



Country Report Ghana

Annual report to the IFLA CLM committee

Helsinki Finland 2012

Copyright

Copyright in Ghana is under two fully fledged independent offices, both under the Ministry of Justice: The Copyright Office and Copy Ghana.

Copyright protection started in 1911 with the U.K. Copyright Act of 1911. Copyright was then the responsibility of the Ministry responsible for information. Ministerial responsibility for Copyright Matters changed to the National Commission on Culture when the National Commission on Culture Law 1990, PNDC Law 238 placed the Copyright Office under the Commission. In 2005, ministerial responsibility for copyright and related matters shifted to the Ministry of Justice.

The Copyright Law provides protection to authors for the list of protected works for a period of the life of the author and 70 years after his death. The Law also provides for the protection of sound recordings and folklore and the establishment of a system of collective administration of authors rights.

Revision/changes in existing law or regulations

A copyright (Amendment) Act 788 was passed in 2009 to amend the Copyright Act 690 which was passed in Ghana in 2005 to replace the Copyright Law PNDC Law 110 of 1985. The amendment was passed for Ghana to be in compliance with World Trade Organisation (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs).

Section 49 of Act 690 and Articles 20-37 (Operations of Collective Management Societies) have removed the monopoly of the Copyright Society of Ghana (COSGA) and led to the establishment of three (3) new Copyright Management Organisations (CMOs) in Ghana namely:

1. Ghana Music Rights Organization (GHAMRO)
2. Reprographic Rights Organization of Ghana (CopyGhana)
- 3 Audio-visual Rights Society of Ghana (ARSOG)

The amendment revised the provision on the security devise and provided an arrangement for the collection of Royalties and for Related matters. A Copyright Regulations (LI 1962) was passed to give legal backing to the Law in 2010.

New legislation

No new legislation

Orphan works

Ghana relies on international law for guidance.

Mass digitization

Ghana relies on international law for guidance.

Digital preservation

According to the Law, (Section 19 No. 6a) the temporary reproduction of a work is not an infringement of copyright if the reproduction is made in order to make a digitally stored work perceptible or in the process of a digital transmission

(a) by a person who or entity that is authorised for that purpose by

(i) the owner of the copyright; or

(ii) operation of law;

In other words, consent of the rights holder or by statutory exception is needed for digital preservation.

Legal deposit

A separate law deals with it. Ghana's Book and Newspaper Registration Act (1961), requires the registration and deposit of every book, "pamphlet, sheet of letterpress, newspaper, sheet of music, map, chart, or plan." Producers were required to send deposit copies within one month of issue to the Ghana Library Board, now Ghana Library Authority the University College of the Gold Coast (now University of Ghana), and the Registrar-General. A 1963 amendment increased the number of depositories to seven.

No mention is made of electronic deposit.

Public lending rights

Not practiced in Ghana

Levies

Levies have been imposed on devices capable of being used to make photocopies of copyrighted works. The levy is to be collected by the Customs, Excise and Preventive Service and deposited in a Fund established for Rights holders by the Minister. A person who imports a device without

payment of the levy commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units or imprisonment for a term not exceeding twelve months. (Section 27 Nos. 1-10 of the Copyright Law) One penalty unit equals twelve Ghana Cedis (USD24)

Copy Ghana (representing literary writers) has convinced four private universities to charge GH¢2 (almost US\$4) per annum per student as fees for a blanket royalty scheme. Copy Ghana is yet to sign an agreement with any of public universities. The Executive Secretary of Copy Ghana has indicated the society's preparedness to sue students and the universities for infringement of copyright law 'at the appropriate time'. He said that his organisation's survey had revealed that students spend an average of GH¢35 (US\$70) photocopying books every year. (Country Report Ghana Copyright, ACA2K)

Creative Commons

No mention of it

Legal matters

Revision/changes in existing law or regulations

New legislation

No new legislation

Trade agreements

- Paris Convention for the Protection of Industrial Property (1883), 28th September 1976
- Agreement on establishing the World Intellectual Property Organisation (WIPO) 1st January 1995
- World Trade Organisation (TRIPS Agreement) 1st January 1995
- Lusaka agreement on the creation of African Regional Intellectual Property Organization (ARIPO) Adopted on December 9, 1976; last amendment 13th August 2004
- Interim Economic Partnership Agreements - West Africa: Ivory Coast and Ghana. 26th November 2008.

