



**Awareness of Law Students of Kwame Nkrumah University
of Science and Technology (KNUST) on Copyright Law:
Emphasis on Photocopying and Fair Use**

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ABSTRACT

The paper appraises the extent of awareness of law students of KNUST as far as copyright law with respect to photocopying and fair use are concerned. Questionnaires were randomly administered to eighty law students. This data constituted the main primary source of information for the appraisal. Some selected published literature on the subject were also consulted. Data gathered were subjected to SPSS analysis. Findings revealed that the sampled law students were unfamiliar with the copyright law. Consequently, they infringe the rules on photocopying and fair use. Some recommendations to improve the situation have been offered.

Keywords: Awareness, copyright, infringement, photocopying, fair use

Introduction

According to the Copyright Act of Ghana 1961, PNDC Law 110, sections 6 (i) and 53 'Copyright' is defined as “a reproduction of a work in a written form or in a form of a recording or film or in any other material form”. In general, it is illegal for anyone to reproduce an author's work without his express permission (Marcello 2007) This means that one may safely copy or steal it and pass it off as his own unaided creation because the law defends the real author's prior rights. Copyright also means that no one may publish a work, or use it in other ways, without first reaching an agreement with the author, an agreement which will normally involve payments (Lehman 1995). Simply put “it is the rights of an author, artist or composer to prevent another person from copying an original work which he himself has created. (Cavendish and Pool, 1993.) According to Cavendish and Pool (1993), the main purpose of copyright law is to ensure that authors receive some share of any money and prestige resulting from the exploitation of their own original work. Copyright Laws were given much attention after the invention of a

machine for printing by Johannes Guttenberg in 1440. It has since gone through various evolutions, beginning from the Berne Convention for the Protection of literary and artistic works of 1886, Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations of 1961, Universal Copyright of 1952 through to World Intellectual Property Organization Copyright Treaty of 1996 and the list continues unend (Ray 1968).

The printed word still remains the easiest, cheapest, and most versatile method of communicating and distributing knowledge. The book in particular is handy, presentable, easy to store and readily available. According to Marc (2003), copyright restricts a user's privilege to use a book/information or any other intellectual property beyond a certain permit. In academic and educational settings the user although is restricted, enjoys the privilege of reproducing an aspect of intellectual property for learning. In Africa, for that matter Ghana, reproducing through photocopying has become the order of the day. There is a dearth of books and also price of books, journals and other materials for learning seems to be high and outside the reach of many students, to whom photocopying becomes an avenue for assessing and using materials, which hitherto, seem to be out of reach. Excessive photocopying is therefore rife, without users considering copyright rules and fair use. This greatly infringes copyright rules on academic, library and educational purposes and fair use.

Fair use is simply using someone else's copyrighted work, whether published or unpublished; an author must have the copyright owner's permission, unless the intended use is a "fair use"- According to the Chicago Manual of Style, the doctrine of "fair use" was originally developed by judges as an equitable limit on the absolutism of copyright. It also states that in determining whether or not the use made of a work in any particular case is fair, the factors to be considered must include the following:

- The purpose and character of the use including whether such use is of commercial nature or is for non-profit educational purposes.
- The nature of the copyrighted work
- The amount and sustainability of the portion used in relation to the

copyrighted work as a whole.

- The effect of the use of upon the potential market for, or value of, the copyrighted work.

Essentially, the doctrine excuses copying that would otherwise be infringement. For example, it allows authors to quote from other authors' work or to reproduce small amounts of graphic or pictorial material for purposes of review or criticism or to illustrate or buttress their own points. Authors invoking fair use should transcribe accurately and give credit to their source (Dowd, Raymond J. 2006). They should not quote out of context, making the author of the quoted passage seem to be saying something opposite to, or different from, what was intended. The Chicago Manual of Style, indicates that fair use is use that is fair – simply that. Use of literary work in its entirety – a poem, an essay, a chapter of a book etc. is hardly ever acceptable.

Fair use has been much in dispute as applied to photocopying for classroom and library use. Copyright Acts contains specific guidelines for library photocopying and classroom copying.

