

Nollywood

Pirates and Nigerian Cinema

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Nollywood—the film industry of Nigeria—reflects an important aspect of many creative landscapes: The emergence of new artistic movements, at times seemingly from nowhere, that have an enormous impact on cultural production. Over the course of little more than two decades, Nollywood has become the second largest producer of films in the world, just behind Bollywood, and the world’s leading producer of digital video films.¹ During this period, Nollywood has matured and become a part of a broader Nigerian film industry that some refer to as New Nigerian Cinema. Notably, Nollywood achieved this success without the presence of strong copyright protection, contrary to dominant expectations about IP. Nigerian cinema, in both its early and more mature varieties, demonstrates that creativity may derive from unforeseen sources. Nollywood also reflects significant digital era trends in both the creation and distribution of cultural products. It demonstrates that conceptions of intellectual property must take greater account of a potentially broad spectrum of creativity. This chapter discusses Nollywood and Nigerian cinema within the context of broader digital era divides, business and cultural practices, and contemporary creative landscapes.

Nollywood and Digital Era Divides

Nigerian filmmaking, which enjoyed a golden age in the 1980s, was largely moribund by the end of the decade.² But in the early 1990s, Nigeria started on a path that has led it to out-produce, in terms of numbers of films released, most major film producers in the world, including

Britain, Italy, Spain, Germany, France, China, Japan, and the United States.³ Nollywood films have become pervasive and “wildly popular” in Africa, as well as among African diasporic communities.⁴

Nigeria is an unlikely locale for the development of a major film industry. Although Nigeria has fairly comprehensive copyright laws,⁵ enforcement has traditionally been weak.⁶ In addition, there are a number of infrastructural and institutional challenges, including the absence of formal distribution and marketing networks, a lack of production, distribution, and exhibition chains, insufficient funding sources and venture capital, inadequate skills and training, and industry fragmentation.⁷ More general concerns, such as chronic electricity shortages and inadequate roads, stall Nollywood production and distribution.

Nonetheless, Nollywood has thrived. It has become a fast-growing sector of the Nigerian economy,⁸ generating an estimated US\$ 250 million annually,⁹ which makes Nollywood the second largest export sector in Nigeria after oil.¹⁰ Lagos, the commercial capital of Nigeria, is the center of Nigerian filmmaking and distribution. Nollywood may refer to distinct video film industry segments. It includes English-language films, often produced in southeastern Nigeria, with principal production and marketing occurring in cities such as Enugu, Onitsha, and Aba, and film distribution that is integrated with the Lagos-based film marketing system. It also encompasses production of films in local languages, including Hausa-language films produced in Kano (Kannywood) and Yoruba-language films produced in Lagos. Although early Nollywood films were typically direct-to-video, films are increasingly shown in the growing number of movie theaters in Nigeria.¹¹

Many trace the origins of Nollywood to the success of *Living in Bondage*, an Igbo-language film released in 1992, which sold hundreds of thousands of copies.¹² *Living in Bondage* was written and produced by Kenneth Nnebue, an electronics dealer and film promoter, who had previously produced Yoruba-language films. Nnebue wrote and produced *Living in Bondage*, the story of a man of power and wealth who kills his wife in a ritualistic murder but repents when she haunts him, in order to sell a large stock of blank videocassettes.¹³ Like *Living in Bondage*, Nollywood films are often quite melodramatic and borrow style and texture from existing television and film traditions, including American soap operas, B-movies, and Bollywood films.

In its earliest days, directors in Nollywood were largely self-taught, and Nollywood has incorporated institutional structures facilitated by digital technologies.¹⁴ Nollywood reflects broader access to technological tools of cultural production, which in turn has led to significant democratization of access to culture.¹⁵ In contrast, during the colonial era, filmmaking in Nigeria and elsewhere in Africa was largely reserved for European directors and producers because films were thought to be too complex for Africans to produce or understand.¹⁶

