

Developments
in the
Digital Age

**Issues and Themes in Library and
Information Science**

IBADAN UNIVERSITY LIBRARY

Developments in the Digital Age

*Issues and Themes in Library
&
Information Science*

Edited by

**Oshiotse A. Okwilagwe
Luke Obasuyi
Adetoun A. Oyelude
Jimoh Rafu**

Stirling-Horden Publishers Ltd.
Gaaf Building, 110-112 Oyo Road,
Orogun, Off University of Ibadan,
Second Gate, Ibadan, Oyo State,
Nigeria.
Phone: 08023519154
stirlinghorden@ymail.com
www.stirlinghorden.com

University Post Office
Box 20984
Ibadan
Oyo State, Nigeria.

Saint Andrews Venue
Venus Quarters
Mechanic Workshops, Sabo
Jattu-Uzairue
Edo State, Nigeria.

© Oshiotse Andrew Okwilagwe

Published 2016

ISBN 978-978-032-593-0

All Rights Reserved

Apart from any fair dealing for the purpose of research or private study, criticism or review, as permitted under the Copyright, Designs and Patents Act of Nigeria, this publication may not be reproduced, stored or transmitted in any form, or by any means, except with the prior permission in writing of the publishers, or in the case of reprographic reproduction, in accordance with the terms of licences issued by the Copyright Licensing Agency. Enquiries concerning reproduction outside those terms should be sent to the publishers.

Stirling-Horden Publishers Ltd.
Lagos, Ibadan, Benin City, Jattu-Uzairue.

Contents

Dedication	v
Notes on Editors	vi
Notes on Contributors	vii
Foreword	xx
Preface	xi
Section A: Empirical Perspective on Intellectual Property Right in the University of Ibadan	1
1. Towards Exploration and Application of Theoretical Perspectives on Marketing Library and Information Services in Nigeria	3
<i>Oshiotse Andrew Okwilagwe</i>	
2. Emerging Trends in Knowledge and Information Organisation	26
<i>Rafiu Jimoh</i>	
3. Emerging Trends in Determining the Profile of Modern Information Users	72
<i>Ransome Oboh</i>	
4. An Emerging Paradigm of Digital Reference Services	78
<i>Christopher Ukpebor</i>	
5. Library and Information Science Practices: Contemporary Issues and Trends	90
<i>Stella C. Nduka</i>	
6. The Role of Metadata in Information Processing, Access, Retrieval and Usage	95
<i>Luke Obasuyi</i>	
7. The Potential of Web 2.0 for Library Services and the Academic Community	109
<i>Oluwaseun Obasola</i>	
8. Towards users Effective Access and Utilisation of Open Access Resources	116
<i>Luke Obasuyi</i>	
9. Implementing Knowledge Management in Academic Libraries	128
<i>Abiola A.A. Omotoso</i>	

10. Mobile Technology in Library: Delivering Library Services through Mobile Technologies	135
<i>Olubukola Olatise</i>	
11. Global Knowledge Economy and Emerging Trends in Library and Information Service Delivery	142
<i>Oseghale Osagie</i>	
12. Information and Communication Technology (ICT) Use and Electronic Information Services (EIS) Provision in University Libraries	158
<i>Helen Omolara Aribatise</i>	
13. Modern Professional Techniques in Information Retrieval	165
<i>Luke Obasuyi</i>	
Section B: Perspectives on Open Access Initiatives in Academic Libraries	177
14. Ethical and Legal Issues in Intellectual Property Rights Protection in the University of Ibadan	179
<i>Adetoun A. Oyelude</i>	
15. Copyright Information Resource Management in the University of Ibadan: A Technical Plan	208
<i>Okoroma, Francisca Nwakaego</i>	
16. Digitisation of Intellectual Property in the University of Ibadan: A Technical Plan	246
<i>Alice A. Bamigbola</i>	
17. Perceptual Issues and Challenges in Publishing and Intellectual Property Protection in the University of Ibadan	269
<i>Egberedu Mega</i>	
18. The Role of Librarians in Intellectual Property Rights Development in The Information Technology Age: A Case Study of Selected Nigerian Universities	300
<i>Akinyosoje, Harry I. T.</i>	
19. Perception of the Development of Institutional Repository, Challenges and Benefits of Intellectual Property Protection by Lecturers in the University of Ibadan	338
<i>Samuel O. Ogunniyi</i>	
20. Intellectual Property Rights Protection: A Case Study of the Role of the Information Professional in Ibadan Metropolis	369
<i>Adewumi, Cecilia O.B.</i>	

21. Librarians' Perspective of Intellectual Property in University Libraries in Nigeria	387
<i>Charles Ejesei Eruanga</i>	
22. A Proposal for Management of Intellectual Property Rights in the University of Ibadan	396
<i>Adedeji Elizabeth Aderonke</i>	
Section C: Perspectives on Information and Knowledge Organisation	433
23. Common Open Source Software Used for Integrated Library Management among Nigerian Private University Libraries	435
<i>Adetomiwa Basiru</i>	
24. Use of Open Access for Enhancing Scholarly Publishing in Developing Countries	441
<i>Farai Adenike Doris</i>	
25. Open Access Initiative: Development, Awareness, Benefits and Challenges	451
<i>Ogunmodede Thomas A.</i>	
26. Issues in Open Access Initiative: Intellectual Property Rights Governance in Nigeria	475
<i>Oye Peter Olorunleke</i>	
27. Digital Rights Management in Nigeria	483
<i>Olubunmi Oludolapo Adesanya</i>	
28. Correlational effects of e-publishing and Open Access on copyright and the protection of Intellectual property rights in research	498
<i>Agbo-Are Oyinlola A.</i>	
29. ICT Use and Electronic Information Services Provisison in University Libraries	505
<i>Aribatise, Helen Omolara</i>	
30. Impact of Open Access on Scholarly Communications in Nigeria	521
<i>Olubunmi Oludolapo Adesanya</i>	
31. Concept of Open Access: Its Implication to the Attainment of Nigeria's Transformation Agenda	543
<i>Akande Femi Titus</i>	
32. Ethical and Legal Issues in Information, Intellectual Property and Copyright in Open Access Initiatives in Libraries	556
<i>Lauretta N. Ojei</i>	
33. A Survey of the Availability and Use of Print Resources in the Educational System in Nigeria	569
<i>Oshiotse Andrew Okwilagwe & Christopher Ukpebor</i>	

Ethical and Legal Issues in Intellectual Property Rights Protection in the University of Ibadan

Adetoun A. Oyelude

Introduction

Intellectual property is the output of the human brain or ideas. It is the work done by one as a scholar, expressed in a perceived tangible format. It is got from the cognitive output of a scholar, could be written (even if it is of no value), expressed in a given consensual acceptable format. Intellectual property refers to inventions, creative works, discoveries, know-how, show-how or artistic works that have value, produced through human activities by individuals or entities (Loggie *et al.*, 2006).

In the field of education, intellectual property can be patentable, trademarkable, copyrightable or licensable, encompassing any faculty work such as books, scholarly publications, syllabi, presentation files, lecture notes and the like (Kelley & Bonner, 2005; Loggie *et al.*, 2006). According to Petersen (2003), any course or instructional materials such as readings, assignments, tools, simulations, students' contributions, discussions or examinations can be considered intellectual property.

Intellectual property consists chiefly of patents, plant breeder's rights, copyrights, trademarks and trade secrets. Research, according to Olayinka and Owumi (2005), leads to the creation of intellectual property, and if there is a funder of the research who asks for the right to disseminate the result of the research for wide circulation of the research, where technology is developed during a project, the funder may want to ensure its dissemination and utilisation. The writings and documentation of the researcher are owned by the creator of the materials who also holds copyright, hence we find the author. The funder's role is to help secure protection for intellectual property rights internationally with the recipient having full licensing rights in all countries.

The strength of an organisation is derived from the intellectual property of its workforce (Udom, 2002). As such, in the academia, for example, the strength of a university or tertiary institution is often determined by how much is produced in terms of writings, publications, inventions and innovative designs in the case of artists. Mansfield (1994: 17) asserts that "It is almost impossible to separate a country's system of intellectual property protection from its attitudes (and procedures) towards protecting all forms of private property – and the property of foreigners in particular." The implication is that intellectual output is a property (like land) over which one has absolute control by community consensus. Any invasion of it by affront, assault, and violent, logical or other means is illegal and a violation of one's intellectual property rights.

An idea is not a copyrighted material until it is written down – in tangible form. It is one's property because it one's personality and psyche that are in it. The law recognises this and because it wants people to be creative, it protects them by law so that their creativity is not lost. However, the creator of the work has (1) economic rights and (2) moral rights: economic rights to sell, make money out of, or have exclusive rights to gains that can come out of the intellectual property and moral rights to the property since ownership is the creator's. Economic and moral rights accrue to the originator of a work. Changes made by the editors have to be with the consent of the writer, for example, William Shakespeare's family was paid royalty a few years ago, many years after his demise. No one can have access to his work nevertheless. The copyright (economic) reverts to the public. It can be used but no alterations can be made. The moral rights reside with the author for life; and even after death, society can defend the moral rights of the writer after his death.

Different Types of Intellectual Property

There is so much that is considered as constituting intellectual property. Patent, Copyright and Trademark laws are the three central types of intellectual property rights according to Cornish (1999). Intellectual property is divided into two – 'industrial' property and 'copyright' (Shyllon, 2003). Shyllon considers industrial property rights as consisting of patents, registered designs and trademarks as they are associated with industry and commerce and also inclusive are unregistered trademarks. Copyright (from the Latin *copia*), on the other hand, "is a bundle of legal prerogatives granted by national legislatures that includes the right to make copies, to prepare derivative works, to distribute protected works, and the rights to make display or to perform them". He affirms that the addition of copyright and neighbouring rights to industrial property is what constitutes the modern scope of intellectual property.

