. This legislation aims to foster innovation by ensuring the protection and proper use of patents. Furthermore, the patent owner has the option of transferring ownership by selling the rights to the invention to another party. Upon the expiration of a patent, the innovation enters the public domain and is no longer protected. Patent rights are territorial; thus, a patent granted in one country cannot be enforced in another jurisdiction.

Trade Secrets in intellectual property

In the realm of intellectual property rights, trade secrets are classified as a form of intellectual property. These encompass proprietary information or sensitive data that a company may choose to license or sell. According to McJohn (2009), a trade secret is knowledge that is "not generally known to, and not easily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use." This category includes various elements, such as protocols, methodologies, techniques, and designs. The proprietor of a trade secret implements measures to safeguard its confidentiality. Trade secrets include any information that can be used in business operations and holds sufficient value to confer a real or potential competitive edge. Elements such as processes, methods, techniques, strategies, designs, formulas, and patterns that are not widely recognized by other entities may be deemed unlawful if disclosed. The legal frameworks governing trade secrets vary across different jurisdictions. They are also referred to as industrial, commercial, or manufacturing secrets.

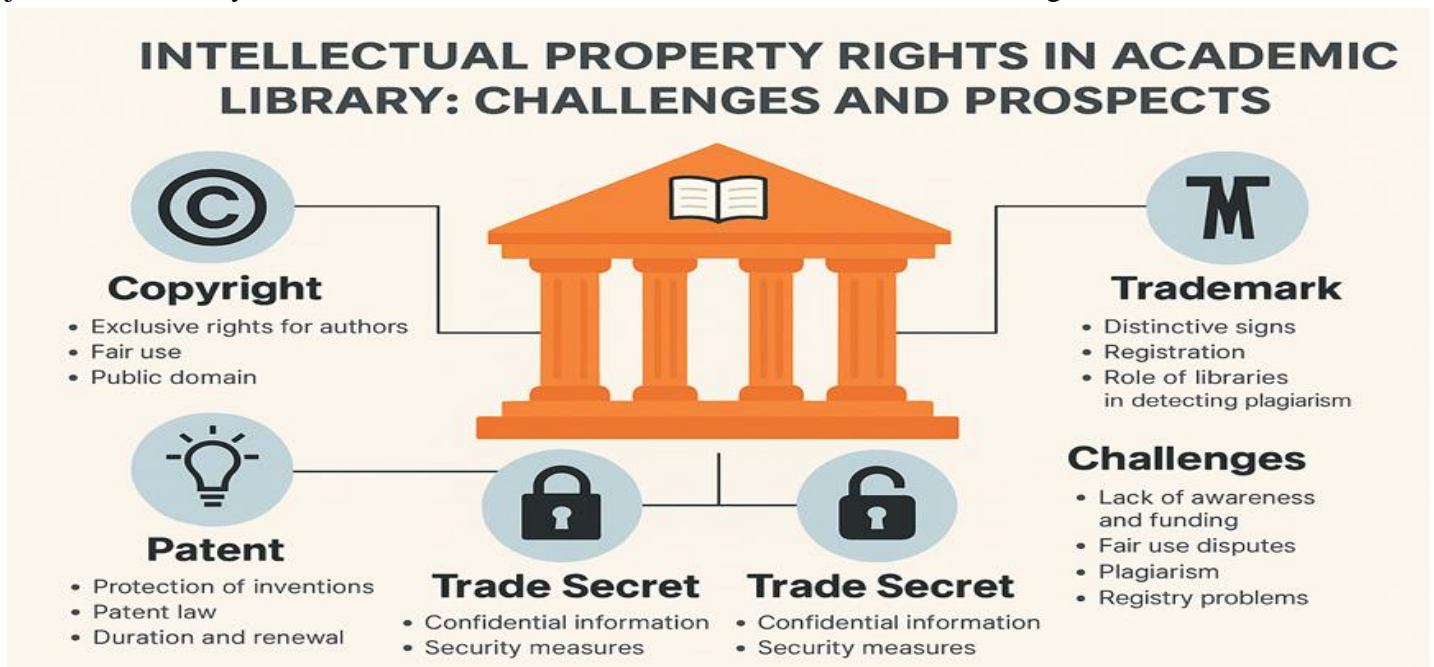


Fig 2: Academic library and Intellectual Property and the Challenge

Copyrights Law

Copyrights grant exclusive legal rights to creators of intellectual works for a specified duration. This includes literary works (any written content), artistic creations (such as drawings, maps, and plans), musical compositions, films, sound recordings, and computer programs intended for sale or other uses. The protection of copyright is initiated through the effort, skill, and judgment of the author, artist, or creator involved in producing an original work (Balganesh, 2013). The primary objectives of copyright are threefold: to reward creators for their original contributions, to promote the availability of these works to the public, and to enable public access and use of

copyrighted materials under certain conditions. India possesses a stringent and comprehensive copyright framework, as outlined in the 1957 Indian Copyright Act, which has undergone revisions in 1984, 1992, 1994, and 1999. The revised Act the origins of copyright in India can be traced to the Indian Copyright Act of 1847, enacted during the East India Company's rule. Furthermore, the 1914 legislation also played a significant role in shaping copyright law in the country.

Reasons for Intellectual Property Rights in Academic Libraries

The primary objectives of intellectual property law are to ensure that individuals receive compensation for their original creations, to offer legal protection and to foster innovation in research. In the absence of intellectual property rights (IPR), creators such as artists and inventors lack financial remuneration for their investments in their works and are unable to derive economic benefits from the novel ideas that emerge from their endeavors. According to Amadi-Shodeinde (2013), intellectual property rights represent a legal framework developed to prevent the unjust appropriation and exploitation