

**DEMYSTIFYING THE ROLE OF COPYRIGHT AS A TOOL FOR ECONOMIC
DEVELOPMENT IN AFRICA: TACKLING THE HARSH EFFECTS OF THE
TRANSFERABILITY PRINCIPLE IN COPYRIGHT LAW**

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SUMMARY

In the English common law tradition copyright is seen as being in the nature of a property right and thus alienable and transmissible from one person to the other. In contrast, the *droit d'auteur* system of Continental Europe sees copyright as being an author's right, which attaches to the personality of the author. However, even in this system a distinction can be made between the monist system (as applies in Germany), which treats both moral rights and economic rights as being inseparable and thus equally inalienable, and the dualist system applicable in France, which distinguishes between moral and economic rights, with the former considered inalienable, while the latter is freely alienable. In this way French law embodies the transferability principle in respect of economic rights, in the same way as the Anglo-American system does. Many countries in Sub-Saharan Africa have inherited copyright laws from their erstwhile colonial masters (whether England or France), resulting in the laws of these countries also embodying the transferability principle. It is argued, however, that the transferability principle has had the inadvertent effect of stifling copyright-based entrepreneurship, and thus economic development in these countries. Because of the conditions of impoverishment prevailing in these countries, authors find that they do not have the material resources to economically exploit their copyright works. They thus have no option but to assign their copyrights to others, mainly foreign entities, resulting in an endless cycle where they can never act entrepreneurially in respect of their copyrights. The paper seeks to explore this phenomenon and make proposals of possible solutions.

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