Copyright: Olatoye (2009) in a lecture delivered at Babcock University defines copyright as the right which the creator of an original creative/academic work has against the whole world, usually for the duration of his/her lifetime and for some time afterwards, in preventing unauthorised acts of reproduction of such a work. He explains that copyright is **not** a registerable right in the sense that it comes into existence by mere reason of creating the original work and not by registration, asserting that it is, therefore, a negative right, which affirms an existing/inherent right of a person by preventing the doing of an act by other persons. The essence is that other persons may do any of the prohibited acts only by the authorisation of the right owner.

Copyright law is the protection of an original work fixed in a tangible form; the work has to be embodied in a material object of some kind, such as the pages of a book, a canvas, or a computer storage device (Masons, 2005; McGreal, 2004). Copyrightable works include such creations as poems, computer software and multimedia materials. In an academic setting, copyrightable works include books, presentation files, Web-based course materials, and scholarly publications (Loggie *et al.*, 2006; Nemire, 2007).

The following classes of work are protected under the Copyright Act in Nigeria: Literary works – books, computer programmes, letters, reports, tables/compilations, etc; Artistic Works – paintings, maps, diagrams, sculpture, photography, Architectural drawing, etc; Musical Works – compositions and accompaniments; Cinematographic films – films and soundtracks; Sound recordings; and Broadcasts – radio, TV, satellite, cable wireless, etc (Section 1, Cap C28, LFN, 2004)

Although some people misunderstand copyright as being the protection of ideas, it only protects the expression of those ideas as contained in the physical work (Loggie *et al.*, 2006). It is important to note that the U.S. copyright law allows writers to quote and paraphrase original works without the authors' permission under the fair use provision (Soto, Anand & McGee, 2004). However, to avoid copyright breach, users must properly acknowledge original authorship (Soto *et al.*, 2004).

Trademarks: a trademark is a legally protected name, word, symbol or design (and their combination), used by a manufacturer or seller to identify a product or service, to distinguish it from other goods. A trademark identifies the maker of the good (Shyllon, 2003).

Trade Names: a trade name identifies an entire enterprise. Trade names are protected to prevent the concurrent unauthorised use by an enterprise of a trade name identical or similar to that of another enterprise claiming the protection (Shyllon, 2003).

Trade Secrets: this is critical information and know-how of a business, kept out of public domain. The owner of trade secrets must, however, take precaution to mention security of the secret. Trade secrets hold value indefinitely (Shyllon, 2003).

Patents: patents are documents issued by the government stating what an invention is and that the person is the patent's owner. For an invention to be patentable, the law requires that it has to be new; it must involve an inventive step (or it must be non-obvious) and it must be industrially applicable (Shyllon, 2003). A patent confers on its owner the exclusive right to make, sell and use for a limited time, usually twenty years from the date of applying for the patent. Patents are the most important means of protecting inventions.

Utility Models: utility model is the name given to certain inventions in the mechanical field. It is different from inventions for patents in that the technology process required is less than that for a patented invention and the terms of protection provided in the law for a utility model is shorter than that for an invention where a patent is available. For example, it is ten years for German and Chinese utility models. A patent can be got for a utility model.

Industrial Designs: this is the ornamental or aesthetic aspect of a useful article. It must be industrially reproduceable to be called an industrial design, and is usually protected against unauthorised copying or imitation. The protection is usually for five to ten or fifteen years. The document certifying the protection of an industrial design may be called a registration certificate or a patent. If a patent, it is specifically called a patent for an industrial design (Shyllon, 2003).

What Makes Intellectual Property?

Creative works, books, literary works, products, patents and plant varieties (any created works) in any tangible form expressed make intellectual property. Indeed, objects of intellectual property are creations of the human mind, the human intellect. Whatever comes out of one's intellect, once written down, is one's property provided one takes steps to publish it and, as such, claim the ownership.

In considering the question of ownership of online educational materials, faculty and their hiring institutions sometimes have different perspectives on who should own intellectual property rights over faculty created materials (Nemire, 2007 as quoted by DeGagne & McGill, 2010). In the case of students, the issue of who owns the material or who can license it can be controversial,

although some institutional policies apply a work-for-hire principle to their students (Petersen, 2003). In this instance, the work done by students can be claimed to be the property of the institution or the faculty who have asked the students to do the work, provided it is paid for and an agreement reached to that effect.

For the sake of continuous creativity and national development, intellectual property must be protected – for the owners and society members. It is engrained in the constitution of the nation and got from some bodies, for example, the United Nations which has made a Charter that gives universal protection. The Massachusetts Institute of Technology (MIT) have some rules governing intellectual property for their researchers. The guidelines are as follows:

Intellectual Property Issues

“Sharing data that you produced/collected yourself:

- Data is not copyrightable (yet a particular expression of data can be, such as a chart or table in a book).
- Data can be licensed; some data providers apply licenses that limit how the data can be used, such as to protect the privacy of participants in a study or guide downstream uses of the data (e.g., requiring attribution or forbidding for-profit use).
- If you want to promote sharing and unlimited use of your data, you can make your data available under a CCO Declaration to make this explicit.

Sharing data that you have collected from other sources:

- You may or may not have the rights to do so, depending upon whether or not that data was accessed under a license with terms of use.
- Most databases to which the MIT Libraries subscribe are licensed and prohibit the redistribution of data outside of MIT. For more information on terms of use for databases licensed by the Libraries, contact Ellen Duranceau, Scholarly Publishing and Licensing Consultant, at efinnie@mit.edu.”

They recognise the fact that laws about data vary outside the U.S. and advise their researchers to seek further clarification from their Office of General Counsel who are designated to give the information.

Having looked at the major types of intellectual property and the intellectual property rights issues in some academic settings, it is necessary to take a look at the relationships between them that bring about the consideration of ethical and legal issues concerning them.

The intellectual property can be bequeathed (formally) to someone else. They are property like any other. They have value, command cost, and bring financial and psychological benefits. Society is interested in intellectual property because it allows an individual opportunity for international trade. The country can develop itself through making use of the intellectual property of its citizens. For example, the creator of Facebook is a multi dollar billionaire today due to his creativity.

Patents or trademarks have to register the product to make it effective. The owner of the product has to benefit first, then the user. It is a triangular relationship which can be illustrated as drawn below:

Intellectual Property (IP)

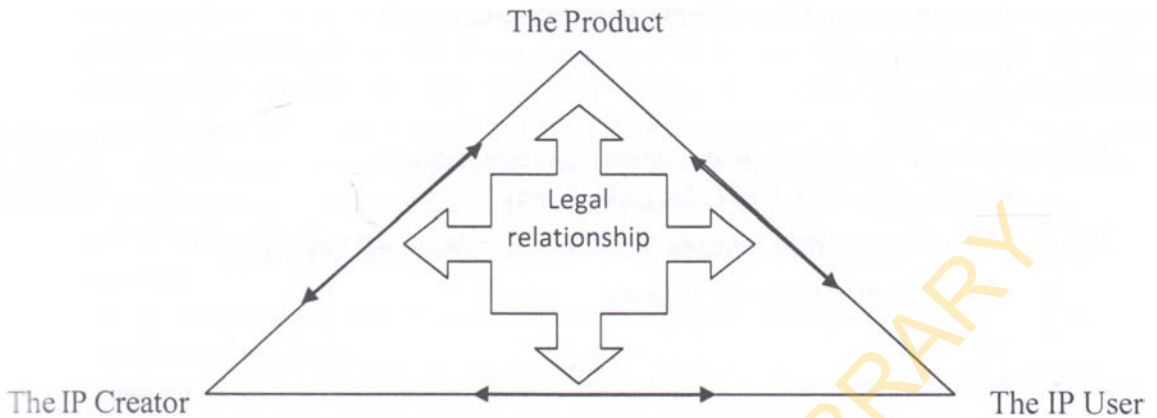


Figure 1: *Intellectual Property (IP), the IP User and the IP Creator*

There is a relationship between the creator of the intellectual property (the product), the user of the product and the product. This relationship is a legal relationship. The legal relationship determines one's behaviour to the product.

Intellectual Property Rights Protection

When a product of one's thoughts, work, artistic talent or whatever is created is in tangible form, there is a tendency for the work to be used or copied by others. In written form, it is a usable product but then, academic integrity has to be maintained. As such, it is wrong for someone to take up another's work and claim it as his own. Plagiarism must be discouraged and, therefore, the value of other people's work has to be acknowledged. However, we have to be aware that any intellectual creativity can fall into public domain.

Copyright law on written work in Nigeria is maintained for 70 years after the demise of the writer, after which it can fall in the public domain. Copyright protection is limited to the lifetime of the author + 70 years after his death in the case of Literary, Artistic and Musical works or + 50 years after first publication or broadcast in the case of cinematographic films, photography, sound recording and broadcast (1st Schedule of Cap C28, LFN, 2004).

There are exceptions to the rules however. Exceptions –

“Copyright shall not include right to control, *inter alia*:

- fair dealing for purposes of research, private use, criticism, or review
- Educational broadcast and so on” (2nd & 3rd Schedules of Cap C28, LFN, 2004).

In Britain, it is 50 years before intellectual property falls in the public domain.

