

## **UBOM V GLOBALCOM: REDEFINING IMAGE RIGHTS AND COPYRIGHT IN NIGERIA'S DIGITAL LANDSCAPE**

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## 1.0. ABSTRACT

This article examines the evolving relationship between image rights and copyright in Nigeria through the lens of the Supreme Court's decision in *Ubom v. Globacom*. It explores the distinction between ownership of copyright in a photograph and the proprietary right a person has over their own likeness. The decision marks a turning point in Nigeria's legal approach to unauthorized commercial use of personal images, signaling judicial recognition of personality rights in a digital era where visual identity carries immense economic value.

## 2.0. INTRODUCTION

In the age of social media, advertising, and digital content, it is important to note that a person's image; face, personality, and likeness is not merely a visual representation, but an asset that can carry social and commercial value. Yet, in many jurisdictions including Nigeria, the legal boundaries between image rights and copyright remain blurred. The recent Nigerian Supreme Court decision in *Ubom v. Globacom*<sup>1</sup> explores the legal distinction between image rights and copyright, and why it matters who owns a photograph versus who is in the photograph.

This case marks a turning point on how Nigerian Courts view the use of a person's likeness in commercial settings without their consent. It challenges the long-held assumption that a photographer automatically owns both the copyright and the image rights, and that unauthorized use of someone's image is simply a copyright issue.

## 3.0. CONCEPTUAL FRAMEWORK

The concepts of image rights and copyright are often conflated but they protect different interests and are rooted in distinct legal philosophies. Understanding the conceptual differences is essential to appreciate the significance of the Supreme Court's reasoning in *Ubom v. Globacom*.

### 3.1. Image Rights (Right of Publicity/Personality Rights)

Image rights, also known as the right of publicity or personality rights, refer to an individual's proprietary interest in their persona encompassing their name, likeness, voice, and other identifying characteristics. These rights emanate from the broader right to privacy and human dignity, recognizing that a person should have control over how their identity is commercially exploited. Though not expressly codified under Nigerian law, courts increasingly derive protection for such rights from constitutional guarantees under sections 34 and 37 of the 1999 Constitution (as amended), which safeguard human dignity and privacy.

In essence, image rights protect the individual in the photograph — not the creator of the photograph.

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<sup>1</sup> (2025) 6 NWLR (Pt. 1985) 157 at pg.163-206



### 3.2. Copyright

Copyright, on the other hand, is a form of intellectual property that protects the expression of ideas fixed in a tangible medium. Under sections 2 and 108 of the Copyright Act, 2022, the photographer or creator of a work is granted exclusive rights to reproduce, publish, and distribute the work. Copyright protection is concerned with the authorship and reproduction of creative works, not with the subject matter or the person captured in the work. Thus, while copyright vests in the creator of a photograph, image rights vest in the subject portrayed.

### 3.3. The Intersection and Conflict

The intersection between these two regimes becomes conflicted when a person's likeness is commercially used in a photograph owned by another. Without consent, such use raises both moral and proprietary concerns. The photographer may own the copyright, but the person whose image is used retains an interest in preventing unauthorized commercial exploitation of their persona. This tension underscores the importance of consent and the emerging judicial recognition that image rights operate independently of copyright.

## 4.0. THE SUPREME COURT DECISION IN UBOM v. GLOBACOM NIGERIA LTD

In 2010, Rasine Brown Ubom ("the Claimant") was a finalist in GLO Naija Sings, a talent show, sponsored by telecom company Globacom Nigeria Ltd ("the Defendant"). Months after the show ended, the Claimant discovered that her image was being used on billboards across Nigeria to promote the next season of the competition without her permission.

Feeling wronged by the unauthorized commercial use of her image, the Claimant instituted an action against the Defendant in the High Court of Rivers State, seeking:

a. A declaration that the Defendant's use of her image for its economic benefit without her consent was illegal and reprehensible.

b. General damages of ₦500,000 (five hundred thousand Naira) for the unauthorized use of her image on billboards to promote its products and services.

c. An order restraining the Defendant from any further use of her image for advertisement without her written consent.

The Defendant challenged the Court's jurisdiction, arguing that the Claimant's claim borders on copyright, a matter exclusively within the Federal High Court's jurisdiction. The High Court upheld the argument of the Defendant and struck out the suit on the grounds that the suit borders on the Claimants Copyright which is triable at the Federal High Court. This decision was affirmed by the Court of Appeal. Dissatisfied, the Claimant appealed to the Supreme Court.

