



spinletTM
Move With It

www.spinlet.com

Legal Framework for Digital Distribution

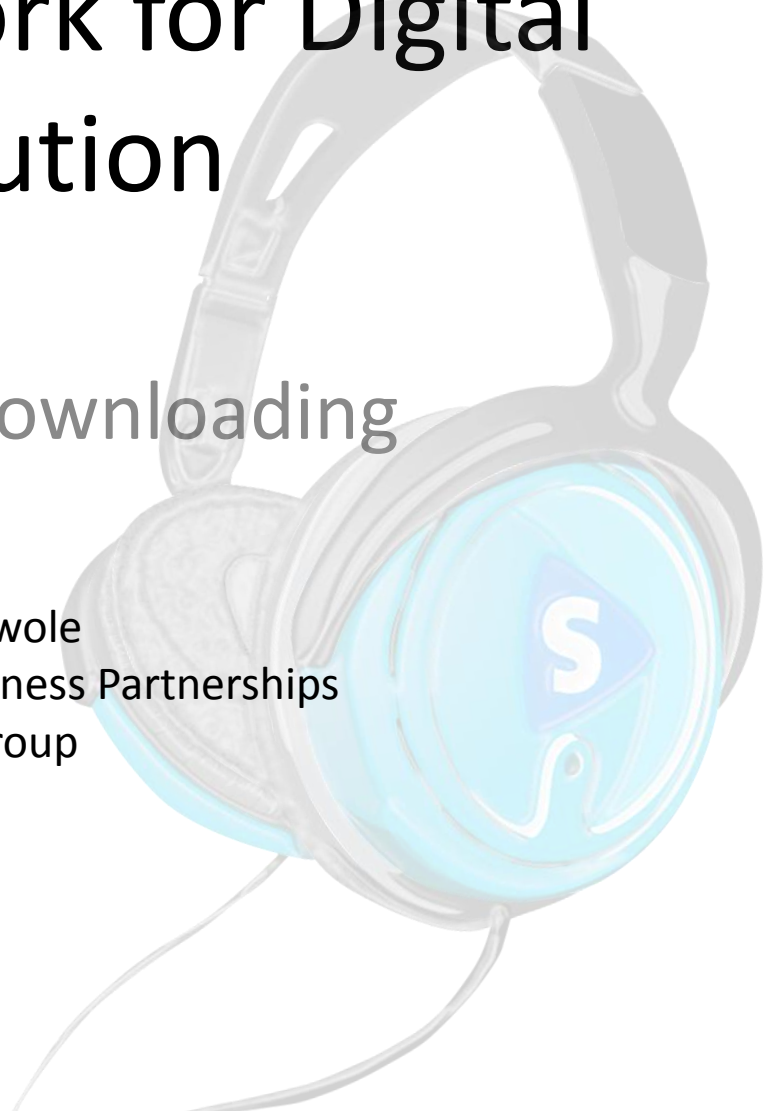
Streaming & Downloading

By

Rotimi Fawole

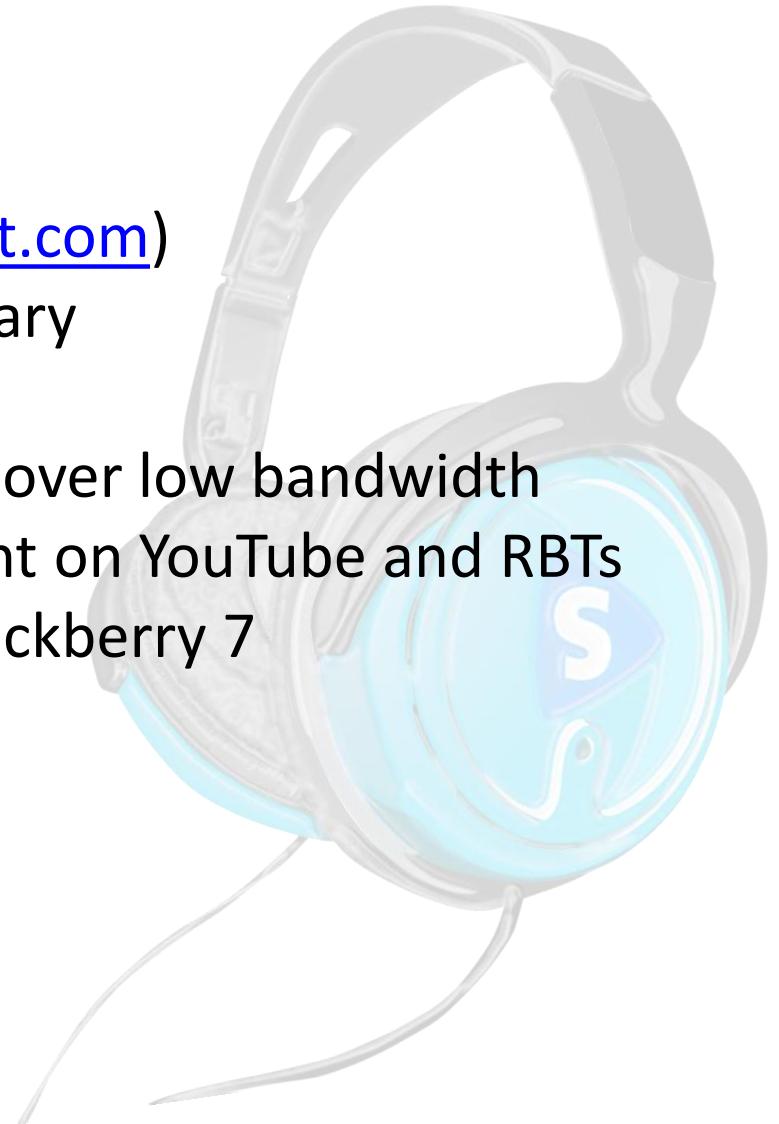
Head, Legal & Int'l Business Partnerships

Spinlet Group



What is Spinlet?