Viewers attribute the appeal of Nollywood films to a number of factors. For many in Africa and in the African diaspora, these films provide characters and stories with which they can identify and that show a cultural connection to issues relevant in Nigeria and elsewhere in Africa.¹⁷ Nollywood films are also highly commercial. The most successful are melodramas “filled with adultery, bribery and elements of local mysticism.”¹⁸ Because of their commercial appeal, Nollywood films may compete with Hollywood films in Nigeria and elsewhere in Africa.¹⁹ Nollywood films are watched throughout Africa, and African immigrant communities in Europe and the United States have played an important role in the rise of Nollywood, as well. A number of Nollywood films draw attention to the Nigerian diaspora.²⁰

The development of the industry is a complex story that may be told on multiple levels. Nollywood simultaneously reflects varied and at times contradictory narratives about disruptive technologies, diaspora, the democratization of culture, entrepreneurship, and development. In part, the story of Nollywood is one of directors and producers actively utilizing technological innovations, particularly technologies of digital video production. The rise of Nollywood illustrates the revolutionary potential of digital technologies in Africa. In particular, it reflects technology leapfrogging—the skipping over of intermediate, transitional technologies—that is increasingly prominent in Africa today. Because it adopted digital film production and distribution without first developing a traditional film industry infrastructure, Nigeria has not had to undergo the same transition to digital now occurring in Hollywood and elsewhere.²¹ Nollywood came of age during the digital era and gives testimony to the potential democratizing cultural and business impact of digital technologies. It also demonstrates important cultural and business consequences of disruptive technologies. Nollywood then gives evi-

dence of a changing global terrain of digital-era cultural and business practices and is likely a harbinger of things to come.

As digital-era business contexts challenge participants in the creative industries, many industry players have increasingly sought to bolster their business fortunes through reliance on copyright law enforcement. This increasing focus on copyright law has influenced legislative activity and has been evident in stronger formal and informal copyright enforcement. Conflicts about how creative works should be produced, consumed, and disseminated continue in varied contexts and geographic locations, underscoring the pervasive contestation that has come to characterize significant portions of digital life. Full understanding of such disputes requires greater attention to changing cultural and business practices and how such changes relate to dominant assumptions about copyright.

Copyright is based on implicit yet often incomplete, and at times even incorrect, assumptions about human behavior. On the creation side, the typical incentive story is at best incomplete in depicting creative practices in a number of contexts. As a result, how people create, why people create, and the factors that motivate creation are often not well understood. By providing widespread access to technological means of creating professional-quality content, the digital era has contributed to disruption in creative activities that even prior to the digital era did not exactly conform to dominant copyright assumptions about creativity. Nollywood draws attention to the ways in which context impacts acts of creation, and it further demonstrates how significant creativity can occur without effective intellectual property protection.

Nollywood also draws attention to digital-era disruption on the distribution side. In the past, copyright did not overtly touch on everyday practices and ordinary people. Although copyright has long served as a gatekeeper for determining availability and access to cultural material, technological realities meant that dominant pre-digital era business models relied on control of access to technologies of reproduction and dissemination. Ordinary users' access and use of materials was circumscribed to a significant degree. Thus, if an average user wanted to make a copy of a record album, for example, available technologies meant that the user's copy would likely be of significantly lesser quality than the original. This also made such copies unlikely to compete with the origi-

nal. An appropriate analogy here might be handheld recordings of movies shot from the back of a theater that were made available on the streets of New York and other urban areas. Although a market might exist for such products, it is not likely one that creates serious competition. The fabric of meaning and implications of such copying have changed in the digital era, largely as a result of the convergence of digital technologies that enable near perfect copying with Internet distribution. The movies available on the street today are often high-quality verbatim copies.

Whereas Hollywood would understandably view the distribution of such copies as a threat to its business model, Nollywood gained prominence in large part due to pervasive unauthorized distribution of its films. Although such unauthorized distribution is often referred to as *piracy*, that word tends to diminish and ignore the topography of unauthorized uses, which may be both complex and multifaceted. Understanding these varied meanings in Nollywood requires embracing underlying complexity and delving into factors that drive unauthorized uses.