There are some rights that are afforded. For Literary works, copyright gives exclusive right to control the following:

- reproduction in any material form;
- publishing;
- public performance;

- production of translation;
- film making;
- distribution to public by rental, lease hire, and others;
- broadcast; and
- adaptation.

Doing any of the foregoing with its translation or adaptation—
 (Section 6 (1) (a), Cap C28, LFN, 2004)

For Artistic works, copyright gives exclusive right to control the following:

- reproduction in any material form;
- publishing;
- inclusion in film; and
- adaptation.

Doing any of the foregoing with its translation or adaptation

In the case of architecture, erection of any building based on the drawing
 – (Sections 6 (1) (b) & 3, Cap C28, LFN, 2004)

For Cinematographic films, copyright gives exclusive right to control the following:

- making a copy;
 - showing and airing in public;
 - making record of the soundtrack;
 - adaptation; and
 - distribution to public by rental, lease hire, and others.
- (Section 6 (1) (c), Cap C28, LFN, 2004)

For Sound Recording, copyright gives exclusive right to control the following:

- reproduction, broadcasting and communication to the public; and
 - distribution for commercial purposes to public by rental, lease, hire, and others.
- (Section 7, Cap C28, LFN, 2004)

For Broadcast, copyright gives exclusive right to control the following:

- recording and re-broadcast;
 - communication to public of television broadcast or making of still photograph therefrom;
and
 - distribution for commercial purposes to public by rental, lease, hire, and others.
- (Section 8, Cap C28, LFN, 2004)

Generally, for all categories of work, the author is entitled to a perpetual, inalienable and imprescriptible moral right which is two-fold: **paternity right** (right to claim authorship and to be identified as author of the work) and **integrity right** (right to object to distortion, mutilation, modification of, or derogatory action on, the work where such action would prejudice author's honour and reputation) – (Section 12 Cap C28, LFN, 2004).

All these are within the ambit of the Laws of the Federal Republic of Nigeria. The Laws give some measure of protection to the copyright owner and any copyrighted work can be used fairly within the provision of law. Olatoye (2009) describes remedies and reliefs within the law for copyright infringement. The remedies could be Administrative, Criminal or Civil. Part II of Cap C28, LFN, 2004 establishes the Nigerian Copyright Commission (NCC). NCC's functions include responsibility for matters affecting copyrights as well as monitoring and supervision of Nigeria's position within the international regime. Some of its remedial measures are the Prescription of Anti-Piracy Measures, and to be in charge of the design, label, mark, impression or any other anti-piracy device.

NCC's Administrative remedial powers include the appointment of Copyright Inspectors with powers to:

- enter, inspect and examine at reasonable time buildings and premises suspected to harbour infringement;
- arrest persons reasonably suspected;
- inquire into compliance with the Act;
- require production of and inspect statutory register; and
- make requisition from persons found on premises.

Registration of Collecting Societies with powers to represent owners:

- negotiating, granting of licenses; and
- collection and distribution of royalties.

(Sections 38 & 38, Cap C28, LFN, 2004)

The Criminal Remedies that the NCC prescribes are stated as follows:

Any of the following acts is an offence in Nigeria, punishable by fine or a term of imprisonment:

- manufacturing or importing or possessing equipment for manufacture of an infringing copy of copyrighted work (Punishment is fine of ₦1000 per infringing copy or term of imprisonment not exceeding five (5) years);
- trading in and possessing, other than for private/domestic use, infringing copy (punishment is fine of ₦100 per infringing copy or term of imprisonment not exceeding two (2) years); and
- unauthorised distribution of literary, cinematographic, sound recording and broadcast works (Punishment is fine of ₦100 per infringing copy or term of imprisonment not exceeding six (6) months).

(Section 20, Cap C28, LFN, 2004)

In addition, any of the following acts is an offence in Nigeria, punishable by fine or a term of imprisonment:

- trading in works in violation of Anti-Piracy measure (Punishment is fine of ₦100,000 or term of imprisonment not exceeding 12 months or both);
- importation and possession of works in violation of Anti-Piracy (Punishment is fine of ₦500,000 or term of imprisonment not exceeding five (5) years or both);
- unauthorised possession, reproduction and counterfeiting of Anti-Piracy device (Punishment is fine of ₦50,000 or term of imprisonment not exceeding five (5) years or both); and

- failure to keep, or making of false entry in statutory register or knowingly tendering or producing same (Punishment is fine of ₦10,000).

(Sections 20 & 21, Cap C28, LFN, 2004).

The Civil Remedies that the NCC can apply under Common Law and Equity are as follows:

Injunctions. Injunctions are granted on the following bases:

- There must be a serious issue.
- Damages will not suffice.
- Balance of convenience is in favour of applicant.
- Court's discretion.

- See *American Cyanamid v. Ethicon* (1975).

Other Civil remedies that can apply are:

Anton Piller Order: a special specie of Injunction is the Anton Piller order, an *ex parte* order which allows applicant to enter premises and seize infringing materials or evidence. For this order to apply:

- there must be a strong prima facie case;
- damage, actual or potential must be serious; and
- strong evidence of infringing materials or other evidence and real possibility it may be destroyed.

- See *Anton Piller KG v. Manufacturing Processes* (1975).

Yet, another Civil Remedy applicable is that of *Damages*. This is to restore the owner to the position as though the injury was never committed. The questions considered are:

- Would owner have charged a licence fee for the work?
- Would he have received royalties?

- See *General Tire v. Firestone* (1975).

Account of Profit is also a remedy that can be afforded.

Alternative to damages, owner may claim account of profit made by the defendant under the equitable doctrine of unjust enrichment.

See *Potton v. Yorkshire* (1975). All these mentioned above are the legal actions that the Nigerian Copyright Commission could take or apply in the event of copyright infringement.

Fair Use

To avoid infringement or outright flouting of the law, there are provisions for fair use of copyrighted materials; but what constitutes fair use? A material, writing or publication can be used in part, or wholly, depending on how it is used. The law allows fair use. At what point can it be said not to be fairly used? Alfino (1996) asserts that fair use guidelines are interesting because they try to preserve a distinction which is clearly vanishing in the face of current and emerging technology. With the emerging technologies, information gets put in formats which make it difficult to operate the copyright law. Sagi, Carayannis, Dasgupta and Thomas (2006) assert that the right of a website to sell information and the right of the user to freely copy data from the Web are prominent issues in e-commerce and the topic of national legislation. This data got from the websites can be freely used. Alfino argues that fair use offers extensive protections to individual scholars but does not address the reasonable needs of communities of scholarship (including classroom instructions, seminars

and professional scholarly societies), which can only function by systematically distributing texts. By orienting fair use to individual scholarly activity, he contends that we perpetuate the myth that scholars are not working more and more in community through conferences and telecommunications and that as libraries and educational institutions increasingly rely on systematic practices (for example, electronic media, library networking, faxing, and photocopying) which take us away from the traditional domain of fair use, the practical value of free or affordable access to information will be eroded.

On the other hand, the Trade-Related Aspects of Intellectual Property (TRIPS) agreement (ratified in 1994), for example, provides international Intellectual Property standards and specifically provides copyright protection for computer programs as intellectual creations. Computer programs in this wise are deemed not to be fairly used when one makes any type of use of it without acknowledgement or proper recourse to the copyright holder. This is probably why one is required to sign agreements or licences when downloading or using certain computer programs.

Further in considering intellectual property rights protection, there is the realisation that some sponsored researches have IPR issues at stake. If one were sponsored for the research, one may not be permitted to disclose all one's findings by the sponsors. Information in the databanks of these institutions is sometimes protected. This has implications as the true picture of the research is not painted and therefore issues arise. Is it ethical to conduct research and withhold the result of the research? Is the onus not on the researcher to state what has been found out? What implication does this have for knowledge sharing? What implications for upbuilding or improving on the situation that is being researched?

Intellectual Property Rights in the Academia

In academic institutions especially in tertiary institutions or universities, much academic work is done. The intellectual outputs of the academic staff and their students are what the educational system revolves around. Intellectual property is therein a very serious issue. The protection of intellectual property is supposed to be a foregone conclusion as the environment is adjudged a learned one.

