

The Need for Copyright Licensing and Privacy Issues in Education : Start-Up Process in Business Establishment

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ABSTRACT

Business Education (BE) refers to the structured training; lectures and tutelage meant to equip new or existing business owners on number of skills which will ensure the success and/or continuity of the business venture. One thing that has made Business Education curriculum important to business owners and managers is the idea of incorporating every steps and aspect of business operations into the curriculum. Start-Up is a company or project initiated by an entrepreneur to seek, effectively develop, and validate a scalable business model. The start-up process is a long, tactical and frustrating process that when done wrongly, might lead to the downfall or seizure of operations of the business, many a times, people tend to go through the business education start-up process neglecting the legal activities required to make the start-up complete which may leads to the closure or seizure of operation of the business enterprise due to lack of originality and patent protection. The legal registration of any work (s), business or activity is the basis of all processes required in the business start-up process. This legal registration is known as copyright. Copyright offers protection and originality to any work or business. Hence, this study tends to investigate the role of copyright licensing and privacy issues in the business start-up process in business establishment. In order to arrive at a dependable conclusion, the study made use of the secondary method of data collection; most evidences were gotten from online sources. The results from the study shows that even though there has been lack of copyright alternatives in past and recent years, the right to copyright licensing and privacy has led to the sustainability of many business enterprises leading to overall economic growth and development of the Nation. Therefore, copyright licensing protects both the internal and external business environment in form of privacy and it's a way of getting royalty for one's idea.

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Need, Copyright, Licensing, Privacy Issues, Business Education, Start-up, Business Establishment

INTRODUCTION

Business Education (BE) refers to the structured training; lectures and tutelage meant to equip new or existing business owners on number of skills which will ensure the success and/or continuity of the business venture (Reference For Business Website, 2019). BE sometimes referred to as Business Learning or Business Tutelage that consists of all steps; skills; techniques and/or strategy needed for business success; sustenance and survival. Thom-Otuya and Igoni (2011) posited that Business Education is that type of education that has to do with knowledge and skills which develops student physically and mentally, towards becoming self-dependent; that is, an Entrepreneur (Ayanduba, 2000). Overtime, scholars and educational professionals have conceptualized this term into a broader body of knowledge. Through the years, studies relating to BE had been made necessary and often compulsory for start-ups; existing firms; entrepreneurs; students and so on in other to gain full understanding of the steps to be taken for a business to be successful whilst satisfying consumer's needs (Rader and Meggison, 2007; Bajada and Trayler, 2013). It suffice to note one thing that has made Business Education curriculum important to business owners and managers is the idea of incorporating every steps and aspect of business operations into the curriculum (Okorie, 2004).

Moreover, almost everyone wants to own a business or be Self-Employed alas an Entrepreneur (Shumpeter, 1934; 1980). The first step in starting up or owning a business is idea generation; which is also the first step in business start-up process (Utibe, 2018). Many a times, people tend to go through the business education start-up process neglecting the legal activities required to make the start-up complete which may leads to the closure or seizure of operation of the business enterprise due to lack of originality and patent protection (International Finance Corporation and World Bank, 2005).

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According to Aashish (2020), one of the vital processes required in setting up a new or existing business is the legal registration of the business alas getting a “Patent Protection” for the business operations. The legal registration of any business idea is one of the ultimate steps in the business start-up process. Registering one’s business gives the business owner both legal and psychological satisfaction and social acceptance in the business environment (Williams and Kedir, 2016).

Since inception, Copyright has been one of the legitimate routes to originality and the most common type of Intellectual Property (IP); which is the result of copyright (oxford dictionary). Intellectual property (IP) can be just as valuable as—or even more valuable than—tangible property. Many companies make money exclusively through marketing products based on intellectual property rights. That’s why it is so important to protect your intellectual property through patents, trademarks, copyrights, and other legal devices that keep your intellectual property safe (<https://www.priorilegal.com/intellectual-property/intellectual-property-assignment-agreements-and-licenses>). Copyright is the right granted to the owner of a lucrative work or invention, to prove the originality of the work as well as the right to reproduce the work based on the work or invention and it’s mostly for a short period of time. Owners of Copyrights has exclusive rights which includes reproduction, prepare derivate works, perform the work publicly and distribution (Gigalaw Website, 2000).