Nollywood without Intellectual Property

Nollywood developed in a legal and business environment without strong intellectual property protection.²² Although Nigeria has comprehensive copyright laws, they are outdated and do not correspond well with digital-era cultural and business realities. In addition, Nigerian copyright enforcement has traditionally been weak.²³ Nigerian law provides for civil and criminal liability for copyright violations,²⁴ while remedies for copyright owners in Nigeria include damages, injunctions, accounting of profits, and delivery of copies or materials used to make copies.²⁵ Past lack of copyright enforcement in Nigeria has been due to a variety of factors, including a traditional lack of domestic copyright constituencies. Weak enforcement may be at least in part a legacy of technology leapfrogging in Nigeria, which essentially skipped the “film” stage of the film production business by going directly to digital video production. This leapfrogging means that industry structures based on centralized distribution and control that promote and enforce particular intellectual property configurations simply did not develop in Nigeria as they did in Hollywood, where the film industry exerts considerable influence over intellectual property policy. These differences

in institutional structures make it difficult for Nollywood participants to assert control over Nollywood distribution. In addition to limited copyright enforcement, infrastructural and institutional limitations in Nigeria make the accomplishments of Nollywood participants surprising. Although Nollywood developed to a significant degree within the informal sector,²⁶ it now involves a complex mix of more than 30 unions, distributors, and other players.²⁷

Given this legal milieu, Nollywood can be seen as a natural experiment for the types of creativity that may arise in the absence of strong intellectual property protection. This experiment reflects the actions of varied and at times overlapping roles, including creators, entrepreneurs, and infringers, all of whom have contributed to the growth of Nollywood and its distribution networks. The Nollywood example suggests the need for more nuanced understanding of the interaction between intellectual property and cultural production and greater recognition of the potentially varied ways that intellectual property may influence the shape of cultural production. Nollywood creativity thus has direct relevance to ongoing debates about appropriate levels of intellectual property protection and what creations might arise and be disseminated under weak intellectual property frameworks.

As has been the case elsewhere in the world, digital technology gives people access to tools that can be used to create content. The lower cost of digital video productions in Nigeria is thought by many to have broadened participation on the creation side. Technology has enabled the widespread distribution and consumption of such films worldwide, as well as in Nigeria. Digital technology enabled Nollywood to develop without infrastructure like large studios, projectors, screens, and film reels that would have been required in the pre-digital era.²⁸ Dominant Nollywood business strategies in the early days of the industry involved high-volume production of films of relatively low technical quality. These strategies reflected a Nollywood business environment characterized by a lack of formal government or private film financing and widespread unauthorized distribution of Nollywood films. Although reliable figures about Nollywood are difficult to obtain, existing data from the mid-2000s suggest that Nollywood films cost approximately US\$ 15,000 to US\$ 40,000 to make, were often financed by friends and family, and had an average production time of approximately 7 days. A

Nollywood film could thus be shot, edited, and packaged for sale in a matter of weeks.²⁹

The viral spread of Nollywood films was a key element of early Nollywood successes. Despite extensive physical distribution of Nollywood films in Africa, Nollywood distribution networks as a whole have attributes that make them more akin to decentralized digital distribution networks of virtual works than traditional pre-digital physical distribution networks for content. Nollywood films are often shared and are available in communal settings in Nigeria, which gives even those with limited financial resources access to the films. An estimated 67 percent of homes in Nigerian urban areas have either VHS or VCD players.³⁰ Even those without video players at home are able to watch Nollywood films in informal video parlors for less than US\$ 0.25, as well as in communal locations such as street stalls, hair salons, shops, bars, and other small businesses.³¹

The cost of content is an issue highly relevant in developing countries such as Nigeria, particularly because cost appears to be a major factor underlying media piracy.³² Although Nollywood films have traditionally been distributed within Africa largely through sale of physical discs, Nollywood films are increasingly available on YouTube and other Internet sites at no cost, as well as through platforms such as iROKOTv, referred to by some as the Netflix of Africa, that offer Nigerian films on demand.³³ Nollywood production and distribution models have significant implications for unauthorized distribution of films,³⁴ and the lack of industry control over distribution has facilitated the viral spread of Nollywood films within Africa and among diasporic communities, giving Nollywood a large global footprint in Africa, Europe, and the United States.³⁵