of human creativity and inventiveness. Arinze-Umobi and Umobi (2011) characterize intellectual property as a product of the intellect that possesses economic value, as it signifies ownership and grants exclusive rights to create, distribute, or sell a particular invention or idea. Intellectual property can be treated similarly to other forms of property in that it can be owned, sold, or transferred. In the context of the developing world, libraries, especially academic ones, are at a critical juncture. They face the dilemma of whether to endorse IP protection, which would enable authors to monetize their work, or to support the open-access movement, which advocates for unrestricted access to information without profit considerations. To protect the interests of information custodians, Indian institutions must choose a decisive path. Should they opt for the first approach, the contributor stands to gain financially, even if the consumer incurs a cost? Conversely, if they select the second approach, neither the contributor nor the consumer would need to engage in any profit-driven transactions.

Copy rights and libraries

Intellectual property rights are of significant importance, as are their proper implementation. Various forms of intellectual property are integrated into our everyday activities. For instance, libraries frequently produce numerous photocopies, necessitating that their personnel remain vigilant regarding potential copyright infringements. As noted by Goldstern in Nwabachili (2017), copyright refers to a legal concept within intellectual property law that governs the creation and utilization of creative works, which include written texts, audiovisual materials, musical compositions, visual art, architectural designs, and software programs. Instances of copyright infringement are deemed unlawful. Such violations can manifest in multiple forms; the initial type pertains to the infringement of copyright or other rights safeguarded by this legislation, while subsequent offenses incur more severe penalties. In addition, a third category involves the deliberate use of unlawfully copied software.

The Copyright Act of 2004, CAP C.28, which constitutes the legal foundation for copyright law in Nigeria, defines the criteria for protection. With certain statutory exceptions, Section 5 of this Act confers upon copyright holders the exclusive authority to regulate specific actions concerning the entirety or a significant portion of their work, whether in its original format or in a form that is distinctly different. Story (2009) asserted that copyright serves as a legal structure that governs the creation, ownership, control, and public use of products resulting from particular creative activities, such as writing books. Libraries play an essential role in reconciling the rights of creators with those of users by disseminating accurate information to appropriate individuals at the right time, all while adhering to copyright laws and the stipulations set forth by authors. In contemporary discourse, copyright issues have emerged as a significant concern for both academic communicators and library professionals. Any material incorporated into a library's digital collections and made accessible for broader online use must clearly

indicate copyright status and ensure compliance with the rights of authors and copyright holders. To address these specific challenges, libraries can implement various strategies to manage copyright effectively.