Licenses are a popular method of IP as well; it allows the buyer to use the product but restrict duplication or distribution (Person Education, 2009). An IP licensing agreement occurs between an IP rights owner (“licensor”) and someone who is authorized to use the rights (“licensee”) in exchange for monetary value in the form of a fee or a royalty. An IP license may also provide your company with the ability to get its products or services to a market or geographical territory in less time, allow risks to be shared, revenue to be generated, lead to an increase in market penetration, a reduction in costs and time, access to expertise, competitive advantage, collaboration and the opportunity to minimize capital investment (Metis Partner Website, 2019).

Copyright Licensing sets the tune and provides reasonable privacy for any business operations which may include productivity and distribution. Copyright arises automatically when a work that qualifies for protection is created. The work must be original, meaning it needs to originate with the author, who will have used some judgement or skill in its creation (Copyright Licensing Agency, 2019).

Polasteck (2019) emphasized that copyright licensing needed for any business may include the following depending on the nature of the work or business:

- Business License
- Home Occupation Permit
- Zoning Permit
- Building Permit
- Health Department Permit
- Sales Tax License
- Sellers Permit
- Fire and Police Department Permit
- Withholding Tax Registration

Hence, this study is aimed at investigating the need for copyright licensing and privacy issues in business education start-up process in business establishment.

METHOD

The study made use of secondary sources of data collection. Secondary method of data collection consists of information gathered from credible sources which have been conducted in a particular field such as library books; relevant academic journals; and online articles from published websites. This study is practically based on past evidences from different sources available online on the internet.

Literature Review

Osmond (2019) outlined two methods of business education; which were traditional business education and informal business education method. He further stressed that traditional business education is earned through a college or university whereby students or individuals get exposed to both traditional and current business trends which will help guide them through the startup process and helps in sustaining the business amidst the heavy tide of competitors in the market while informal business education method happens as a result of individual's personal exposure to business education through reading of business related books; magazines or perhaps attend business seminars organized by trade organizations.

In the same vein, Business Case Studies (2020) highlighted that both traditional and informal business education is important in preparing individuals for future engagement with companies as business tutelage will help build student's confidence and competence in the labor market. It was noted that students need to acquire this skill in order to thrive in the business environment.

The Business Start-Up Process

According to Wikipedia, Start-Up is a company or project initiated by an entrepreneur to seek, effectively develop, and validate a scalable business model (Katila et al, 2012; Robehmed, 2013). As written in the article published online in the Encyclopedia Website (2020), starting a business involves many activities related to organizing the organization. The process includes generating of an idea for the enterprise (called concept development), researching the idea's potential for success, and writing a business plan (Lajovic, 2010). Someone who is starting a new business is called an entrepreneur (Shumpeter, 1934). This person takes on the financial risks of the initiation, operation, and management of the business (Mazzarol and Reboud, 2020). An entrepreneur may want to establish a small, local business organized as a sole proprietorship (a business owned and operated by a single person), or he or she may hope in one day grow his or her business into a large, multinational business organized as a corporation (<https://www.encyclopedia.com/finance/encyclopedias-almanacs-transcripts-and-maps/starting-business>).

Apart from idea generation and drafting up plans for the business, the Start-up process involves more than just these aforementioned steps (Ghezzi and Cavallo, 2018). The start-up process is a long, tactical and frustrating process that when done wrongly, might lead to the downfall or seizure of operations of the business (Massa, Tucci and Afuah, 2016). The business start-up process can be summarized as thus:

- Idea Generation
- Personal Market Research
- Drafting up a Business plan
- Getting the right support (financially and morally)
- Registration of the business name (copyright licensing)
- Getting the right team for the business
- Choosing the right location
- Getting the business started (Alyssa, 2019).
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Understanding Copyright and Copyright Licensing

Copyright is the most popular type of Intellectual Property (IP). Intellectual property (IP) is a category of property that includes intangible rather than tangible creations of the human intellect. Copyright gives right to the owner of a creative work or in this case, a business enterprise. This right includes right to reproduce, re-invent, market and distribute the products of the idea or work based on the initial inventive idea. A licensing agreement is a partnership between an intellectual property rights owner (licensor) and another who is authorized to use such rights (licensee) in exchange for an agreed payment (fee or royalty) (World Intellectual Property Organization (WIPO), 2018). The lack of licensing alternatives has also been detrimental to further creation (Yafit, 2015). Copyright does not cover ideas and information themselves, only the form or manner in which they are expressed (Stokes, 2001)

A copyright license is a form of contract (also known as a 'permissions agreement') based in copyright law. It represents an agreement between someone who wants to use a work (a film, song, image, text, and so forth) and someone else who can give permission to use it, often in exchange for money. The kind of license you need will depend on the work you want to use, how you want to use it and the kind of organization you represent. You may be able to get a blanket license from a number of organizations so that everybody in your organization can use a range of resources legally (Copyright Hub, 2019).