The law in general allows libraries to make single copies of copyrighted works, provided each copy bears the original copyright notice and provided the copies are made for one of the purposes specifically defined in the statute including the following:

- i. if the copy is made for a library's own use, because the library's own copy of work is damaged or missing and a replacement cannot be obtained at a fair price
- ii. if the copy is made for a patron's use and is limited to an article or small part of a larger work or the whole of a larger work if a printed copy cannot be obtained at a fair price, and only if the copy is intended for use by the patron in “private study, scholarship, or research”

The law specifically forbids systemic copying by libraries presumably, this means:

- a. making copies of books or periodicals as a substitute for buying them

and

- b. making copies for a patron without regard to the patrons intended use of the material.

Educational copying can be inferred to mean 'Brevity' and spontaneity 'the latter reflects the premise that photocopying for classroom use should be done only when insufficient time exists to obtain permission. Multiple copies should not exceed the number of students in class. They should not substitute for anthologies or regular school purchases. The same items should not be copied from year to year or semester to semester, but once only and at the instance of a particular teacher for immediate use in the classroom. A recent case, in the USA involving Kinko's a national chain of photocopying services clarified the law on at least, one aspect of educational photocopying; the widespread practice of making customised anthologies for individual teacher's classes is an infringement if express permission is not received from all copyright owners. Indeed new technologies of photocopying and electronic reproduction present a major institutional challenge when it comes to copyright, and, issues regarding fair use.

Copyright Law in Ghana

In Ghana, literacy rather came late, therefore it took some time before copyright could make any headway. According to Amegatcher (1993), the first copyright legislation in Ghana was the Imperial Copyright 1911, which was passed by the British Parliament and covered the whole of the British Empire. Books circulated in Ghana according to Amegatcher (1993) were mostly of non-Ghanaian origin; authorship was confined to schools and missionary organizations. Since independence, however the book scene has changed (Amegatcher1993). There has been a greater awareness of the need for copyright protection. In 1961, Ghana enacted her own Copyright Act, Act 85, which was replaced by the PNDC Law 110.

This describes the types of work that are entitled to copyright protection. The main four are literary, dramatic, musical and artistic works. Others are sound recordings, films, broadcasts and cable

programmes and the typographical arrangement of the published editions of works. For the purpose of this work, only literary works will be considered.

The Faculty of Law-KNUST

In the early part of 1970 a tiny Department of law was established in the faculty of Social Sciences to teach Land law as a core subject in the BSc Land Economy and Management Programme at KNUST. Not long afterwards, a combined honours degree of Economics/Law, Sociology/Law, and Geography/Law etc was developed. The Department of Law also taught courses in other Faculties of the University. In 2002, the University decided that the Faculty of Social Sciences faculty must undergo modern transformation, allowing a Faculty of Law to emerge. In April 2003, the Council of KNUST approved a 4 year LLB Programme to be taught. The first cohort of LLB students were admitted into the Faculty of law in August 2003. Currently the faculty runs three main streams: 4-Year Regular, 3-Rear Regular and 4-Year Non-Regular. The student population as at the time of writing in 2010 was 400.

Source: *Faculty of Law Handbook 2010*

Purpose of Study

The underlying reason for the study is to assess the degree of knowledge of students of the Faculty of Law KNUST, on copyright rules, regarding photocopying and fair use. The researchers are undertaking this evaluation based on the assumption that “as law students they would have a better appreciation of the subject”.

Methodology

The study uses the law students of the Faculty of Law, KNUST as a case. This is to test the degree of their knowledge on copyright law with respect to photocopying and fair use. It is assumed that as law students they would have a better appreciation of the subject. Out of a population

of 400, questionnaires were randomly administered to 80 students. Thus, 20% of the total population was sampled from the faculty library; as and when they visited. It took the researchers three days to administer the questionnaires. This small percentage was taken because the researchers do not intend to make tentative generalizations from their findings but rather to prove or disprove their postulated hypothesis. Responses from the students were subjected to SPSS analysis and presented in tables. These were further interpreted and discussed accordingly. Conclusions are drawn based on the analysis. Appropriate suggestions and recommendations are also made.

Data Interpretation

Based on the frequencies and percentages derived, the responses gathered from eighty law students concerning the set of questions posed, is interpreted as follows:

Table 1 - Age distribution of respondents

Age	Frequency	Percentage
Below 20	6	7.5
20-25 years	60	75
26-30 years	8	10
36-40 years	6	7.5
Total	80	100.0

Source: Field Survey, 2018.