Privacy

Parliament has passed the Data Protection Bill into an Act to set out the rights and responsibilities of data controllers, data processors and data subjects in relation to personal data.

The Act, is also intended to establish a Data Protection Commission. This will provide for the

protection of privacy relating to individuals including the process by which information is obtained, held, used or disclosed. It provides a framework to ensure that as e-country principle is entrenched in using the Information Communications Technology (ICT) platform for administrative and business activities, the issues that arise from data subject privacy and third party use of data subject information would be regulated in a manner which would ensure confidence in the development of ICT mediator platforms and technologies. February 2012 <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=229717>

Anti terrorist law

Draft bill for laws against terrorism is being prepared.

DRM

Law cases

The NDC Logo and Copyright Law

The case was run in the media and never saw the law courts. The question is whether Nana Konadu Agyemang Rawlings, the former First Lady of Ghana owns the copyright in the NDC logo. She claims to have registered the logo. Under the Copyright Act, registration of a work is not the basis of the copyright.

Registering the logo under the Copyright Act does not provide sufficient proof of authorship. Indeed, her act of registering the symbol is illegal by reason of the fact that the symbol has already been duly registered in the name of a political party under the Political Parties Act.

In any case, doubts have been cast over her authorship claim by the assertion by Prof. Kwame Addo that he designed the logo on the instructions of the founder the NDC, thus qualifying the logo as commissioned work under copyright law. This makes the NDC a better claimant of copyright protection than the former First Lady.

Furthermore, she has slept on her rights, if any, for so long and has in fact acquiesced for so long in the party's claim of ownership of the logo by her own positive actions that it is doubtful that any court would grant her relief.

(By 21st May 2012 05:57:32 by Dr Akuritinga Ayine)

<http://www.graphic.com.gh/features/page.php?news=21109>

Lobby activities

I met the new Copyright Administrator Miss Yaa Attafua who is a Principal State Attorney. The purpose was to convince her and in association, the government of Ghana that they should

support updated exceptions and limitations for libraries and archives at WIPO in Geneva. This was accordingly done but unfortunately she did not receive funding to attend the meeting. The Ghana Library Association supported The Draft Treaty on Copyright Exceptions and Limitation and I was nominated to meet her. Copies of the Treaty were circulated to members of the Consortium of Research Libraries in Ghana (CARLIGH) and the Ghana Library Association.

Educational activities

I attended the African Group meeting to update African Proposals on Exceptions and Limitations to Copyright and Related Rights for SCCR 24 IN Geneva in June 2012. Representing IFLA and EIFL, Teresa, Harald and I took turns to present the 11 clusters for libraries and archives in the draft instrument on Exceptions and limitations for the consideration of the African Group. Teresa has already extensively reported on the event.

I attended a workshop on Enhancing the culture of reading and books in the digital age: Copyright as a means to foster creativity and access in Nairobi in May 2012. I presented a paper on Providing Access to Copyright works to enhance the reading culture: Experiences from Ghana. Stuart Hamilton, Jennifer Nicholson and Kathy Matsika also presented papers. We all represented IFLA/CLM

Strategic plans for future

There is a focus on Institutional Repositories and all Universities have been mandated to set up one. Copyright is a consideration and at University of Education Winneba, I have been given the responsibility of educating faculty and students on the IR Policy and copyright as they post their theses and articles in the Repository.

Librarians will need training to be able to do that in their institutions. For a start a link to the copyright course for librarians has been provided to the Department for Information Studies. The plan is to begin a course for students in the department who are training to become librarians. Librarians already graduated will be provided training to be able to guide their users as they create and use resources online.

Prepared by Valentina J. A Bannerman (Mrs.)

31st July 2012