Other historical examples suggest that flexible application of intellectual property frameworks may serve as an effective development strategy. German industrial development in the nineteenth century may be attributable at least in part to a lack of comprehensive national copyright protection, which led to a proliferation of books and knowledge that was the basis for German industrial power.³⁶ The flexible approach of the United States in the nineteenth century with respect to global rights frameworks contributed to its economic development.³⁷ Similarly, a number of countries in Asia have followed a strategy of weak intellectual

property as a mechanism for facilitating the adaptation and imitation of foreign technologies, which was used to develop technological, scientific, and commercial capacity.³⁸ The U.S. development model represents an important one for developing countries today. In the copyright arena, for example, the United States followed a developing-country approach toward intellectual property enforcement that took account of the needs of the local context with respect to access to knowledge and considered widespread copyright piracy of foreign authors to be international fair use.³⁹

Similarly, emerging businesses sectors may benefit from flexibility in the application of copyright. As Nollywood illustrates, businesses in early development stages may actually gain brand recognition and market share as a result of low levels of intellectual property protection. As an emerging industry sector in the earliest years of its development, Nollywood likely benefited from widespread unauthorized distribution of Nollywood productions. Widespread unauthorized distribution enabled viewers to sample Nollywood films and helped solidify recognition of Nollywood products among a wide network of Africans on the continent and in the diaspora.⁴⁰ In the early days of Nollywood's market penetration, losses from sales were likely ameliorated by increases in the intangible value of the Nollywood brand.

Nollywood's path to date has led some to suggest that it may represent an alternative model for the development of cultural industry businesses.⁴¹ The ability of Nollywood participants to create robust and sustainable business models will be a key issue in any assessment of the future of Nollywood. The market-driven Nollywood approach is, however, less costly than existing models of film production and distribution and may in fact offer a new model for developing countries that wish to develop domestic film industries. But the model Nollywood has come to represent is at odds with the dominant way of thinking about the interaction between cultural production and intellectual property.

The Digital Era, Intellectual Property, and Business

Intangibles like intellectual property have become a key source of economic growth and business value on a global scale in the digital era. The increasing utility of intellectual property is amplified by the value

that markets increasingly attribute to the creation and exploitation of such resources. That market response, in turn, has been a significant factor in widespread adoption of business models that treat cultural products as valuable assets. Markets for creative products protected by intellectual property and market responses to uses of intellectual property resources underpin and reinforce the dynamics created by this valuable asset model. The increasing importance of intellectual property flows over into the political arena as business interests play a prominent role in shaping intellectual property discourse and doctrine.

Valuable asset business models entail the exploitation of cultural products from a value maximization perspective. Valuable asset practices typically involve extensive use of control mechanisms to extract maximum profits from all possible uses of cultural material. The potential for control in the digital era contrasts significantly with prior eras when copyright gave greater space for noncommercial uses like private personal use.⁴² Value maximization business models have tended to lead to greater assertions of control and less acceptance of uncompensated uses than might have been tolerated in the past.

At least two concurrent forces in the digital era have contributed to the appeal of value maximization models that exploit cultural products as valuable assets. One key factor is the growth and globalization of markets for entertainment goods and services. Second, investors increasingly recognize the market value of intellectual property assets,⁴³ creating trading markets for intellectual property. Players have emerged, for example, that specifically focus on creating liquid markets for intellectual property assets such as patents⁴⁴ and securitized royalty streams from copyrighted works.⁴⁵

The creation of active markets for intellectual property assets has intensified existing pressures to make intellectual property rights stronger. Valuable asset approaches may, however, also have cultural consequences that should be more closely scrutinized. The cultural material protected by intellectual property is often far more than a valuable asset, may serve important cultural functions, and may play a role in vibrant traditions and creativity more generally. Valuable asset models may also have a significant impact on investment decisions made by existing industry participants. Participants that focus

on maximizing value may be less likely to invest in creative products that are perceived to be riskier and that might involve significant unknowns. Such trends are evident in the movie industry, where the high-profit blockbuster movie increasingly defines industry centers such as Hollywood.⁴⁶