Fair Use

Fair use allows individuals to utilize copyrighted materials without obtaining permission from the copyright holder, provided that the usage falls within certain categories, such as criticism, commentary, news reporting, education, scholarship, or research. This concept is particularly relevant when resources are used for noncommercial purposes, including personal study and academic endeavors. The examples provided are not exhaustive and do not guarantee that a specific use will always qualify as fair use.



Fig 3. Documents, Licenses, and Roles of the library

Documents in the Public Domain

Documents classified as being in the public domain are accessible for broader utilization, allowing for their inclusion in digital collections without concern for copyright infringement. Such materials can be incorporated into digital library collections, subject to certain conditions. While the term "public domain" is commonly referenced in discussions on copyright, it lacks a precise definition within copyright legislation. This article outlines the circumstances under which content may be deemed to reside in the public domain according to copyright law.

Licensed resources

There are certain documents where the copyright holder will clearly state what can be done and what cannot. Depending on their licenses, the library can consider adding such documents to their digital library

Role of libraries in detecting plagiarism

Plagiarism refers to the act of presenting another individual's words, concepts, or creative expressions as if they originated from oneself. One of the key roles of a librarian is to combat plagiarism. Librarians should prioritize

educating students and researchers on the nature of plagiarism and strategies for its prevention. Additionally, libraries use plagiarism detection software to assist in this endeavor. It is mandated that any research paper, dissertation, or thesis submitted by students must have a plagiarism rate of less than ten percent (10%) before its final evaluation.

Challenges in intellectual property rights and their way forward

The following are the challenges facing intellectual property rights in academic libraries:

The protection of intellectual property rights has not been effective because of many problems, which include the following.

1. Ignorance. Many people, including some librarians are not even aware of the intellectual property rights and their legal implications. One must understand something before talking about protecting it, and as such, abuses continue to thrive.
2. Laxity on the part of government. The Nigerian government has not been able to train immigration, customs, police, and court registrars for the duty to fight intellectual property rights abuses.
3. Fair deal granted to libraries and other non-profit organizations. Many of these institutions hide under the cover of “fair deal” and begin to infringe upon the rights of the creators of intellectual property. Inadequate funding
4. Registry problems, backlogs, delays in trademark and patent registration, a shortage of expertise in writing patent claims, the price of protection, SMEs’ lack of understanding of their IP rights, and IP disputes.
5. Regarding issues with intellectual property rights, plagiarism is a significant concern. The act of appropriating another person’s intellectual property and using it as one’s own while failing to give due credit to the original author or creator is known as plagiarism.
6. Even when it is inadvertent, intellectual property infringement remains illegal in the eyes of the law. The most typical instances of intellectual property issues include the unauthorized use of another person’s words, pictures, or brands.

The following recommendations are made in the effort to eradicate or seriously reduce abuses: • Nigerian academic libraries should help create and sustain national awareness of this important issue through radio and television programmes and through workshops. They should constantly organize seminars, talk shops and other fora to forestall abuses.

- Academic libraries, as the pillars of academic and research centers should help influence the government and other agencies to increase their moral, material and funding capacity for the Nigerian Copyright Commission. Adequate funding is necessary to enable the Nigerian Copyright Commission to perform its duties and to be more effective in checking out copyright abusers.
- Academic libraries should be more responsive to their roles in respect of controlling abuses of intellectual property rights in and around them. They could do this by displaying handbills and other write-ups in strategic places to prevent abuses and plagiarism among staff and students.

Conclusion

Copyright is a category of intellectual property that grants the proprietor the authority to protect their creations. It secures tangible expressions of original works, including visual art, musical scores, and architectural designs. The Act serves as a valuable resource for both readers and library staff, providing legal safeguards for creative endeavors and encouraging the development of new works. Furthermore, it stimulates economic advancement by fostering the emergence of new industries and job opportunities, thereby enhancing the growth of the national economy. It is imperative for scholars to unite in order to confront and manage issues related to intellectual property infringement within the academic environment.

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