Respondents below twenty years and above forty years formed the lowest category. Six (6) was recorded forming 7.5% of the total. The largest numbers of students fall between 20-25 year categories. Sixty (60) respondents-constituting 75% of the total was recorded. The rest of the respondents aged between 26 and 30. These were eight (8) in numbers forming 10% of the total.

Table 2 - Gender status of respondents

Gender	Frequency	Percentage
Male	34	42.5
Female	46	57.5
Total	80	100.0

Source: Field Survey, 2018

Males were 34 –forming 42.5% while females numbered 46; which were the largest group representing 57.5%. This may mean that 'Law' is a female preferred programme. It could also be inferred that females often come to the library as against males. The reason is that the questionnaires were administered randomly at the Sir Arku Korsah Library.

Table 3 - Year in the University

Year	Frequency	Percentage
1st Year	16	20.0
2nd Year	48	60.0
3rd Year	8	10.0
4th Year	8	10.0
Total	80	100.0

Source: Field Survey, 2018

As shown in the table, 2nd year students formed the majority of the respondents. They were 48 in number, representing 60% of the total. This was followed by 1st years who number 16, representing 20% of the total. Eight (8) responses each was recorded from 3rd and 4th years, constituting 10% respectively. This again may provide a clue as to which year group usually visit the library or it may be sheer coincidence.

Table 4 - Awareness of copyright law in Ghana

Gender	Frequency	Percentage
Male	34	42.5
Female	46	57.5

Total	80	100.0
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Source: Field Survey, 2018

80% of the respondent claimed to be aware of the copyright law in Ghana. These were in the majority. As many as 64 responses were recorded. Only 16, representing 20% out the total, indicated that they were not aware of any copyright law.

Table 5 - Knowledge of the specific act or law

Response	Frequency	Percentage
Yes	26	32.5
No	40	50.0
NA	14	17.5
Total	80	100.0

Source: Field Survey, 2018

Forty (40) respondents representing 50% indicated that they do not know the components of the copyright law even though they were aware of its existence. However, 26 students constituting 32.5% of the total, indicated that they knew the component of the copy right laws of Ghana. The remaining fourteen students did not indicate their knowledge or otherwise. They seem to be unfamiliar with the copyright law.

Table 6 - Knowledge of specific portion(s) of the law

Response	Frequency	Percentage
Photocopying	12	15.0
Plagiarism	24	30.0
Piracy	44	55

Source: Field Survey, 2018

Table 7 - Knowledge of punishment upon infringement of the law

Response	Frequency	Percentage
Yes	40	50.0
No	20	25.0
NA	20	25.0
Total	80	100.0

Source: Field Survey, 2018.

Interestingly, half of the total respondents, numbering is 40, responded affirmatively whilst the remaining half was divided equally between those who are not aware and those who are aware, but did not know of such punishment. Thus, 50% as against 25% each respectively.

Table 8 - Punishment known upon infringement

Response	Frequency	Percentage
Payment of fine	22	44
Stoppage of use	2	4
Impoundment	4	8
Prosecution	22	44

Source: Field Survey, 2018.

Table 9 - Awareness on 'fair use'

Response	Frequency	Percentage
Yes	14	17.5
No	46	57.5
NA	16	20.0
No Response	4	5.0
Total	80	100.0

Source: Field Survey, 2018.

Regarding the awareness of fair use only, 14 respondents, representing 17.5% were affirmative. As high as 46 respondents representing 57.5%

were not aware of the existence of the fair use facility. The rest indicated nothing.

Table 10 - Areas of application of 'fair use'

Response	Frequency	Percentage
Photocopying	24	35.3
Citation	8	11.8
Research	24	35.3
Teaching & Learning	12	17.6

Source: Field Survey, 2018.

The application of fair use on photocopying and research registered twelve (12) responses each, representing 35.3% of the total respondents. Six (6) respondents asserted that fair use is also applied for teaching and learning purpose. These constituted 17.6% of the total respondents. Only eight respondents which is 11.8% indicated citation as another area of application.

Response	Frequency	Percentage
Fair Use	20	25.0
NA	54	67.5
No Response	6	7.5
Total	80	100.0

Source: Field Survey, 2018.

The trend of responses revealed by tables 9 and 10, show that the majority of the respondents are not aware of the fair use facility. In table 10 for example, only 25% as against 75% knew fair use as an extent of permission.