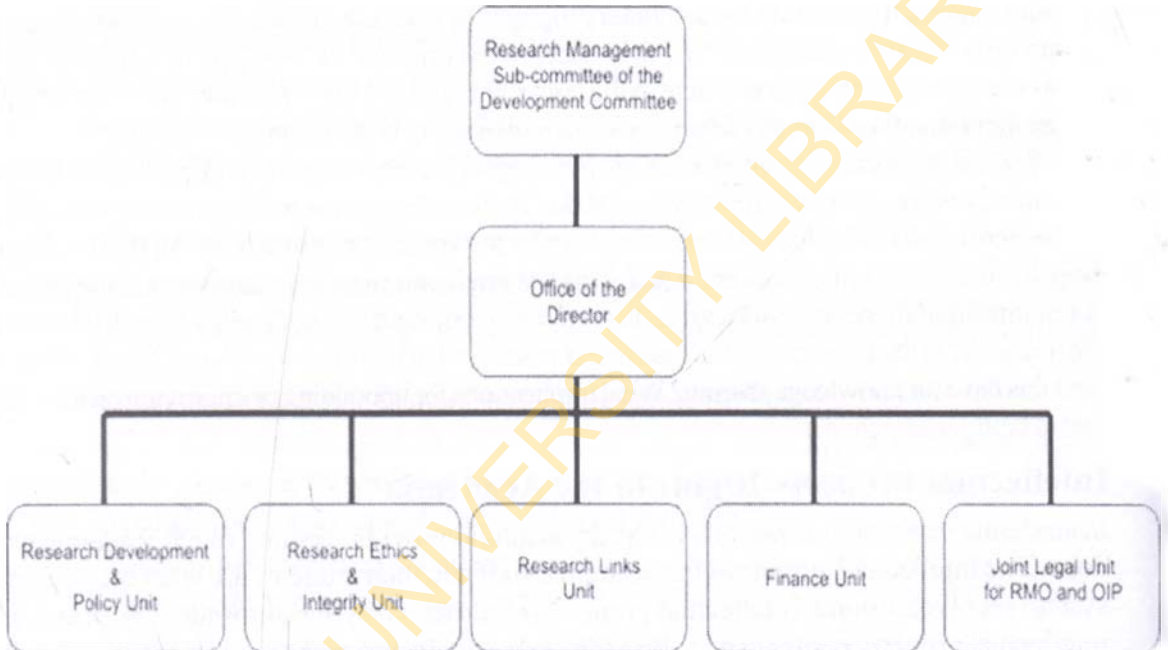
Intellectual property issues are not seemingly given the proper attention they deserve however. In the academia, can all kinds of digital information and knowledge be considered intellectual property? Is there a clear borderline between public domain and proprietary software? How can one distinguish between the public's right to access and the ownership rights of authors and producers with respect to intellectual property? These are questions to which answers need to be found before intellectual property rights can be duly categorised to meet the specifications expected in the academic environment.

The University of Ibadan which has been in existence for well over sixty years has a Research Management Office which was set up to look into how research should be carried out in the Institution. The Research Management Office is structured into five units under the Office of the Director namely:

1. Research and Policy Development;
2. Research Integrity;
3. Research Links,
4. Finance; and
5. Legal.

An organisational chart of the Office reproduced below shows that there is a Research Ethics and Integrity Unit and also a Joint Legal Unit. Some of the duties and functions of the units relevant to this study are also reproduced. Functions of the different committees are defined and the structure outlined. The office is subsumed under the office of the Development Committee of the University. Thus, Research Management in the University of Ibadan is a development issue.

Figure 2: *University of Ibadan Research Management Office Organogram*



Source: <http://rmo.ui.edu.ng/Research%20Ethics.html>

Functions of the Research Development & Policy Unit

The principal functions of the Research Development Unit shall be to:

1. "promote and coordinate collaboration among researchers;
2. develop capacity of researchers in proposal writing, research methodology and report writing;
3. review and approve proposals for submission to sponsors/funding agencies;
4. disseminate information on funding initiatives and opportunities to the University's research community;
5. identify academic staff research interests and establish links with potential sponsors;
6. assist researchers in preparing, writing and packaging proposals;

7. maintain a searchable database of research funding information;
8. operate a searchable database of researchers and their research interests;
9. maintain a searchable database of all ongoing and completed research activities;
10. publish highlights of ongoing research activities;
11. draft, review and present research related MOUs;
12. maintain proposals and awards databases; and
13. prepare and submit annual reports to the Director.” (<http://rmo.ui.edu.ng/Research%20Ethics.html>).

These are what the University has on ground. In addition, there are policies guiding research and the output of research.

Researches by staff are treated as follows:

“Subject to compliance with the University’s values and ethical principles, all academic members of staff have:

- (i) both the right and the obligation to conduct research and disseminate their findings; and
- (ii) the right to seek research funds in support of their research.
 1. Nothing in this policy shall be construed as exempting any member of the academic staff from teaching and/or other responsibilities solely on the basis of the research record of the person.
 2. Staff, students and visiting scholars shall adhere to the University’s ethical standards for research.
 3. The principal investigators in research projects have the primary responsibility to ensure the quality, reliability and integrity of research outputs disseminated by them” (<http://rmo.ui.edu.ng/Research%20Ethics.html>).

The document stated that the University concerning research ethics and integrity was to do the following: “The University shall set up an outfit, called the Ethical Research Review Board, which shall coordinate all matters pertaining to research integrity and ethics relating to the use of various subjects for research purposes.” The functions of the Research Integrity Unit as stated in the document are to:

1. “coordinate and monitor procedures on research using human subjects and animals;
2. monitor policies relating to research conduct and integrity;
3. supervise compliance with ethical regulations guiding research;
4. assist researchers in research and instruction related compliance concerns;
5. ensure that animal care facilities are maintained in compliance with policy regulations;
6. monitor and consult with the University organ in charge of environmental health regulations relating to potential biological, chemical, radiation and recombinant DNA hazards;
7. provide administrative support for the relevant ethical review boards;
8. ensure that monitoring and evaluation is conducted for each research project; and
9. prepare and submit annual reports to the Director” (<http://rmo.ui.edu.ng/Research%20Ethics.html>).

In any case, without doubt, the University of Ibadan is considering what to do about the ethics and integrity of staff and students. The only body that seems to be empowered to take any punitive measures against offenders is the Staff Disciplinary Committee or the Students Disciplinary Committee as the case may be.

On Authorship, the same document has only one sentence: “The University shall develop and operate a policy on Authorship.” Nothing further is said in the policy on authorship.

On Intellectual Property Rights, it is stated that: “The University shall develop and operate a policy on Intellectual Property. Staff, students and visiting scholars shall abide by the Intellectual Property policy. Staff, students and visiting scholars shall acknowledge the contribution by the University to the success of their research activities in all publications and research outputs.”

This much is what the Research Management Office has put out on the University website. It is a portion of a larger document that dwells more on the structure of the Management Office and the funding of research than on legal and ethical issues in the University.

Incidentally, the library’s role in the document is also mentioned somewhat perfunctorily thus: “The University Library shall maintain a database of the University’s past and current research activities. The database shall be accessible to all authorised staff and students.”

This reference to the role of the library in maintaining a database and making it accessible to the academia leads one to considerations of creating Institutional Intellectual Repositories (IIR) where universal availability of publications is expected. Issues of webometrics and copyright will inevitably occur as writers in the academia publish widely and in different formats and countries.

The copyright issues for the various publications produced differ. How are all these to be put in a common database accessible to all where different rules of copyright are applicable for the different publications? How can the library get the copyright for putting all these research outputs in a database that is on open access? What happens to those of the intellectual outputs of the researchers that are not allowed on open access by their publishers or funders of their researches?

Besides, the structure for Institutional Intellectual Repositories is not yet well-grounded in the University of Ibadan. People need to be trained to do this Institutional Repository work. Funding of the project is also a problem. Is the University ready to train staff and get the funding for the project? That is a consideration that needs to be taken.

Intellectual Property Rights (IPR) Considerations

How are academic members of staff of Institutions reacting to intellectual property and Intellectual Property Rights (IPR) issues? What are the problems they are faced with? Some of the issues border on ignorance or lack of awareness. For instance, many do not know what IPR is to start with, neither do they know how it affects them or relates to them. Some considerations are discussed herewith:

- **Lack of awareness of the existence of IPR:** one of the problems encountered is lack of awareness that intellectual property rights exist. The questions to ask are: What is IPR to us? Are we aware of our rights and other people’s rights to intellectual property? It is a problem in the University of Ibadan and other institutions. For example, a professor given the task of assessing the promotion papers of a Senior Lecturer discovers that the result of one of the researches carried out by the lecturer was actually a very novel discovery of a new product that could be commercialised. The results of the research were such that it would have been appropriate for the writer of the research paper to be given patent for the product. The attention of the lecturer is called to this fact, but it makes little impact since he is

not aware of his rights to the intellectual property and is more concerned with getting promotion within the academia.

Another example outside the academia can be cited of a Chief who gave the formulae for a paint that prevents corrosion of metals in water. He got this knowledge from indigenous knowledge handed to him innately. Shell Company has bought the patent from this Chief and is making use of the knowledge for their work.

- **Awareness of the law:** many are ignorant of the law that backs up intellectual property rights and protects their intellectual property. Little do they know that there are remedies for copyright infringement, piracy of other people's work and other breaches of intellectual property rights. Olatoye (2009) explains some of the remedies, quoting some of the laws and stating the punishment for some of the offences in this wise.
- **Awareness of your position:** lack of awareness of one's position when it comes to intellectual property is a problem. Is one liable for infringement of copyright? Does one have a right which can be claimed when one's intellectual property is stolen or misused, or used unfairly? When can one request for one's knowledge to be patented? These are problem areas.
- **Awareness of your respect for and obedience to the law:** every nation is expected to put IP rights laws in place. Everyone is expected to obey the law. Here, the owner of the intellectual property has to be familiar with what the law stipulates, and when compliance to the law should be demanded.
- **Awareness of what to do when your copyright is violated:** there should be an awareness of what to do in cases where copyright is violated. The appropriate steps to take against the offender should be well known. When all these are known, it becomes relatively easy to do the right thing at all times. In essence, intellectual property rights protection laws put normalcy into people's behaviour where the awareness of its existence is present.

Information Ethics and Intellectual Property Law

Ethics is concerned with the behaviour or conduct of individuals or groups in the society. In a profession, ethics often refers to principles and rules that guide the conduct of members to ensure that the acceptable standards are maintained. It is concerned with the type of conduct or character that is approved of, in terms of right and wrong or good and bad (Ekpenyong, 2010).

Information ethics (IE), according to Adam (2005), is the field that investigates ethical issues arising from the development and application of information technology. Capurro (2009) sees information ethics as evolving out of Computer Science, but also having roots in the Library and Information Science field.

