



CLIENT UPDATE

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NIGERIAN E-COPYRIGHT REGISTRATION SYSTEM (NeCRS)

In line with its powers in section 34 of the Nigerian Copyright Act Cap C28, which mandates the Nigerian Copyrights Commission (NCC) to maintain an effective data bank on authors and their works, The NCC on the 25th of July, 2014 launched its electronic copyright registration system.

This system will improve on the existing copyright notification scheme, to enable authors of copyright works and those who have acquired rights in these works to register their interests.

Furthermore it will facilitate the documentation of Copyright works of all qualified persons from any part of the world; Afford the protection for copyright works of Nigerian authors in all countries who are signatory to international copyright conventions to which Nigeria is signatory and create the possibility of conducting searches of the NeCRS database for information relating to registered copyright works or authors.

The portal has a flexible payment platform for services, therefore ensuring efficient and timely service delivery.

The commencement date of the NeCRS portal was the 1st of August, 2014, from that day applications for registration of copyright works maybe submitted via the internet by logging on to the registration portal – www.eregistration.copyright.gov.ng or the regular website of the commission- www.copyright.gov.ng from where the e-registration portal may be accessed.

The guidelines on procedure for application and the prescribed fees are on the NeCRS website and may also be gotten from the regulatory department of the NCC at its head office at Federal Secretariat Complex, Phase I, Annex II, Ground Floor, Shehu Shagari Way, Maitama District, P.M>B 406 Garki Abuja (FCT), Nigeria. Tel: +2347017610750, NeCRS desk telephone number is 08183413611.

This initiative has caused Nigeria to be part of countries such as the United States of America who engage in best practice for the protection of Intellectual property rights, in line with the Berne Convention.

The United States Copyright Office and the Library of Congress administer the record for the registration of copyright works, however copyright protection has no formality, and as such there is no legal requirement/compulsion to register, the NCC is merely creating a database. Such registration makes it easier in a dispute to ascertain the possible date of

creation of the work and the original author of a copyright work, thus making the enforcement of one's right more feasible, as a certificate of registration and other documents relating to an application for registration may be used in court as evidence of ownership or proof of the original content of the work.

In most Copyright regime across the world formalities as regards imported works are frowned upon, in line with Article 5 (2) of the Berne Convention. Formality refers to three things, Notice, Registration and Deposit. Notice is the symbol © placed by authors on their copyrighted works; Registration refers to a formal registration procedure with a Copyright Office; and Deposit is the act of sending a sample of the work to a place where it is stored, for example the US library of congress archives.

In the US however default in depositing a published work (not applicable to unpublished works) within three months of publication results in a fine. While Registration is required before filing a copyright infringement lawsuit. Note that it is not required to hold a valid copyright, it is only required to bring that copyright into court. See *Washingtonian Publ'g Co. v. Pearson*, 306 U.S. 30 (1939); 17 U.S.C. § 411(a). It isn't required however to bring a foreign copyrighted work into court.

The US 1976 Copyright Act contains other incentives for the copyright owner to apply for registration:

1. **Presumption of Validity and Ownership.** If registered within 5 years after the first publication, the Copyright Registration will "constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate." 17 U.S.C. § 410(c)
2. **Statutory Damages & Attorney's Fees.** In an infringement lawsuit, attorney's fees and statutory damages will only be awarded if the copyright owner promptly filed the appropriate registration. Statutory damages may be awarded for each work infringed, even without a showing of actual damages or lost profits. 17 U.S.C. §§ 410, 412, 504(c).

The writer is of the opinion that statutory damages be included in the Nigerian Copyright Act as relates to civil action for copyright infringement. In the Nigerian Copyright regime there is no actual provision that states that it is only when a copyright work is registered that it can be enforced in court, however prompt registration is advisable as it helps increase one's chances of victory in court, especially as regards proof and remedies for infringement.

One of the motivating factors for the Nigerian Copyright Commission in commencing this online notification/registration system was the need to provide authors of copyright works with a flexible platform upon which they could submit their applications. This platform also showcases on a global level the depth of Nigeria's creative content, embedded in our literary works, musical works, sound recordings, artistic works, films and recorded broadcasts.

The processing period all things being equal is 10 working days. However a late payment, or late response to query, may elongate the processing period. It should be noted that queried applications that are not attended to within sixty days will automatically be cancelled.

To conduct a search on the platform, either the name of the author, the name of the owner of the copyright work, the title of the work or the registration number may be required.

It must be noted also that the certificate issued upon completion of the notification/ registration process is prima facie evidence of the facts collated in the database, meaning it does not confer copyright on a work, it is simply evidence of a rebuttable presumption that the registered author originally produced the work, or copy right owner has actual rights to the work in question.

It is a welcomed platform and the writer believes it will take Nigerian Intellectual Property a step further in the right direction.

Client update

The GOS Newsletter has been prepared for clients and professional colleagues, it is not meant to substitute legal advice. Please let us know if you would like to discuss any issue in more detail;Tel:08023198641E-mail:
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