These trends also mean that creative endeavors that involve significant uncertainty, such as those undertaken in the early days of Nollywood, may be less likely to be initiated under increasingly dominant valuable asset approaches. The landscape of creativity could thus potentially be significantly affected as a result of investment decisions that embed assumptions of valuable asset models. Such decisions may have a significant impact on creativity itself, particularly since creative movements outside of dominant normative assumptions about creativity have long been an important source of creativity. Underlying assumptions about appropriate types of cultural products may thus have an impact on diversification of cultural products and types of cultural products favored by mainstream industry participants.

Business and cultural models profoundly shape conceptions of creation and visions of the broader creativity spectrum that encompasses various modalities of creation. Valuable asset models typically assume that intellectual property resources exist largely to enable protection of revenue streams for the copyright owner and are for the most part consistent with incentive-based theories of copyright. Valuable asset visions of intellectual property often thus focus on ways that owners of copyrighted works can protect and control their property. The vision of creativity implicit in such models is inherently limited. Valuable asset models often treat intellectual property assets much like museum pieces to which access and authority to use and modify should be tightly controlled. Such treatment has significant implications for the capacity of others to use such works. Valuable asset models embed a limited vision of creativity that gives priority to certain types of creativity, particularly professional activity under the rubric of established industries. This vision of creativity is limited and may not sufficiently incorporate varied modalities of creation. Varied and potentially changing norms and practices that may distinguish participants within and among artistic traditions may also not receive sufficient acknowledgment under valuable asset approaches.

Nollywood and the Construction of Digital-Era Piracy

As Nollywood has matured, its relationship to valuable asset models has grown more complex. Technological and institutional discontinuities in Nollywood have played an important role in the development and enforcement of Nigerian copyright laws. After decades of relatively weak copyright enforcement, the Nigerian Copyright Commission has in recent years undertaken more active enforcement efforts as a result of the impact of Nollywood and an increasingly visible domestic Nigerian copyright constituency.⁴⁷

As the industry has grown into a global presence, its poor distribution systems have contributed to endemic unauthorized distribution, and some argue that related losses of revenue are an impediment to Nollywood's continued growth.⁴⁸ Intellectual property laws in countries such as the United States reflect a legacy of centralized industry structures that have promoted and enforced particular intellectual property configurations. The lack of control over distribution of cultural products that has become increasingly apparent in the digital era was evident in Nigeria even in the era of physical distribution. The general lack of control over Nollywood distribution reflects the increasing convergence between Nollywood distribution and digital-era distribution patterns more generally.

Nollywood creators suffer from at least two types of distinguishable yet related unauthorized copying and distribution. First, counterfeiters duplicate popular films and resell them, directly depriving Nollywood creators and distributors of revenue. Second, retail distributors sell or rent films that come from counterfeit sources but may also copy and distribute videos themselves. The first type of unauthorized copying can be addressed to a significant degree by copyright enforcement strategies. The second type of unauthorized copyright also implicates copyright but is also closely connected to industry organization and manners of doing business. Counterfeiting of Nollywood films has been facilitated by the low price point and quality of early Nollywood videos, which gives distributors little flexibility in pricing. Some suggest that audiences are not willing to pay greater amounts for improved quality.⁴⁹ As Nollywood matures and achieves greater scale, lost revenues from unauthorized distribution are an increasing problem that requires both legal and business solutions.

This is in part a result of a changing topography of film production in Nigeria that is particularly evident in the more expensive films associated with what some refer to as New Nigerian Cinema. Industry segmentation in Nollywood is evident in multiple levels of film quality and, with some films showing in cinemas, in higher costs associated with some emerging industry segments. The return of cinemas to Nigeria has led to the creation of films shot in 35-millimeter for viewing on large theater screens, such as the 2008 Nollywood release, *Amazing Grace*. Further, some of these films are pushing Nollywood into new genres and production techniques. In 2010, for example, *Kajola*, a Nollywood science fiction film, premiered in theaters in Nigeria but was pulled from cinemas in Lagos after customer complaints. The manner of *Kajola*'s withdrawal from theaters also draws attention to questions of formality and compliance with contracts in Nollywood. As Nigerian cinema expands from its origins in Nollywood video films, varied approaches to filmmaking and varied business models have arisen, including lauded releases such as Kenneth Gyang's *Confusion Na Wa*, Eric Aghimien's *A Mile from Home*, and Daniel Oriahi's *Misfit*, as well as Mahmood Ali-Balogun's *Tango with Me*.⁵⁰