For Mabawonku (2009), information ethics refers to the responsible creation and use of information in a variety of formats. It is about the content of data or information and how it is to be used. However, the essence of ethical code is to resolve the conflict of interest that is bound to arise in the course of information provision and harmonise the interests of information providers with those of the users and the society at large.

From the foregoing, information ethics makes it mandatory for intellectual property to be well protected and since there is responsible creation of information in various formats, there should be responsible use of the information. Laws put in place to guide or monitor the use of intellectual property ought to be well known and adhered to.

How can information ethics be taught or acquired? As advocated by scholars like Ocholla (2009) and Mabawonku (2010), information ethics should be included in the University curriculum early enough in all the academic fields or endeavour such that it is ingrained in the scholars and incidents of violating intellectual property rights will be reduced to the barest minimum as a result.

Intellectual property laws vary in nature and scope from one country to another. Intellectual property protected in one country may not be recognised in another country. Despite the existence of various international agreements that attempt to harmonise intellectual property protection, there are still differences among national laws, especially those regarding patents. For example, while the U.S.A. and countries in the European Union allow patent protection over genetically engineered organisms which meet the normal requirements for patentability, many other countries are opposed to extending patents to such subject matter.

There are also differences in the duration of patent protection. The period for which an inventor is granted a patent varies from one country to another. In addition, different countries have different conditions for the disclosure of information concerning the invention. While some (for example, the U.S.A. and the European Union countries) have strict conditions and mechanisms for enforcing patent application requirements, others (particularly those of the developing world) have weak institutional arrangements for ensuring compliance with disclosure requirements. These differences in national application of intellectual property law are at the centre of much of the debate on the intellectual property rights of indigenous and local peoples.

Ethical Issues in Intellectual Property Rights Protection

Anything a person has written is already published; it is tangible. Anything written by anyone, authored and in tangible form is published. Students' theses are not published (taken through formal publishing) but still have Intellectual Property Rights as anyone needing to use it has to quote and give due acknowledgement of the source. This is because the author of the work won copyright, not the University issuing the certificate or degree. Nothing deprives the author of the right except it was initially agreed or stated that the right would revert to the employer or sponsor. In essence, there is no surrogating in copyright - unless given out in written form.

Two social processes, technology and discourse about the status of knowledge, are always at work in the emergence of ethical problems about copyright. Confidentiality is an issue that comes up in researches. When researchers go into the field to gather data, the confidentiality of the sources from which the data comes has to be guaranteed.

It is vital to maintain the confidentiality of research subjects for reasons of ethics and to ensure the continuing participation in research. At the same time, data on research subjects can be shared if proper steps are taken to maintain participant confidentiality. If the information is reported with the confidentiality in mind, there will be no issues raised (MIT, 2010).

The main ethical issues in the use of biobanks in clinical research, for example, border on good attitudes and relationships with patients and confidentiality, secondary use of samples and data over time, return of results and data sharing (Cambon-Thomsen, Rial-Sebbag & Knoppers, 2007). In reality, protecting against unauthorised access to confidential information about research participants is a key focus of ethics review boards, researchers and research participants (FROM PubMed). These boards or regulatory bodies work to ensure that standards are set which researchers have to adhere to.

The ethical quandaries surrounding the issue of fair use will not be resolved by appealing to well-known principles of property rights. One reason for this is that copying a book involves an act of labour which, one might allege, creates property in the copy. Unlike the act of labour involved in theft, copying does not, in any obvious way, involve the removal of someone else's property or the violation of their privacy.

Vaagan and Koehler (2005) identify four main ethical issues with respect to information systems which are often focused on: privacy, accuracy, property and access. According to them, these four issues can in turn be traced back to three main sources: 1.) the pervasive role and capacity of systems for collecting, storing and retrieving information, 2.) information technology complexity and 3.) the intangible nature of information and digital goods, such as digitised music or software (Zwass, 2003: 1056).

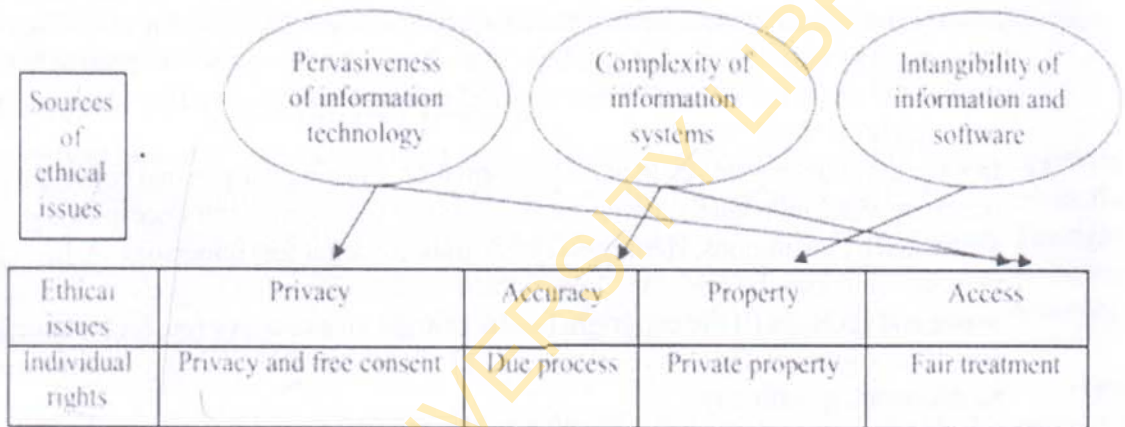


Figure 3: Ethical issues, sources and individual rights

Source: Vaagan and Khoehler (2005)

Based on a framework developed by Zwass (2003), Vaagan and Khoehler (2005) treat the issues of intellectual property rights versus public access rights, analysing a case of the DVD-Jon which in essence illustrates that intellectual property rights can conflict with public access rights, as the struggle between proprietary software and public domain software, as well as the *Scholarly Publishing and Academic Resources Coalition* (SPARC) and Open Archives Initiative reflect. They conclude that, while copyright interests are being legally strengthened, there may be ethically-grounded access rights that outweigh property rights. The Norwegian youth who cracked a DVD-access code through hacking and published the encryption program on the Internet could have been doing the public a favour, depending on how privacy, access and the ethics of information provision are viewed!

It is apparent that no academic environment is absolutely plagiarism-proof and many educators and school administrators worry that the advent of Internet technology has made it easy to access almost unlimited written materials, making students vulnerable to a violation of academic honesty (Jocoy & DiBiase, 2006). Understanding ethical and legal implications of online education is critical to improving the quality of learning and to preparing participants for every challenge they may face. As a fundamental principle for all educational activities, academic integrity must be understood as a vehicle to promote learning and ensure quality education (Jocoy & DiBiase, 2006).

Alfino (1996) reports on arguments raised by Hettinger (1989) that natural rights arguments justifying intellectual property are weaker than one might suppose, for the following reasons:

- “1) Intellectual objects are ‘nonexclusive’; they are not consumed by their use. Since sharing them in no way hinders one’s personal use of the object, the burden of proof falls on those who would justify their exclusivity. As Hettinger puts it, “Why should one person have the exclusive right to possess and use something which all people could possess and use concurrently?;”
- 2) There is a fundamental and longstanding ethical tradition recognising the social value of free (or at least affordable) access to information;
- 3) Property rights guarantee people an interest in the value added to an object by their acts of labour. But in intellectual objects, it is impossible to determine what portion of the object the author deserves a property interest in. “A person who relies on human intellectual history and makes a small modification to produce something of great value should no more receive what the market will bear than should the last person needed to lift a car receive full credit for lifting it” [http://guweb2.gonzaga.edu/faculty/alfino/dossier/papers/copyrigh.htm#N_19_].
- 4) In a market economy driven in part by information, one might argue that copyrights are a means by which individuals provide for their survival and security. But since most copyrights are owned by institutions, Hettinger (1989) finds this argument unpersuasive. In addition to these arguments, he argues that copyrighted works may violate Locke’s proviso against waste and spoilage (if the copyright holder charges an excessive fee, for instance), but since that argument depends upon argument 1 above, he believes that it does not need to be addressed specifically.

Lex Ferenda (2010) has identified the problems that can arise when the third party in question has very restrictive practices on access to the data it holds. We are able to draw on a number of codes of ethical practice from different countries. In some cases, codes framed specifically for healthcare information professionals are available (Medical Library Association, 2010; European Association for Health Information and Libraries, 2002), while in other countries, the healthcare information profession relies on more general statements issued by parent bodies ([UK] Chartered Association of Library and Information Professionals) or other authorities.

Legal Considerations in Intellectual Property Rights

The legal framework for Intellectual Property Protection in Nigeria can be found in both statutes and case laws. The Statutes stating issues concerning Intellectual Property Protection are found in the Copyright Act, Cap C28 Laws of the Federation of Nigeria, 2004, in the Trademarks Act, Cap T13, LFN, 2004 and also in the Patent & Design Act, Cap P2, LFN, 2004.

In Case Law, the issue of intellectual property protection is found in cases dealing with Contract – Confidential Information, Tort – Malicious/Injurious Falsehood, Passing Off as what it is not, and Equity – Breach of Confidence. Hill (2007) asserts that piracy of intellectual products is rampant in Asia because of the lack of enactment and enforcement of strong laws protecting intellectual property rights. Lu, Psang and Peng (2008) maintain that an innovator’s intellectual property rights for collecting income generated from an innovation must be protected by appropriate institutional systems such as patent laws. Non-protection through underdeveloped or improper institutional infrastructures stifles or discourages innovation. According to him, when institutions

support intellectual property rights, they will fuel more innovation, entrepreneurship and economic growth.

