AI & Traditional Cultural Expressions

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AI and Folklore under Nigerian Law: Recommended Legal and Ethical Guide for a Sustainable Creative Economy

Nigeria's rich and culturally expressed heritage like the oral tales, music, dances, art, and designs passed down through generations is not in the public domain.

The *Nigerian Copyright Act 2022*[2] explicitly defines "folklore" as "*a group-oriented and tradition-based creation of groups or individuals reflecting the expectation of the community as an adequate expression of its cultural and social identity, its standards and values as transmitted orally, by imitation or by other means*."[3]

Importantly, the Act protects these expressions against unauthorized use. In particular, any reproduction, public performance, adaptation or translation of folklore for commercial purposes or outside its traditional context is prohibited without permission.[4]

The law covers not just well-known folk tales, but any communal tradition-based work including folklore, folk poetry and riddles; folk songs and instrumental folk music; folk dances and folk plays; and folk-art including drawings, carvings, textiles, etc.[5]

The Nigeria Copyright Commission (NCC) holds the exclusive right to authorize any commercial use of folklore.[6] In effect, creators or companies wishing to use folkloric material for profit must obtain consent from the NCC before use.

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2 Copyright Act, 2022 (Act No 8 of 2022), Nigeria.

3 Section 74(5) Copyright Act, 2022 (Act No 8 of 2022), Nigeria (NCA 2022).

4 Section 74(1) NCA 2022.

5 Section 74(5)(a)-(d) NCA 2022.

6 Section 74(4) NCA 2022, See also, Lawpavilion and Lawpavilion, "Nigerian Copyright Act 2023: An In-Depth Overview - LawPavilion Blog" June 2nd ,2023) <https://lawpavilion.com/blog/nigerian-copyright-act-2023-an-in-depth-overview/> accessed October 2, 2025.

Any public use of folklore for example, in publications or broadcasts, must credit the community or place of origin. Failure to acknowledge the source and context violates the law's "fair practice" requirement.[7]

Non-commercial, educational or private uses of folklore are treated more flexibly. The Act allows "fair dealing", the right to use folklore as an illustration in a new original work, or minimal/incidental quoting, provided the extent is reasonable and the source is mentioned.[8]

The Act makes it clear that anyone who uses folklore outside the limits of the law without the Commission's consent is in breach of statutory duty. Such a person may face damages, injunctions, and other remedies as the court deems fit.[9]

Beyond civil liability, the Act also creates criminal offences. Any person who, intentionally or for commercial purposes, uses folklore without NCCs consent, misrepresents the source of folklore, or distorts it in a way that harms the honour, dignity, or cultural interests of its originator community commits an offence.[10] The penalties are serious and apply to both individuals and bodies corporate.[11] In addition, the court may order that infringing material be seized and delivered up to the Commission.[12]

In Nigeria, folklore is thus recognised as a communal heritage owned by its people but administered by the Nigerian Copyright Commission (NCC). Expressions of folklore are not owned by default, and any attempt to commercially exploit it without prior authorisation infringes the law.

1. The Legal Authorship of AI-Generated Works in Nigeria

Under Nigerian law, copyright is built around the idea of human creativity.[13] The Copyright Act 2022 vests copyright in the "author" of a work,[14] and every reference to authorship in the Act assumes a natural person, one capable of thought, judgment, and intention. There is no statutory basis for recognising an algorithm or artificial intelligence system as an author. In essence, purely machine-generated outputs,

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7 Section 74(3) NCA 2022.
8 Section 74(2) NCA 2022.
9 Section 75 NCA 2022.
10 Section 76(1) NCA 2022.
11 Section 76(2) NCA 2022.
12 Section 76(3) NCA 2022.
13 The NCA 2022 does not directly mention the requirement of human authorship for copyright eligibility but sections such as 1(a), 28, and 108 collectively suggest that copyright can be granted to either an author who is an individual or a corporate entity. It can be inferred that the burden for expending such effort to deem such a work original must come from the author. See also, Seun Lari-Williams, "Are AI-Generated Content Covered by Nigerian Copyright Law?" (*The IP Press*, February 17, 2024) <https://www.theippress.com/2024/02/17/are-ai-generated-content-covered-by-nigerian-copyright-law/> accessed October 6, 2025.
14 Section 1(a) NCA 2022.

where no meaningful human input can be traced, presumably do not qualify as copyrightable works under existing Nigerian law.

Because such a question is yet to be put before any court of law in Nigeria, other sources of law would be utilized in assessing the impact of AI in practice. Legal practitioners and scholars agree that authorship requires human intervention. If a human creator contributes intellectually by selecting prompts, refining outputs, editing, or curating, such effort can meet the originality threshold required for copyright protection.[15] The human remains the author; the AI merely assists the process. This view is echoed across analyses which emphasise that creators should document their creative input and contractually establish ownership of works developed with AI assistance.[16]

That said, there is a growing recognition of legal uncertainty regarding artificial intelligence. The *Copyright Act 2022* does not expressly address the role of AI or how authorship should be determined when technology becomes a co-creator. This absence leaves a policy gap that must be filled either through judicial interpretation or proactive regulation by the Nigerian Copyright Commission (NCC).[17] Without clear guidance, creators, businesses, and AI developers must rely on general principles of originality and authorship, guided by contracts and ethical use.