Conventional solutions, however, should not be applied in Nollywood and elsewhere without significant attention to context. Available evidence highlights the variable role that intellectual property laws may play in the development of cultural industry sectors such as Nollywood. The Nollywood case draws attention to the potential benefits of low levels of intellectual property protection, particularly in the case of emerging industry sectors. Nollywood now has significant brand value and is distinguished from video film production elsewhere in Africa by virtue of its brand. Low levels of copyright protection were an important factor in the early widespread dissemination of Nollywood films. Unauthorized distribution of Nollywood films has led to calls in recent years for greater intellectual property enforcement against Nollywood pirates. Discussions that attempt to place events in Nollywood within a broader global discourse about piracy may significantly oversimplify the role of unauthorized uses in Nollywood. Further, low levels of copyright protection that existed in the earliest stages of Nollywood development may be instructive in considering what constitutes optimum levels of intellectual property both in instances of developing business sectors, as well as in developing countries generally.

As Nollywood has matured and industry segmentation has increased, some industry participants consider piracy to be the biggest constraint on the future development of Nollywood.⁵¹ Nollywood has likely reached a point where higher levels of copyright enforcement might be beneficial to further development of at least some segments of Nollywood. Recent discussions of Nollywood draw attention to the losses that its producers suffer from varied types of unauthorized uses that make it harder for at least some Nollywood films to recoup costs and make a profit, which many believe will further circumscribe the ability of Nollywood directors and producers to get financing.⁵² As has been the case in other arenas such as music in the digital era, many may assert that intellectual property enforcement can help solve the problems of unauthorized distribution. As is the case in those other arenas, hopes about the potential of intellectual property enforcement to make up for fundamental problems with business models may constitute a mirage that misses other potentially lucrative sources of value for certain types of content. Nollywood underscores the potential benefits of thinking about levels of intellectual property protection in a flexible manner that takes account of the stage of development of the industry and country.⁵³

Although unauthorized distribution of Nollywood films has facilitated Nollywood brand recognition, unauthorized distribution has also likely reduced short-term proceeds to producers, directors, and distributors of Nollywood films and thus may also serve as a harbinger of future limitations of existing Nollywood distribution and business models. Current Nollywood business practices result in production of more content than will likely be successful. The potential risks of this strategy are at least partially ameliorated because of the relatively low cost of many early Nollywood films. In the early days of its development, Nollywood creators typically did not invest extra money in increasing the quality of films, but rather quickly released movies to see which ones would become popular. The pressure for quick releases may thus itself be a business response to piracy.

Some producers and distributors cannot meet or accurately predict demand for hit films, which leads to significant copying and revenue losses to many Nollywood producers. Popular Nollywood films are often rapidly copied, at times by marketers entrusted with distributing the film. The inability of producers to keep up with demand may

provide an opening to bootleggers who can meet such demand.⁵⁴ Nollywood business models already embed mechanisms to deal with the problem of unauthorized distribution. In addition to relying on speed and lead time, Nollywood creators often stay ahead of pirates by relying on remakes and multiple sequels.⁵⁵ Remakes and multiple sequels can be seen as yet another business mechanism for dealing with problems of unauthorized distribution because they enable better prediction of potential demand for particular movies.

Discussions of piracy in Nollywood demonstrate the need for finer distinctions in discussions of unauthorized copying and distribution more generally and greater focus on types of unauthorized distribution that represent the biggest business threats. More fine-grained analysis is needed because the success of Nollywood is likely attributable at least in part to rampant unauthorized global distribution of Nollywood films. The Nollywood story may not fully conform to dominant assumptions about incentives often made in intellectual property discourse about the relationship between intellectual property protection and cultural production. This example suggests the need for more nuanced understanding of the interaction between intellectual property and cultural production and greater recognition of potentially varied ways in which intellectual property may influence the shape of cultural production.