Business licenses, permits, and tax registrations are issued and administered by all levels of government, federal, state, and local, which includes county and municipal governments. In many cases you may need licenses on each governmental level. Furthermore, there are various agencies and departments involved in the licensing process (Polasteck, 2019).

There are numerous types of copyright licensing which includes; direct licensing, exclusive licensing, non-exclusive licensing, and limited use licensing, primary right licensing amongst others. In the case of commercial or business venture, "primary right licensing" is best recommended based on its commercially inclined nature. Primary license means the initial license issued to the first person, firm or corporation to establish and maintain, conduct or operate a manufactured home park or recreational camping area at any one location (Law Insider Website, 2019). At this juncture, it is necessary to look at the theories that can be used to best explain copy right licensing in business education tutelage.

Theories of Copyright Licensing

There have been numerous theories which have been propounded by different authors in past and recent years. This study will however review two (2) out of the existing theories of Copyright Licensing which are related to the research topic. Most theories have Copyrights and Copyright Licensing that lacked the absence of licensing choices in various creative markets (Yafit, 2015).

Yafit (2015) however propounded the "Subtle Theory of Copyright Licensing". In his words, "*the subtle incentive theory encourages right holders to engage in licensing by considering the lack of licensing alternatives in the market for a particular work as a mitigating factor in the fair use analysis. Specifically, the subtle incentive theory propounds the mirror image of a test that was already mandated in American Geophysical Union v. Texaco in the mid-1990s, but which has since been used exclusively to deny fair use. By so doing, the subtle incentive theory mends a logical error in fair use reasoning and promotes a better creation market by making a zero-cost doctrinal change to ameliorate copyright licensing shortfalls*" The subtle incentive theory does not leave the licensing failure to be repaired by the market alone, and it adds an important policy statement as to the significance of original and secondary creation alike (Yafit, 2015).

The second theory of Copyright Licensing to be reviewed is the "Economics Theory of Copyright Licensing". In a study conducted by Richard Watts (2010), in his words; in standard economic theory, the

theory of contracts is intimately related to the concept of incentives. That is, a contract is a means under which a given party can be persuaded to carry out some task in a way that is beneficial to a second party. The study of the economics of copyright often approaches the topic using an incentives argument, that is, copyright is granted to authors in order that they can be appropriately remunerated (Royalty Fee) for their work and or business idea, so they thereby have the appropriate incentive to provide that work. Under this approach, the central problem for determining the correct legal copyright parameters is the balancing at the margin of the incentive provided to authors (or business owners) and the access to works that is available for users (Watts, 2010). This led us to the guidelines of copyright licensing in order to know the direction on how it can be used for business men and entrepreneurs.

Copyright Licensing Rules

If economic rights are transferred, the transfer must be in writing and signed by the copyright holder. However, if the right is transferred on a nonexclusive basis, no writing is needed. Copyright law does not require that payment or anything else be exchanged in order to grant someone a license, but often copyright holders do require payment, place restrictions on the license, or require the licensee to meet some other obligation (Adapted from an online article on justia.com, last updated on June, 2019).

The license will dictate all the terms of the transfer of rights. Usually, it will spell out which rights are being licensed, the number of uses, to what extent the work can be used, and the length of time until a license expires. It will also specify any requirements or obligations on the part of the licensee. For example, a copyright holder may license a work to be distributed only in a particular geographic region. If the licensee distributes the work in other geographic regions, the copyright holder can sue for infringement and obtain an injunction or damages (Adapted from an online article on justia.com, last updated on June, 2019).

Often, a third-party organization is authorized by the copyright holder to grant the permission on the holder's behalf. For example, stock photo websites often grant licenses to individuals to use a photographer's stock photo on their website or online magazine for a small fee under a license (Adapted from an online article on justia.com, last updated on June, 2019).

Under Section 203 of the Copyright Act, authors or those who inherit their rights are permitted to terminate grants of copyright licenses that are made on or after January 1978 if certain conditions are met, except in the case of works for hire. For example, when an author dies, those who own more than half of that author's interest in the work can terminate the license. Termination can also happen within five years, starting at the end of 35 years from the execution of the license. When the license covers the right of publication, the license can be terminated 35 years from the date of publication of the work under the grant or at the end of 40 years from the date the license is executed, whichever is earlier (Adapted from an online article on justia.com, last updated on June, 2019).