Table 12 - Number who photocopy educational materials

Response	Frequency	Percentage
Yes	80	100.0

Source: Field Survey, 2018

Table 13 - Adherence to fair use during photocopying

Response	Frequency	Percentage
Yes	26	32.5
No	42	52.5
Do not know what is 'Fair use'	2	2.5
No Response	10	12.5
Total	80	100.0

Source: Field Survey, 2018.

Twenty-six (26) respondents, representing 32.5% indicated yes, while forty-two respondents, constituting 52.5% said no., Ten (10) respondents, made no response, while two (2) did not know of fair use.

Table 14 - Compliance to various options

Response	Frequency	Percentage
Few Pages	48	60
A chapter	4	5
More than a chapter	16	20
Whole book	12	15

Source: Field Survey, 2018.

During photocopying respondents could make copies of few pages as 48 of them indicated. They represent 60% of the total. Those who usually copy more than a chapter as evidenced in the table number 16, representing 20% of the total. Whereas four (4) of the respondents prefer copying a chapter at a time twelve (12) of them preferred copying a whole book.

Table 15 - Reasons for non-compliance

Response	Frequency	Percentage
Books are expensive to buy	38	46.3
Books are scarce	12	14.7
Photocopying is cheaper	14	17
Library copies are limited	12	14.7

Didn't know	6	7
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Source: Field Survey, 2018

While six (6) of the respondents did not know why they do not copy with fair use policy, twelve (12) respondents representing 14% of the total indicated that books are either scarce or library copies were limited respectively. Thirty-eight (38) of then representing 46.3% said books were expensive to buy. The others numbering fourteen (14), constituting 17% of the total indicated that photocopying were cheaper.

Table 16 - Impressions on the copyright law as it pertains to photocopying and fair use

Response	Frequency	Percentage
There should be a strict limitation to it; it should be stated that some pages could be photocopied but not the whole book	1	2.5
Don't know much about the law, but understand that plagiarism and photocopying an entire book is prohibited	3	7.5
Measures must be put in place to make offenders of the law face harsher punishment	1	2.5
Detailed or extensive photocopying of text book should be avoided	1	2.5
Do not know enough about it so I gather it's not effective	5	12.5
It has not been very effective in achieving its purpose which is gradually being defeated	4	10.0
The content of the law is not in the known; there should be some education of the general public on the law	4	10.0
It serves as a check for exorbitant pricing of books and it is the flexible aspect of the law	1	2.5

The copyright law is aimed a promoting creativity and protecting the literary work	2	5.0
The materials required are so much that one cannot buy all the books so photocopying allow one to access the information for research	1	2.5
Books should be made cheaper and libraries in academic institutions must be well stocked	2	5.0
No Response	15	37.5
Total	40	100.0

Source: Field Survey, 2018

The last question on the questionnaire was an open ended one which solicited the opinion of the respondents about copyright law as it pertains to photocopying and fair use in Ghana. The above table is a replica of their responses. Recommendations were summarily deduced from these opinions.

Discussions

It may be inferred from the age and gender distribution that the law students of KNUST are largely young and female dominated. On the other hand it may also mean that the youth and females are the ones who usually visit the law library for information. This inference follows from the premise that the set of questionnaires were randomly administered in the law Library over a period of three days. Out of the eighty respondents sampled, forty-eight representing 60% of the totals were second year students. Perhaps, lessons from the first year were compelling them to visit the library often or they were submitting an assignment during that period. Responses obtained from third and fourth year students constituted 20% of the total. Probably these belong to the working class who spend most of their time at their places of work or may have obtained the required literature needed for their courses personally, having spent more than two years on the programme. Other reasons may also account for their low enumeration in the random sampling.

A critical look at the responses reveals that the level of awareness of the copyright law did not match the level of knowledge on the components of the law. The same accounts for the principle of fair use. For instance, forty-six (46) respondents representing 57.5% were not aware of the existence of fair use. As a result, they did not even know that some of their actions were infringements which are punishable under the copyright law as far as photocopying is concerned. Consequently, forty-two (42) respondents, representing 52.5% of the total, boldly indicated that they do not know and therefore do not adhere to fair use restrictions when copying for academic purposes. Only fourteen (14) respondents, representing 17.5%, were aware of its existence as seen from table 9. All respondents affirmed that they copy educational materials. However they do not copy with the principle of fair use in mind. Because of this, some could copy whole chapters as seen in table 14 where, sixteen (16) respondents representing 20% of the total, were victims of this infringement. In that same table is a record of twelve (12) respondents who could copy a whole book.