Future Paths for Nigerian Cinema

Unauthorized distribution of Nollywood films is part of a wider pattern in the digital era. Widespread unauthorized copying has led to pervasive labeling of all types of unauthorized copying as piracy. Although some Nollywood films continue to be distributed in physical format in Africa, unauthorized distribution of Nollywood films underscores the pricing consequences of loss of control over distribution networks that have become pervasive in the digital era more generally.

The informal structure of Nollywood distribution makes unauthorized distribution of Nollywood films fairly easy to do. Although Nigeria has a copyright law that protects Nollywood creators and a Nigerian Copyright Commission that visibly and prominently focuses on preventing piracy, significant counterfeiting occurs in Nigeria.⁵⁶ However, a 2010 raid and seizure of more than 10,000 counterfeit Nollywood DVDs

in Brooklyn may give indications of greater future Nigerian copyright vigilance, which may benefit Nollywood creators.⁵⁷

Addressing Nollywood's challenges requires multiple strategies that seek to simultaneously reduce and monetize piracy. Pre-digital cultural industry distribution models outside of Nigeria could impose pricing that in part reflected the value of effective control of the distribution network. Digital-era business and cultural realities have shifted many cultural industry participants along the control continuum in a direction of less control. A content control continuum might have no control at one extreme, which would encourage widespread distribution of content and might lead to dense networks of distribution that may be nonlinear and difficult to predict. The content owner would likely have little control over pricing, which suggests that the volume of distribution would be higher than if the owner could impose a higher price. Absolute control over distribution would be on the opposite extreme of this continuum and would enable a content owner to control all uses of content, with commensurate reductions in volume.

Intellectual property rights permit exertion of high levels of control over content in theory. However, digital-era technologies may effectively nullify or considerably reduce any ability for such control, particularly on the distribution side. This represents a significant digital-era shift with which cultural industry participants are still grappling. Pre-digital era technologies and industry business practices in the United States, for example, reinforced and gave teeth to the control rights granted under copyright laws. The Internet has compromised effective control over a broad range of cultural industry distribution networks, making control over content increasingly difficult for many content owners. Control over content would make the composition of the network highly predictable and likely less dense, assuming that the content owner could completely control the network and all uses of the content.

The digital era has in many instances moved creators of content closer to the no control side of the content control spectrum. Given the lesser control over the composition of distribution networks that this move entails, creators in Nollywood and elsewhere should seek to develop new models that will garner greater value from the distribution network itself and other sources of value related to content, rather than the content itself. For example, through varied advertising strategies,

creators could confound pirates by giving away the content for free. A number of mechanisms could be used to monetize Nollywood networks, including embedded advertising, product placement within Nollywood videos, and sponsorship deals. Such strategies would of course require that the content owner be able to harvest other sources of revenue from the distribution network or other uses of content. Nollywood creators could, for example, focus on striking deals that leverage the value of Nollywood distribution networks by utilizing technologies that will enable them to sign deals that entail receiving upfront compensation based on distribution through sales of individual films or portfolios of films.

Discussions about arenas, such as Nollywood, in which unauthorized uses may be evident or even widespread should seek to move beyond copyright and piracy to fundamental reconsideration of a broader range of business and legal issues. Digital-era cultural industry outcomes in a number of arenas reflect fundamental failures of extant business models that may be best addressed through attention to the failed models rather than stronger copyright law frameworks.

Nollywood business models would also benefit from greater attention to intellectual property rights other than copyright, including trademark and branding strategies. In addition to focusing on trademarks and branding, Nollywood producers should continue to professionalize distribution networks and improve industry responses to supply and demand signals so as to anticipate and meet the demand for hit films. As part of Nollywood network revenue harvesting, Nollywood producers could, for example, attempt to develop greater understanding about Nollywood consumers globally through surveys and use of prizes to give consumers incentives to provide information. Information concerning Nollywood consumers could be used as a basis for determining the best courses of action for developing pre-production revenue sources.