In using materials on the Internet freely, there are still some legal considerations. Morgan (2011) looks at ethical and legal factors in using Web 2.0 and posits that a basic list of legal issues would include data protection and privacy, defamation, copyright and intellectual property, negligence and breach of duty of care, accessibility, the respective liabilities of the host organisation and any third-party organisations that might be engaged, and potential conflicts between national and international laws. He expresses the fact that the potential consequences of failure to anticipate and manage risks adequately and the adverse outcomes will not be confined to possible punishment through the courts, but that there may be significant risks to the organisation such as reputational damage, operational disruption through loss of data, costly rectification processes and lowering of staff morale. Kelly (2010), however, has previously provided a useful overview of how the organisation might plan to identify and assess the risks, especially when a third-party service is under consideration.

Issues in the University of Ibadan

A critical look at the ethical and legal issues in Intellectual Property Rights in the University of Ibadan brings to the fore several issues that have come up over the years. In the academia, there are many rules that should rightly govern the use of intellectual output from research. The right of the funder of a research to demand some conditions has been earlier mentioned. However, some ethical issues crop up now and again. Some scenarios of what takes place in the University of Ibadan will be given here.

The items for discussion will be stated as Cases and the ethical and legal issues of each commented on. The Cases happened in reality but a few facts are fictionalised to protect the identity of the subjects.

Case One: A lecturer in the Faculty of Arts of the University many years ago offered to assist an undergraduate student in her research work on the recommendation of her supervisor. She gave direction on how data could be gathered and the student took her advice and kept showing her what had been done. When finally the student completed the work, wrote out the thesis draft and submitted to her supervisor, the lecturer who volunteered to guide her and assist went to demand that the student's supervisor should **not** accept the work because the student had plagiarised her (the lecturer's) work. What happened was that unknown to the student, the said lecturer had published the student's work before the completion of the thesis. She was using the student to gather data from the field for her own publication under the guise of helping to supervise her. The said student had to start a fresh research, all over again with a different supervisor and a new topic entirely. This cost her an extra semester.

Comment: Moral and ethical issues are at play in the case stated here. Is it fair for the lecturer to use the raw data gathered by the undergraduate student for her own publication without consent? Is it right to use the student for data collection under the guise of assisting in supervision? Is it morally and ethically right to prevent the student from graduating with her peers when it is no fault of hers and she had done the work? Is it right to encourage a student to work, and at the end steal the work by publishing it simply because the student is ignorant?

In this case, the student had to back down and start all over again on something quite different. Does this not kill scholarship? Where is the intellectual property right of the undergraduate student?

Case Two: A student in the Faculty of Education was duly supervised, presented a Thesis, defended it and was awarded a Doctor of Philosophy (PhD) Degree of the University of Ibadan. A little over a year after the award, one of the external examiners who did not respond at the time of the examination being conducted came up with a report that almost the whole work was plagiarised from another thesis of another University. Evidence was submitted to prove this and a demand was made for the PhD to be withdrawn from the graduate. The case is yet to be determined by the University authorities.

Comment: Is it ethically right to copy someone else's work and present as one's own? Is it not ethically wrong for an external examiner not to speak up in good time over issues that impact on the University's competence and integrity? In this case, the said examiner thought that the candidate's examination would not be conducted until he sent in his input. Unfortunately, the Department got another examiner who was not as meticulous (as it turns out), and the student graduated. Is it ethically right to award a Degree when all the stakeholders in the examination process have not all submitted their comments? How long should it take an examiner to read and critique a candidate's work and find out if it is original or not? What constitutes original work when intellectual property is considered?

Case Three: A researcher has completed his thesis and is about to defend it. The supervisor has supervised effectively, but the work progresses slowly due to the fact that the area of the student's study is completely new to the supervisor. The supervisor insists that the student must publish at least two papers from the research work and equally insists on being the first author in both publications, otherwise the student will not graduate.

Comment: The issue of politics and power play occurs in this case. The student is at the mercy of the supervisor. Is it ethically proper for a supervisor to claim superior authority over a student's work when he has contributed little or nothing intellectually? Is it right to threaten a student with failure or delay in graduation subtly or otherwise?

What are the solutions to these and many more issues that occur in the University of Ibadan and indeed other tertiary institutions? Can the matter be tackled at individual or institutional level? Can intellectual property rights be fully protected in the University of Ibadan? A survey was, therefore, carried out with the general objective of examining ethical and legal issues in intellectual property rights in the University of Ibadan while the specific objectives were to:

1. find out academic staff's level of awareness of intellectual property rights;
2. ascertain the perception of adequacy of intellectual property rights; and
3. find out the level of agreement of the academic staff with ethical and legal issues concerns in the University of Ibadan.

Research Methodology

The descriptive survey research design was used for the study. A structured questionnaire was used in data gathering. The questionnaire was developed by building on previous theoretical basis found in the literature reviewed in order to ensure content validity. Pre-testing was conducted using some academic staff from the Department of Library Archival and Information Studies of the University. This Department was excluded from the study later to assure face validity.

The questionnaire was in four sections - A, B, C and D. Section A elicited demographic information; Section B sought to find out level of awareness of intellectual property rights issues; Section C sought to measure the respondent's perception of adequacy of intellectual property rights; and Section D asked questions on perception of ethical and legal concerns in intellectual property rights protection in the University of Ibadan. In addition, their opinions were sought on how to raise the level of awareness of intellectual property rights issues among staff and students.

In order to assess perception of intellectual property rights, a scale was adopted from previously researched and validated indicators provided in the Mid Term Review (MTR) Questionnaire on Intellectual Property Rights found at [www.sbf.org.sg/.../Intellectual%20Property%20Rights%20Questionnaire_\(private\)-SIIA.doc](http://www.sbf.org.sg/.../Intellectual%20Property%20Rights%20Questionnaire_(private)-SIIA.doc) and Questionnaire for right holders / associations (2004) found at <http://trade.ec.europa.eu/doclib/html/138533.htm>.

This study's target population was academic staff of the University of Ibadan. Academic staff were chosen because it is assumed that they are the major stakeholders in the university and, therefore, whatever attitude formed or exhibited by this group is likely to be extended to other staff. The number of staff in the University being ascertained from the Pocket Statistics 2011 is 1284 and it was decided that at least 10% of this population should be targeted as respondents. As a result, 150 questionnaires were produced and administered using two research assistants who, after training, were sent to staff in the thirteen faculties in the University. The idea was to try and get at least three respondents per department if possible. Of the 150 questionnaires distributed, 106 were returned filled out in useable form giving a response rate of 70.6%.

Findings

Seventy two (67.92%) respondents were male and 34 (32.08%) were female. They came from the 13 faculties and other academic units in the university in the following distribution:

Table 1: Respondents' distribution by faculty

Faculty	No of respondents	%
Agriculture and Forestry	13	12.2
Arts	8	7.5
Basic Medical Sciences	7	6.6
Clinical Sciences	9	8.5
Dentistry	4	3.8
Education	10	9.4
Law	6	5.7
Pharmacy	6	5.7
Public Health	2	1.9
Science	16	15.1
The Social Sciences	11	10.4
Technology	3	2.8
Veterinary Medicine	4	3.8
Other Academic Departments	7	6.6
Total	106	100

The first section (A) consisted of 5 items which covered the demographic information of the respondents such as gender, age, faculty and department, job designation and highest educational qualification. Section B consisted of 10 questions in which the respondents were asked to rate their awareness level using the Likert scale of 1-4 signifying 1 (Very Much Aware) 2 (Aware) 3 (Not much aware) and 4 (Not aware).

Section C had 9 questions - 16 to 24 which measured the perception of adequacy of intellectual property rights based on a Likert scale of 1-4 signifying 1 (Very Adequate) 2 (Adequate) 3 (Not Adequate) 4 (Somewhat Adequate). Section D had 11 questions - 25 to 35 that measured degree of agreement with perceptions on ethical and legal issues based on a Likert scale of 1-5 signifying 1 (Strongly Agree) 2 (Agree) 3 (Undecided) 4 (Disagree) and 5 (Strongly Agree).

Questions 33 and 35 sought the respondents' opinions on how to raise the level of awareness of intellectual property rights on campus and what to do to redress intellectual property rights violation respectively, while question 35 asked respondents to evaluate the most effective means of disseminating information about intellectual property rights in the University by ranking on a scale of 1-6 with 6 being for 'least effective means' and 1 being for 'most effective means'.

Results

The results of findings of the research concerning level of awareness of intellectual property rights are presented in Table 2 below. Of the 106 respondents, almost half (49%) consider their level of awareness very much aware on the premise that all publications are intellectual property, 34% are aware, while 17% are not much aware. Reacting to the issue of if they are aware that they have a right to copyright, majority are aware and very much aware and only very few are not aware. On patents being intellectual output of the patent holder, less than half of the respondents (45.28%) are aware, 38% are very much aware, 9% are not much aware, while none of the respondents claimed not being aware.