The Supreme Court took a more nuanced view. The Court in determining the case emphasized a cardinal principle of law that the nature of a case is determined by the Claimant's statement of claim, not the defendant's defence<sup>2</sup>. The Court distinguished between copyright which concerns ownership and reproduction rights in the photograph and image rights, which pertain to the individuals control over the commercial use of their likeness. The Court found that the Claimant's claim was not rooted in copyright, but rather the unauthorized commercial use of her likeness for advertising.

Crucially, the Court found that although photographs are eligible for copyright protection under Sections 2 and 108 of the Copyright Act 2022<sup>3</sup>, the Claimant did not claim to be the photographer or owner of the photo's copyright. Rather, her grievance was based on the commercial use of her identity and image without consent, which resulted in a potential breach of contract from the talent show's terms and a violation of her personality rights.

The Court concluded that her claim was founded on simple contract, not copyright, and therefore, the State High Court had jurisdiction to hear it.

Accordingly, the Supreme Court held that the lower Courts erred in dismissing the case, Ordered the case to be returned to the Rivers State High Court for a full trial on its merits, and Awarded costs of ₦1,000,000 (one million Naira) against the Defendant.

In essence, the Court recognized that even though the Claimant did not own the photograph, she retained rights over how her image was commercially used.

The judgment of the Supreme Court marks a significant shift from the earlier decision of the Court in **Oluwadamilola Banire v. NTA-Star TV Network Ltd**,<sup>4</sup> wherein the Court of Appeal took a more restrictive view. In this case, the claimant, a journalist, had instituted an action at the Federal High Court against the Defendant over the unauthorized use of her image on billboards. The Defendant in its defence claimed that the copyright belonged to a third party (Virtual Media), and that the Claimant had participated in a photo shoot with the third party during her engagement with them. The Federal High Court dismissed the Claimant's claim, reasoning that only copyright is expressly protected under the Copyright Act and that the failure to join the copyright holder (the third party) was fatal to her case. The Court essentially reframed the Claimant's image rights claim as a copyright matter, reinforcing the traditional conflation of the two legal concepts.

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<sup>2</sup> See the case of 7-up bottling co. ltd & ors v. Abiola & sons bottling co. ltd (2001) LPELR-1 (SC), Dantata & anor v Mohammed (2000) LPELR-925 (SC) and Barbus & co (nig) ltd & anor v. Okafor -Udeji (2018) LPELR-44501 (SC).

<sup>4</sup> (2021) LPELR-52824(CA)

## 5.0. IMPLICATIONS ON NIGERIAN JURISPRUDENCE AND THE CREATIVE INDUSTRY

The Supreme Court's decision in *Ubom v. Globacom* represents a landmark moment in Nigerian jurisprudence, particularly in the intersection of intellectual property law, personality rights, and the burgeoning creative economy. Its impact is multifaceted, affecting advertising, social media, and entertainment law.

### 5.1. Advertising and Commercial Use

The ruling reinforces that individuals retain the right to control the commercial use of their likeness, irrespective of who owns the photograph. Advertisers and marketing agencies can no longer assume that ownership of a photograph automatically grants them the right to exploit an individual's image. Consent has now been judicially confirmed as a prerequisite, elevating the legal standards for advertising campaigns and brand endorsements.

### 5.2. Social Media and Digital Platforms

In the age of social media, where images and videos are rapidly shared and monetized, the Court's recognition of image rights signals that digital platforms and influencers must exercise caution when using individuals' images. Unauthorized commercial use even on social media channels may now constitute a violation of personality rights, exposing platform operators and content creators to potential civil liability.

### 5.3. Entertainment Law and Creative Industries

For Nigeria's creative industries, including film, music, television, and talent shows, the judgment underscores the importance of respecting participants' image rights. Production companies, talent agencies, and broadcasters must ensure that image use is properly licensed or contracted. Failure to secure consent may lead to litigation, damages, and reputational harm.

## 6.0. CONCLUSION

The *Ubom v. Globacom* case is important not because it changed the law, but because it clarified how the law should be applied. It made a clear distinction between copyright which protects the person who took the photo and image rights, which protect the person in the photo.

This case reinforces several important points:

- (a) Owning a photograph does not automatically grant the right to use someone's image for commercial purposes.
- (b) A person has a right to control how their likeness is used, especially in advertising.
- (c) While Nigerian law has yet to fully codify image rights, the Courts are beginning to recognize and protect them.

(d) Consent whether written or oral is a legal requirement when a person's image is to be used for promotional or commercial purposes..

As Nigeria's digital and creative industries evolve, this judgment sets a strong precedent: individuals have a say in how their identity is used. Your image is your personal property not a commodity for brands to exploit without permission.

**Babalakin & Co. is a Firm with broad experience on the subject of Intellectual Property and all matters related to it. If you have any questions or would like information on the issues discussed, please contact:**



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