Therefore, when AI tools are used in the creative process, two questions should arise: first, whether a human's contribution is substantial enough to claim authorship, and second, whether any third-party or protected materials were used in training the AI without proper authorisation. Unlicensed use of copyrighted works, even for training purposes, can amount to infringement. As a result, Nigerian creators and companies should be encouraged to maintain detailed records of their creative process, secure licences for any training data, and clearly define ownership and warranties in their contracts.

There are also arguments that works lacking human authorship should remain outside copyright protection.[18] The rationale is rooted in the very philosophy of copyright law

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15 Seun Lari-Williams, 'Are AI-Generated Content Covered by Nigerian Copyright Law?', (n 15)

16 "Generative Artificial Intelligence and the Nigerian Copyright Act 2023" (June 10, 2024) <https://www.dentonsacaslaw.com/en/insights/articles/2024/june/10/generative-artificial-intelligence-and-the-nigerian-copyright-act-2023> accessed October 6, 2025.

17 OM Atoyebi, "Navigating Copyright in the Era of Artificial Intelligence: Addressing Legal Trends and Concerns in Nigeria" (*Omaplex Law Firm*, July 24, 2025) <https://omaplex.com.ng/navigating-copyright-in-the-era-of-artificial-intelligence-involves-addressing-legal-trends-and-concerns-in-nigeria/> accessed October 6, 2025.

18 Somadina Eugene-Okorie, "Why AI-Generated Content Cannot Be Protected by Copyright Law" (*The Guardian Nigeria News - Nigeria and World News*, June 10, 2025) <https://guardian.ng/opinion/why-ai-generated-content-cannot-be-protected-by-copyright-law/> accessed October 6, 2025.

that protection is reserved for creations of the human mind. Copyright arises from intellectual effort, judgment, and the exercise of choice, qualities that AI systems, being machines without consciousness, cannot possess. AI also lacks any entitlement to moral rights, including the right of attribution and integrity, which are exclusive to human creators.

To extend copyright to AI-generated works would therefore dilute the essence of authorship and erode the incentive structure that copyright law is built to sustain. In this view, AI outputs, no matter how impressive, are products of data-driven computation not human creativity. The protection of such outputs under copyright, would shift recognition away from human intellect and toward machine capability, a precedent that could destabilize the cultural and ethical foundations of creative law.

Nonetheless, creativity today increasingly relies on digital tools, from cameras and video recordings to music software, and the law must evolve with the creative process. Treating AI-generated works as legally void risks ignoring the human skill, direction, and choice that underpin most generative outputs.

In this author's view, AI ownership of copyrighted material is being argued against as an author, which is right. It should however be seen as an enabler, not an entity competing for authorship. It is a means to an end, a sophisticated tool in the creator's hands just like Photoshop for a designer, or a Word processor for a writer. The true source of creativity remains the human mind. Denying protection to works assisted by AI simply because a machine played a role is a slippery slope. The focus should remain on the human creative contribution, supported by proper documentation, licensing, and policy reform. The law must continue to protect creativity in all its evolving forms, not limit it.

2. Using Folklore in Generative AI: Copyright Implications

Generative AI systems such as text-to-image, music synthesis, etc., are trained on massive datasets that often include vast amounts of existing content.[19] In practice, this means an AI model may "ingest" folklore materials such as stories, songs, pictures, scraped from the Internet or digitized archives. The AI then recombines these patterns into new outputs. Legally, however, this training process can itself raise infringement concerns and if protected folklore was used without license, the trainer or user risks copying it unlawfully.

A recent example in a foreign jurisdiction illustrates this risk. In September 2025, Anthropic, the company behind the Claude AI model, agreed to a $1.5 billion

[19] Cole Stryker and Mark Scapicchio, "Generative AI" (*IBM*, September 15, 2025) <https://www.ibm.com/think/topics/generative-ai> accessed October 2, 2025.

settlement with a coalition of authors who alleged that it unlawfully used over 465,000 books to train its system.[20] The case underscores a crucial lesson that even if copyrighted material is used "in the background" for training, without public distribution, the act itself may still amount to infringement.

For Nigerian creators and companies, the implication is clear. If generative AI models are trained on expressions of folklore without the consent of the Nigerian Copyright Commission, the process alone may breach statutory protections, exposing users to liability even before any outputs are commercially released.

Even putting training aside, using AI output that contains folklore elements can violate the above restrictions. For example, an AI-generated image that vividly depicts a traditional masquerade or a song that quotes tribal melodies may constitute a reproduction or adaptation outside its traditional context. Under the law, distributing or selling such AI works for profit would require NCC approval. The fact that AI created the final piece does not negate the rights, as the content still originated from human cultural expression.

Therefore, as there is no special AI copyright law in Nigeria, if an AI's output effectively copies or heavily depends on copyrighted folklore, the user can be liable for infringement. Nigeria's Copyright Act 2022 is broad enough to cover these cases. Further, even if *prima facie*, AI-produced works cannot be copyrighted by the user, the underlying elements may still be owned by the Commission. Publishing an AI remix of Yoruba, Igbo, or Benin folk art without approval would be illegal, regardless of authorship questions.