Table 2: Level of awareness of intellectual property rights

		VA		A		N M A		N A		QU
		No	%	No	%	No	%	No	%	
L6	All publications written are intellectual property	52	49.06	36	33.96	18	16.98	-	-	
L7	You have right to copyright of your work	48	45.28	54	50.94	-	-	4	3.77	
L8	Patents are intellectual output of the owner of the patent?	40	37.74	48	45.25	10	9.43	-	-	
L9	You can seek legal redress if your Intellectual Property Right is violated?	66	62.26	24	22.64	16	15.09	-	-	
L10	There is an Ethics and Integrity Committee on the University of Ibadan campus?	24		39		10		32		1/ 0.94
L11	Violation of Intellectual property rights is punishable under the law	51	48.11	45	42.45	8	7.55	2	1.89	-
L12	Intellectual Property Rights are universally recognised	37	34.91	31	29.25	22	20.75	5	4.72	-
L13	A research funder's role is to help secure protection for intellectual property rights internationally	14	13.21	40	37.74	37	34.91	15	14.1	-
L14	There is an Ethical Research Review Board which coordinates matters pertaining to research integrity and ethics relating to research on this campus	19	17.92	44	41.51	20	18.87	19	17.9 2	3/ 2.83
L15	There is a Research Management Office which looks into how research is conducted in the University	48	45.28	32	30.19	10	9.43	16	15.0 9	10/ 9.34

Legend: VA= Very Aware, A= Aware, NA= Not Aware, SA= Somewhat Aware, QU= Question Unanswered.

There is generally awareness of the fact that patents are intellectual property of the owner. Well over three quarters (85% and 90.56% respectively) of the respondents are aware and very much aware that they can seek legal redress if their intellectual property rights are violated and know that violation of IPR is punishable under law, while a few claimed to be not much aware. Almost one third of the respondents, however, are not much aware of the research funder's role in helping to secure intellectual property rights internationally. Only a few claimed to be very much aware of this role, while 15 (14.15%) are not aware of it.

The level of awareness of the respondents on the presence of an Ethical Research Review Board and a Research Management Office is informative. Many more respondents are very much aware of the existence of the Research Management Office (45.28%) than they are of the Ethical

Research Review Board (17.92%) which coordinates research integrity and ethics matters. About the same number are not aware of the two bodies, though 3 and 10 respondents respectively did not respond to the two questions.

Perception of Intellectual Property Rights

Perception of creation of awareness of intellectual property rights on campus was viewed as not adequate because over half (55.66%) gave this opinion, though about a third (40.57%) believed that awareness creation was adequate. Intellectual property rights protection for staff and students was perceived to be inadequate, though a greater number of respondents (85.85%) felt that students were not protected than those for staff (52.83%).

Intellectual property rights protection for the University was considered not adequate by majority of the respondents, a few (5.66%) considered it very adequate, 1.87% considered it somewhat adequate and 7 (6.6%) declined comment (See Table 3). The competence of the Ethics and Integrity Committee to protect intellectual property rights was felt to be not adequate by about one third (31.13%) of the respondents; about half, however, felt it was adequate and one respondent (0.94%) claimed not to know if it was adequate or not. The protection of researchers' IPR by funders of their researches was thought to be adequate by slightly less than half (23.60%) the respondents, not adequate by more than half (54.72%) of the respondents; while few (7.55%) thought it was somewhat adequate, some (8.49%) thought it very adequate and 5 (4.72%) declined comment.

Table 3: Perception of intellectual property rights

	VA		A		NA		SA		QU	
	No	%	No	%	No	%	No	%	No %	
1	Creation of awareness of Intellectual Property Rights	2	1.89	43	40.57	59	55.66	2	1.89	-
2	Intellectual Property Rights protection for staff	2	1.98	40	37.74	56	52.83	4	3.77	4/3.77
3	Intellectual Property Rights protection for students	1	0.94	11	10.38	91	85.85	3	2.83	2/1.89
4	Intellectual Property Rights protection for the University	6	5.66	22	20.75	68	64.15	2	1.87	7/6.6
5	The competence of the Ethics and Integrity Committee on this campus to protect intellectual property rights?	10	9.43	52	49.06	33	31.13	4	3.77	7/6.6
6	Protection of intellectual property rights of researchers by funders of their research	9	8.49	25	23.6	58	54.72	8	7.55	5/4.72
7	Protection against unauthorised access to confidential information about research participants	4	3.78	19	17.93	70	66.06	8	7.55	5/4.72
8	Measures taken against violation of intellectual property rights	4	3.78	36	33.98	43	40.58	17	16.04	6/5.66

Only about a third (33.98%) of the respondents felt that the measures being taken against violation of intellectual property rights were adequate. Forty percent thought the measures were not adequate and 16.04% considered them somewhat adequate. Only 3.78% perceived the measures as very adequate.

Quite surprisingly, when respondents were asked to rate their perception of intellectual property rights issues, approximately half (49.08%) of them did not answer the question (See Figure 2). None rated him/herself excellent, some (9.44%) rated themselves very good, 40.48 rated fair and 16.04% rated their perception poor.

Figure 4: *Self-rating of perception of intellectual property rights*



Ethical and Legal issues in Intellectual Property Rights

Findings on respondents' responses to ethical and legal issues are presented in Table 4 below. None of the respondents agreed that intellectual property rights issues are being handled properly in the University of Ibadan. More than half (57%) were undecided neither agreeing nor disagreeing while 35% agreed that it is handled properly and only 7.55% disagreed and 1% strongly disagreed.

The opinions of respondents on the issue of seeking legal redress if their intellectual property is used without permission were mainly that of agreement and strong agreement, though 32% were undecided and only about 10% disagreed and strongly disagreed and one (1) respondent did not answer the question. On staff making use of students' intellectual property without consent, 36% disagreed with this view, 10% agreed and strongly agreed, with only 6% respectively disagreeing and being undecided.

Table 4: Level of agreement with ethical and legal issues in IPR

		SA		A		U		D		SD	
		No	%	No	%	No	%	No	%	No	%
1	I believe Intellectual Property Rights issues are being handled properly in University of Ibadan	-	-	37	34.91	60	56.6	8	7.55	1	0.94
2	Students can seek legal redress if their intellectual work is used without their consent	16	15.1	47	44.34	33	31.1	9	8.49	2	1.89
3	Staff (or Lecturers) can make use of their student's intellectual property without their consent	1	0.94	9	8.49	6	5.66	38	35.85	6	5.66
4	The University can make use of the Intellectual Property of its staff without their consent	1	0.94	12	11.32	14	13.21	74	68.81	5	4.72
5	Staff (or Lecturers) can make use of their student's intellectual property with their consent	4	3.78	63	59.43	5	4.72	31	29.24	3	2.83
6	The University can make use of the Intellectual Property of its staff with their consent	6	5.66	67	63.20	9	8.49	18	16.98	6	5.66
7	The Ethics and Integrity Committee in Univ. of Ibadan is enough to protect intellectual property rights	2	1.89	20	18.89	58	54.7	25	23.58	1	0.94
8	It is ethically wrong to compel or coerce a student to provide intellectual content and use such without his/her consent	68	64.2	24	22.64	8	7.55	2	1.89	4	3.78

Responding to the issue of whether the University can make use of the intellectual property of its staff without their consent, majority (68.81%) disagreed, 13% were undecided and 11% agreed. Only 5% strongly disagreed. Using the intellectual property of students with their consent by staff was considered by 60% of respondents to be agreeable, 4% strongly agreed, 5% agreed, 3% somewhat agreed and about 30% disagreed. The reaction to the University using their staff's intellectual property with their consent was almost the same with a few more strongly agreeing and agreeing. Two respondents did not respond to questions 27, 28 and 29 however. The findings here would seem to suggest that there is always controversy as to who owns the copyright and who can use the material where students' works are concerned just as posited by Petersen (2003).

Almost all the respondents felt it was ethically wrong to compel or coerce a student to provide intellectual content and use such without consent of the student as 64% and 23% strongly agreed and agreed on this issue. A few disagreed and strongly disagreed, with 7% neither agreeing nor disagreeing. This corroborates the assertion of Jocoy and DiBiase (2006) that academic integrity needs to be maintained in the academia. The adequacy of the Ethics and Integrity Committee to deal with intellectual property matters was called to question by respondents as more than half

(58%) were undecided, 25% disagreed that they were enough, and 20% agreed and strongly disagreed.

Asked to give suggestions on what could be done to raise the awareness level about intellectual property rights, more than half (61 respondents) did not make any suggestions. The suggestions given by the 45 who responded are tabled below (See Table 5).

Respondents were asked to rank methods of awareness creation for intellectual property rights in the University of Ibadan on a scale of 1 to 6 with 1 being most effective means and 6 being least effective means. Fourteen (13.4%) did not respond to the question. Of the 82 responses, it was found that Departmental bulletins were ranked the most effective means, the University of Ibadan website the next most effective, followed by the Classroom teaching, then media broadcast and e-mail messages which ranked the same in being the next most effective.

Text message was the least effective means, then word of mouth being the next least effective, next to the library which was somewhat a middle point. Seminars and workshops were listed as other means of awareness creation mostly ranked 4 by the respondents.