Even though respondents have genuine reasons for infringing copyright laws and the fair use principles, the findings from the solicited opinions show that much education on the law should be given. At the same time compliance to stipulated punishments would also have to be enforced. If students and not ordinary students but law students of the university are unfamiliar with the copyright laws as pertains to photocopying and fair use, then the copyright agency in Ghana has a herculean task to perform. Reasons for non-compliance are still genuine. For example, books are scarce, library books are in limited copies, buying new books are still expensive, while photocopying is comparatively cheaper. It is not surprising, therefore, that photocopying continues unabated in all academic institutions in Ghana.

Recommendations and Conclusions

The survey findings have disconfirmed the initial hypothesis which assumed that “as law students they would have a better appreciation of the copyright laws with respect to photocopying and fair use”. As revealed in the discussions, more than half of the total respondents are

unfamiliar with the tenets of the copyright law, infringements and their associated punishments, fair use and its compliance. In order to popularize the subject matter under review, it is recommended that intensive education is mounted on copyright issues; offenders of copyright laws should also be brought to book.

The rates at which copyright laws are being abused through photocopying in academic institutions are alarming. Unfortunately a number of the abusers do not even know that their actions and inactions are infringements of the copyright law. Meanwhile, 'ignorance of the law is no excuse'. The copyright agency of Ghana must as a matter of urgency educate all and sundry through radio, television, newspapers, internet and church and mosque gatherings. With such widespread creation of awareness, students will 'look before they leap'.

If after all these massive education, some students are still adamant and go contrary to the copyright law of Ghana, the appropriate punishment should be meted out to them to serve as a deterrent to others. What are worth-mentioning are the photocopier operators on various campuses who flout the laws with impunity. They also need some education about the law and the implications for non-compliance.

References

Dowd, R. J. (2006). *Copyright Litigation Handbook* (1st ed.). Thomson West.

Ellis, S. R. (2010). Copyrighting couture: an examination of fashion design protection and why the DPPA and IDPPPA are a step towards the solution to counterfeit chic. *Tenn. L. Rev.*, 78, 163. Available at <http://ssrn.com/abstract=1735745>. Retrieved on 25th October, 2017

Gantz, J., & Rochester, J. B. (2005). *Pirates of the Digital Millennium: How the War Over Intellectual Property is Corrupting Youth, Provoking Government Encroachment on Our Personal Freedoms, and Damaging the World's Economy*. Prentice Hall/Financial Times.

Ghosemajumder, S. (2002). *Advanced peer-based technology business models* (Doctoral dissertation, Massachusetts Institute of Technology).

Lehman, B. A. (1995). *Intellectual property and the national information infrastructure: The report of the working group on intellectual property rights*. Diane Publishing.

Lindsey, M. (2003). *Copyright law on campus* (pp. 35-37). Washington State University Press.

[Nimmer, Melville](#); David Nimmer (1997). *Nimmer on Copyright*. Matthew Bender.

Patterson, L. R. (1968). *Copyright in historical perspective*. Vanderbilt University Press.

Rife, M. C. (2013). *Invention, copyright, and digital writing*. SIU Press.

Rosen, R. (2008). *Music and Copyright*. Oxford Oxfordshire: Oxford University Press.

Shiple, D. E. (2007). Thin But Not Anorexic: Copyright Protection for Compilations and Other Fact Works. *J. Intell. Prop.*, 15, 91.

Silverthorne, S. (2004). [Music Downloads: Pirates- or Customers?. Harvard Business School Working Knowledge](#), 2004.

Sorce Keller, Marcello. "Originality, Authenticity and Copyright", *Sonus*, VII (2007), no. 2, pp. 77–85.

Steinberg, S. H., & Trevitt, J. (1996). *Five Hundred Years of Printing. London and New Castle: The British Library and Oak Knoll Press*. ISBN 1-884718-19-1.

Story, A., Darch, C., Halbert, D., Mannan, A., Ngenda, A., Busaniche, B., ... & Smiers, J. (2006). *The copy/south dossier: issues in the economics, politics, and ideology of copyright in the global south*. Copy/South Research Group.

[WhyNotAskMe.org](#): *Organization demanding democratic participation in copyright legislation and a moratorium on secret and fast-tracked copyright negotiations*