Nollywood reflects important aspects of the landscape of creation and distribution of cultural products. Nollywood also highlights the potentially varied role of copyright frameworks in actual contexts of creation. Examining the dynamics of creative communities such as Nollywood can draw attention to the operation of copyright in practice and the extent to which dominant assumptions about copyright creation and distribution may be incomplete or even inaccurate in some instances. Copyright operates in a shifting landscape of cultural production that

must give sufficient flexibility to enable a broad range of creative approaches. Copyright applied in an inflexible and decontextualized manner has significant potential to hinder creativity rather than incentivize it. Close examination of contexts of creation such as Nollywood can thus shed light on the operation of copyright more generally.

NOTES

- 1 Will Connors, "Nollywood Babylon," *Wall Street Journal* (May 22, 2009), <http://online.wsj.com>; "Nigeria Surpasses Hollywood as World's Second Largest Film Producer," *UN News Center* (May 5, 2009), <http://www.un.org>.
- 2 Akin Adesokan, "Practising 'Democracy' in Nigerian Films," 108 *African Affairs* (2009): 1, 7, 10.
- 3 David Parkinson, "Hooray for Nollywood," *Film in Focus* (Dec. 8, 2009): 1, <http://www.filminfocus.com>.
- 4 Ajibade Babson, "From Lagos to Douala: The Video Film and Its Spaces of Seeing," *Postcolonial Text* 3 (2007): 1; Eno Akpabio and Kayode Mustapha-Lambe, "Nollywood Films and the Cultural Imperialism Hypothesis," *Perspectives on Global Technology and Development* 7 (2008): 266, 269.
- 5 Remedies for copyright owners in Nigeria include damages, injunctions, accounting of profits, and delivery of copies or materials used to make copies. Nigerian Copyright Act, §§16, 18, 19. Nigerian copyright law also provides for criminal liability. Nigerian Copyright Act, §18.
- 6 Connors, "Nollywood Babylon."
- 7 United Nations Conference on Trade and Development (Unctad), *Creative Economy Report 2008: The Challenge of Assessing the Creative Economy Towards Informed Policy-Making* (2008), 9; Ismail Radwan, "Nollywood Has Talent!" *Nazikiliza World Bank Blog* (Aug. 5, 2011), <http://blogs.worldbank.org> (noting that major obstacles to future Nollywood growth include: "rampant piracy, no venture capital, lack of a distribution and marketing network, lack of film studios and poor production techniques").
- 8 UNESCO, "Nollywood Rivals Bollywood in Film/Video Production," *Institute For Statistics* (Nov. 3, 2009), <http://www.uis.unesco.org>; Emmanuel Cocq with Florence Lévy, "The Audiovisual Markets in Developing Countries Statistical Assessment Centred on 11 Countries," *UNESCO Working Paper* 59, <http://www.unescobkk.org> (noting lack of organized government support for Nigerian film industry).
- 9 Connors, "Nollywood Babylon"; Adedayo Ladigbolu Abah, "One Step Forward, Two Steps Backward: African Women in Nigerian Video-Film," 1 *Communication Culture & Critique* 335 (2008): 335 (noting that Nigerian video film industry has reached nearly US\$ 300 million a year).
- 10 Connors, "Nollywood Babylon."
- 11 Jonathan Haynes, "Nollywood in Lagos, Lagos in Nollywood Films," *Africa Today* 54 (2007): 134; Abdalla Uba Adamu, "Currying Favour: Eastern Media Influences

- and the Hausa Video Film,” *Film International* 5 (2007): 77; Oris Aigbokhaevbolo, “Nollywood: A House Divided and Standing,” *The Africa Report* (June 2015).
- 12 Haynes, “Nollywood in Lagos, Lagos in Nollywood Films,” 132.
 - 13 “Nigeria’s Film Industry,” *Economist* (July 27, 2006), <http://www.economist.com>.
 - 14 Parkinson, “Hooray for Nollywood.”
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