Table 5: Suggestions for raising awareness level

No	Response	No	%
1	IP policy of the university should be well published and procedure for seeking redress in situations of infringement well published as well	1	0.94
2	Awareness campaign on campus and publicity leaflets	2	1.89
3	(Periodic) workshops and seminars for staff and students	6	5.66
4	Talks on media such as TV, radio and newspapers	1	0.94
5	Various means should be used to create IPR awareness	3	2.83
6	Awareness creation through University website and bulletin	2	1.89
7	Severe measures to be taken against the offenders will raise the level of awareness	1	0.94
8	Setting up a committee to see to IPR and punishing anyone caught offending	2	1.89
9	Bulletins can help in raising awareness	3	2.83
10	Seminars, workshops, conferences will raise the level of awareness on campus (publicity)	12	11.32
11	Vetting of all research work, moving from reactive to proactive enforcement	1	0.94
12	Students and staff are to be well educated on IPR through seminars	2	1.89
13	Workshops at unit and university wide levels for all staff	1	0.94
14	Ensure that regularly all members of staff and students are educated on what and how IPR could be violated	3	2.83
15	Leaflets distribution	1	0.94
16	Through conduct of good high quality research work backed up by regular conduct of workshop on intellectual property rights	1	0.94
17	Penalty for infringement will help raise level of awareness	2	1.89
18	Inclusion of the rights in orientation program for new students and staff, sending circular about it to old students and old staff. Also jingles on Diamond FM.	1	0.94

Questioned on what could be done to violators of intellectual property rights to redress the situation, the responses were quite varied, though a number of proffered solutions tallied. Sixty three respondents did not comment on this question.

The responses that were similar given by 27 respondents are as follows:

1. Legal action should be taken (It is a litigation issue). This was said by 9 (8.49%) respondents.
2. Prosecution! (to serve as deterrent to others) – 4 (3.78%) respondents.
3. Such offender should be dismissed from University service – 2 (1.98%) respondents.
4. Appropriate punishment should be meted out to the offender – 2 (1.98%) respondents.
5. Damages should be awarded to the owner of the IP (by law court) – 8 (7.55%) respondents.
6. Punishment, for example, 6-8 month's imprisonment or payment of a big fine – 2 (1.98%) respondents.

Other opinions expressed about redress for violation are tabled below:

Table 6: Suggestions for redress on violation of IPR

S.No	Response
1.	Thorough investigations followed by appropriate sanction
2.	Written apology to the individual whose IP is violated, and adequate compensation to the person
3.	Disciplinary Committee should take up the case
4.	Withdrawal of such rights from the offenders and demote such offenders by ONE or TWO steps (that is, promotion is denied such a person for one or two years)
5.	Complaint, arbitration, settlement and legal redress or compensation
6.	Action taken will depend on the specific type of violation
7.	Report to the university first, then go to court if not satisfied with the university reprisal.
8.	Whoever that has violated intellectual property rights should be penalised by paying a huge amount of money. This will check people from doing so.
9.	The integrity of the university is based on giving credit where it is due – violation of IPR impinges on that violation and should attract the minimum sanctions.
10.	Penalty or sanctions should be severe.
11.	Like the case of plagiarism, it should be handled like a criminal case.
12.	The offender should face SSDC (Staff/ Student Disciplinary Council).
13.	Take the person to court.
14.	Exercise legal action in terms of corporal punishment to serve as deterrent to others
15.	Since it is punishable under Nigerian law, anybody caught should be punished.
16.	Violation should attract the maximum sanctions.
17.	Retrieval of such intellectual property

In all, intellectual property rights awareness on the campus of the University of Ibadan is average, though not as high a level as would be expected for an academic community. Efforts by the University to keep intellectual property rights of its staff and students protected is quite inadequate. Many of the staff do not know about the Committee and Board set up to take up intellectual property rights issues. Those who are aware do not feel confident that the Committee is enough to protect the rights. Seeking legal redress and heavy sanctions or penalties is the most favoured means of getting ethical and legal issues in intellectual property rights settled. In addition, Departmental bulletins, University website and seminars and workshops were felt to be the most effective means of raising awareness of intellectual property rights in the University of Ibadan.

The Way Forward

The issues discussed in this paper have implications for national development. Why is this so particularly for developing nations? There are consequences for not effectively protecting intellectual property. The location in which the intellectual property is used matters as one has to find out if the intellectual property rights are applicable in that particular country or domain where the product is being taken to or used.

Physical regulation for access and use of intellectual property has to be determined. Issues like Investment, Transfer and Licensing have implications for developing nations. The institutions or regulatory bodies need to be up and doing and take their responsibilities seriously. Enough paperwork has been done, action should be taken. More importantly, the individual is the most important factor here. Everyone knows or senses innately when he is doing something wrong. The value orientations of people have to change for some order to be restored in intellectual property issues. What does not belong to you does not belong to you and taking it is very wrong; it is criminal.

Lecturers, students and the University management have to do a lot more in considering ethical and legal issues in intellectual property rights. A lot of education and awareness creation is called for at all levels within the University community. Students need to know their legal rights where their intellectual rights are concerned. They ought to be taught the ethics of information and how it relates to their works. Lecturers should know their limitations as it concerns their students' works. They should also know their rights and how they should be regarded in the University. The ethics of their profession (as lecturers or researchers) should be well spelt out.

Where intellectual property rights are violated in any way, intellectual property right laws will have to be enforced where people are obtuse and lack a sense of what is right, fair and appropriate. The time has come to move away from taking reactive action, to being proactive and doing something about issues before they get out of hand. Where punitive measures have to be taken, it is better to do so, to serve as deterrent to others. In the University community, regardless of where the intellectual property emanates (student, staff and the institution), the lines have to be drawn, the rules made and the law enforced where rules are broken.

References

- Alfino, M. (1996). Intellectual property and copyright ethics. *Business and Professional Ethics Journal*, 10.2 (1991): 85-109. Reprinted in Robert A. Larmer (Ed.), *Ethics in the workplace*, Minneapolis, MN: West Publishing Company, 1996, 278-293. (Accessed on 12/9/2011 at <http://guweb2.gonzaga.edu/faculty/alfino/dossier/papers/copyrigh.html>.)
- Cambon-Thomsen, A., Rial-Sebbag, E. & Knoppers, B.M. (2007). Trends in ethical and legal frameworks for the use of human biobanks. *European Respiratory Journal*, 30: 373-382.
- Cornish, I.P. (1999). Patents, copyright, trademarks and allied rights (4th Ed.). Pg. 7.
- De Gagne, J. C. & McGill, B. A. (2010). Ethical and legal issues in online education. *Journal of eLearning and Online Teaching*, July, Vol. 1, Issue 7 2.
- Ekpenyong, G.D. (2010). Ethics in librarianship. *KDL News*, 1(2): 4-5.
- Hettinger, E. (1989). Justifying intellectual property, *Philosophy and Public Affairs*, 18 (1989): 31-52. <http://www.lexferenda.com/02062010/edwards-death-and-the-web/>
- Jocoy, C. & DiBiase, D. (2006). Plagiarism by adult learners online: A case study in detection and remediation. *International Review of Research in Open and Distance Learning*, 7(1): 1-15.
- Kelly, B. (2010). A deployment strategy for maximising the impact of institutional use of Web 2.0. In D. Parkes & G. Walton (Eds.), *Web 2.0 and libraries: Impacts, technologies and trends*. United Kingdom: Chandos.
- Laudon, K.C. & Laudon, J.P. (2006). *Management information systems: Managing the digital firm* (9th Ed.). Upper Saddle River, NJ: Pearson Education.
- Lex Ferenda (2010). Edwards: Death and the Web.
- Loggie, K.A., Barron, A.E., Gulitz, E., Hohlfeld, T.N., Kromrey, J.D., Venable, M. *et al.* (2006). An analysis of copyright policies for distance learning materials at major research universities. *Journal of Interactive Online Learning*, 5(3): 224-242.
- Lu, Y., Tsang, E. W.K. & Peng, M. W. (2008). Knowledge management and innovation strategy in the Asia Pacific: Towards an institution-based view. *Asia Pacific Journal of Management*, 25; 361-374. michaelzimmer.org/
- Massachusetts Institute of Technology (MIT) website. (2010). Ethical and legal issues. <http://libraries.mit.edu/guides/subjects/data-management/ethical.html>
- Morgan, P. (2011). Some ethical and legal considerations in the use of Web 2.0. In Younger & Morgan (Eds.), *Using Web 2.0 for health information*. Accessed on 12/9/2011 at http://www.facetpublishing.co.uk/title.php?id=731-9&category_code=950.
- Nemire, R. E. (2007). Intellectual property development and use for distance education courses: A review of law, organisations, and resources for faculty. *College Teaching*, 55(1): 26-30.
- Olayinka, A.I. & Owumi, B.E. (2005). Preparing a research proposal. In A.I. Olayinka, Taiwo, R. Raji-Oyelade & Farai (Eds.), *Methodology of basic and applied research*. Pubmed.
- Shyllon, F. (2003). Intellectual Property Law in Nigeria. IIC Studies. Vol.21 Studies in industrial property and copyright law, pg. 2.
- Udom (2002). *Adminisprudence: A behavioural approach to managing ourselves and others*. Ibadan: Spectrum Books.

University of Ibadan, Ibadan, Nigeria, Pocket Statistics (2011). Ibadan: Planning Unit, Office of the Vice-Chancellor. 6p.

University of Ibadan Research Policy (n.d). <http://rmo.ui.edu.ng/Research%20Ethics.html>

Vaagan, R. & Koehler, W. (2005). Intellectual property rights vs. public access rights: Ethical aspects of the DeCSS decryption program. *Information Research*, 10(3) paper 230 [Available at <http://InformationR.net/ir/10-3/paper230.html>]

Zimmer, M. (n.d.). *Information ethics, new media, privacy, values in design*.

Zwass, V. (2003). Ethical issues in information systems. In *Encyclopedia of Library and Information Science* (2nd ed.). Vol. 2. (pp. 1054-1062). New York, NY: Marcel Dekker. [Also accessed at <http://informationr.net/ir/10-3/paper230.html#Zwass>].

IBADAN UNIVERSITY LIBRARY