Privacy issues in Business

Privacy is an important form of business strategy both for the internal and external environment of the business. Privacy is the use of specific laws and rules and regulations in the day to day activities/operations of a business entity. Privacy is something that can impact a brand, disrupt the customer experience and potentially damage a company's reputation (Gorodyansky, 2017). The most important role of privacy is that it builds and ensures customer's trust, loyalty and satisfaction. Customers naturally view companies who voluntarily add privacy protection to their website as more reliable and trustworthy as compared to companies that don't (Reputation Defender Website, 2019)

Privacy guarantees steady operations and sustainability of a business, whilst wading off competitors in the business market. The need for privacy in business can be summarized as follow:

- Privacy protection builds and protects customer trust and loyalty.
- It helps in wading off competitors who might want to invade into the company or business customer database.
- Apart from being vital to the customers and the external business environment, privacy ensures that organization's employee's data which may include medical test report and background education details of the employee are well restricted from public usage.

The Need for Copyright Licensing and Privacy in Business Start-up Process

It is generally noted that business start-up process is a long and frustrating journey that starts from idea generation to the actual establishment of the proposed business idea. It won't be worthwhile if the necessary steps are not been adequately taken care of while going through the whole start-up process. This is where the need for Copyright Licensing comes in. The first question to be asked is why is Copyright Licensing necessary or compulsory for a business or why is it a compulsory step in the business start-up process?

Polasteck (2019) highlighted why business licenses are required for a business. Licenses are required for three main purposes:

- To identify your business and make sure you are accountable for your actions
- To protect the public health and safety
- To keep track of your finances for tax purposes

In addition to this, the economics of copyright theory which uses an incentive approach to copyright licensing and contract states that copyright is granted to the owner of an inventive business idea or work in order to get remunerated for his works. This implies that copyright serves as a panacea for generating profit from a lucrative or inventive idea; thus making it necessary to get a copyright license while starting up a business venture or enterprise (Landes and Posner, 2003).

Towse (1999) further emphasized that it is not wrong to say that copyright licensing serves a way of ensuring business privacy since copyright protects the original works or idea of an author. According to him, it can be said that a strong relationship exists between copyright licensing and business privacy. Privacy Issues needs to be addressed both as a strategy and as a means of ensuring the sustainability of the business enterprise. Privacy Issues matters in every business proposal/start-up process irrespective of the size and capital outlay of the business both for the internal and external environment of the business. It ensures adequate protection in the day to day operations of the business firm or enterprise whilst satisfying the customers profitably (Corrigan and Rogers, 2005).

RESULT, DISCUSSION, AND SUGGESTIONS

In conclusion, despite the flaws of copyright licensing due to the non-availability of licensing alternatives, copyright and patent protection is compulsory and ideal for the business start-up process. The business start-up process is a series of process in which the owner of a business idea must carefully go through in order to ensure the originality of his business.

Since Small and Medium Enterprise (SMEs) and Entrepreneurship are seen as a veritable tool for economic development (Akingunola. 2011; Sanusi, 2003 and Bako, 2012), copyright licensing or the access to copyright licensing has led to the sustainability of business enterprise, thus leading to economic development which contributes to the overall economic growth of the country.

The need for copyright licensing must not be underestimated by potential business owners and start-up companies. Apart from the protection and privacy that copyright offers, it's also a sure way of getting remunerated (profits) for one's work or business idea; which is the ultimate goal or the reason why people go into or engage in business.

The following recommendations were made and directed to business start-up companies, potential startups, the government, licensing agencies and as many who wants to go through the business start-up process:

- The registration of the business idea must be registered before any other steps in the business start-up process.
- The right to copyright should be made available to all at low and affordable costs.
- The processes in getting license permits should be made easy and assessable for all.
- The Government should encourage start-up companies and young entrepreneurs in getting their inventive idea registered as a legal entity in other to ensure business sustainability whilst developing the economy.

Limitations of the Study

This study failed to put emphasizes on the cost of getting a business name registered irrespective of the country of business establishment and scale of the intended business. The study only made use of relevant past studies in other to justify the statement of the research. There is need to conduct a more deeper research that will be based on first-hand information from business owners and business educationists as respondents on how copyright licensing actually helps a business in securing threats in regards to privacy issues in business.

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