The usual "fair dealing" exceptions don't magically apply to AI. Commercial AI ventures fall outside "private use" or education. Relying on the non-human status of AI as a workaround is not a legal defense. Because AI often reuses copyrighted inputs without notice, even innocent users can inadvertently infringe. Nigerian creators experimenting with AI must carefully vet their prompts and outputs. If protected folklore or copyrighted music was "learned" by the model, using its output could constitute theft.

In summary, using generative AI does not eliminate the need to respect copyright. The same rules apply: you need permission and attribution for folkloric content used in AI projects. Corporations and artists alike must therefore integrate IP clearance into their AI workflows.

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[20] Lily Jamali, "AI Firm Anthropic Agrees to Pay Authors $1.5bn for Pirating Work" (*BBC*, September 5, 2025) <https://www.bbc.com/news/articles/c5y4jpg922qo> accessed October 2, 2025.

3. Legal and Ethical Use of Folklore for the Creative Economy in Nigeria

Nigeria's folklore is not merely cultural expression; it is communal intellectual property protected under national and international law. WIPO emphasizes that expressions of folklore embody community identity and must be used with respect, consent, and benefit-sharing.[21] The media describes Nigeria as experiencing a "cultural renaissance," where cultural preservation and innovation are key drivers of identity and economic growth.[22] With folklore-inspired art, fashion or media, new markets open that both educate the public and generate income for communities.

Therefore, in today's creative and AI-driven economy, these frameworks are essential to ensure that innovation does not become exploitation. Creators and developers must balance creative freedom with legal responsibility. Proper compliance not only protects heritage but also builds trust and sustainability within Nigeria's creative ecosystem.

The process begins with proper licensing. Under Nigerian law, folklore is considered a national heritage collectively owned by its communities, and the NCC acts as aforementioned, as the official custodian of these rights. Any creator or company intending to adapt, commercialize, or digitize folklore must first obtain authorization from the NCC, which issues licenses on behalf of the relevant cultural groups. This not only ensures compliance but affirms the principle that folklore belongs to the people who own and sustain it.

Beyond the legal requirement of licensing lies the ethical responsibility of community engagement. Indigenous and local groups view their traditional expressions as part of their living identity. Engaging source communities through prior informed consent and shared decision-making demonstrates respect for their cultural ownership.[23] Such engagement should also include benefit-sharing mechanisms, ensuring that profits derived from folklore directly support the communities involved.

Incorporating folklore also requires proper attribution. As earlier stated, the Act mandates that any identifiable element of folklore must be accompanied by a statement indicating its source community or region. Therefore, if an AI system generates music inspired by Yoruba folk songs, those cultural origins must be credited.

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21 World Intellectual Property Organization, "INTELLECTUAL PROPERTY AND TRADITIONAL CULTURAL EXPRESSIONS/FOLKLORE" (World Intellectual Property Organization) <https://www.wipo.int> accessed October 6, 2025.

22 Leslie-Shamilda Segui, "Nigeria Is Reclaiming Its Cultural Power: Storytelling, Stewardship and Self Determination" (*African Media Agency*, July 10, 2025) <https://africanmediaagency.com/nigeria-is-reclaiming-its-cultural-power-storytelling-stewardship-and-self-determination/> accessed October 6, 2025.

23 World Intellectual Property Organization, *"INTELLECTUAL PROPERTY AND TRADITIONAL CULTURAL EXPRESSIONS/FOLKLORE"* (n21).

Acknowledgement is not merely symbolic; it reflects legal compliance and cultural integrity.

Equally important is the need to respect the cultural and spiritual significance of folklore. The law prohibits any use that "distorts or mutilates" traditional expressions in ways that harm the "honour or dignity" of a community. Creators should therefore avoid trivializing sacred materials like ritual songs, symbols, or myths, and instead approach them with contextual sensitivity.

Folklore should also be treated as any other form of intellectual property, deserving protection and value. According to WIPO, IP protection helps traditional communities commercialize and control their heritage on their own terms.[24] This perspective reframes folklore not as a relic of the past, but as an evolving economic and cultural resource, one that can generate fair revenue when managed ethically.

Finally, sustainable creative use depends on education and innovation. Artists, designers, and AI developers must be aware that folklore is legally protected and cannot be freely exploited. Teams should be trained to incorporate cultural respect into project designs and AI training data, aligning with principles of cultural variety and inclusion. Innovation, in this sense, does not mean appropriation, it means co-creation. By collaborating directly with local artists or cultural custodians, creatives can build new works that honour tradition while pushing creative boundaries.

Ultimately, Nigeria's folklore framework is not meant to limit innovation but to guide it. When creative and tech industries approach folklore with transparency and respect through proper licensing, acknowledgment, and collaboration, they turn cultural heritage into a source of inspiration rather than exploitation. In doing so, they help shape a creative economy where tradition and technology coexist, empowering both entrepreneurs and the custodians of Nigeria's cultural legacy.

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[24] Ibid.