- Africa's largest music store.
- Streaming via mobile app
- Downloads via url (www.spinlet.com)
- Over 2 million tracks in our library
- 45% African music
- Optimised for content delivery over low bandwidth
- Additional content management on YouTube and RBTs
- Available on iOS, Android & Blackberry 7



Digital Distribution

- Delivery of media via an online or such other non-physical medium, such as the internet.
- Delivery either via “Streaming” or “Downloads”.
- **Streaming** - a continuous stream of data from a source external to the device on which it is being consumed; listening to/watching the media in real time, rather than permanent storage via downloads.
- **Downloads** – the full data for the content is first transferred to a device and is then retrieved/played from the device.

Legal Framework

- Basic legal requirement to distribute music digitally
 - holding copyright in the musical ‘work’.
 - holding a license to distribute the media from the holder of the copyright



What is Copyright?

- Exclusive right vested by law on the creator of an eligible work.
- It is a creation of each country's local laws – there isn't an international copyright legislation.
- However, over 160 countries have ratified various treaties (oldest & most important being the Berne Convention) setting minimum standards for a global copyright system.

Copyright Generally

Moral Rights

- Right to be identified as author
- Right of integrity
- Right of first divulgation

Economic Rights

- Right of reproduction
- Right of distribution
- Right of communication to the public
- Right of transformation (including adaption of the work).



Copyright in Musical Works – Who Holds?

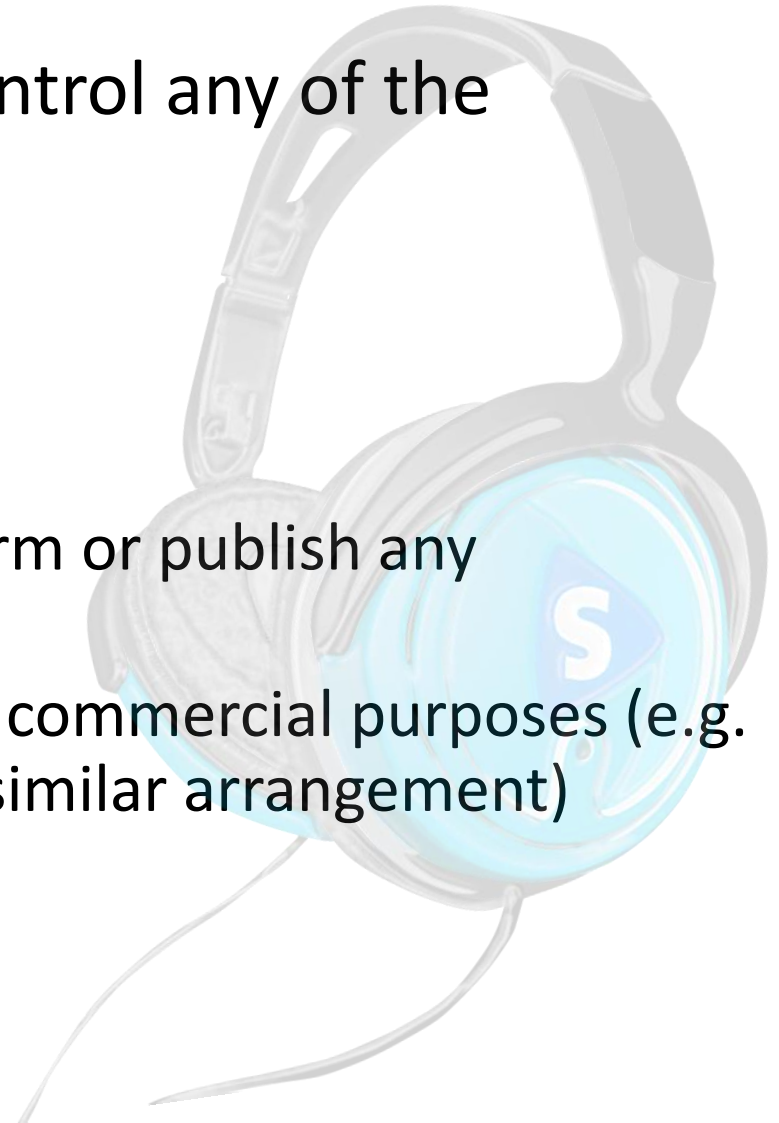
- At least 5 rights holders who can make money out of a sound recording
 - Composer of musical score
 - Author of lyrics
 - Publisher
 - Performer
 - Producer

Composers, authors & publishers protected by technical copyright; performers and producers by neighbouring rights.



Copyright in Musical Works

- Exclusive right to do or control any of the following:
 - reproduce the work
 - publish the work
 - perform the work in public
 - produce, reproduce, perform or publish any translation
 - Distribute to the public for commercial purposes (e.g. rental, lease, hire, loan or similar arrangement)

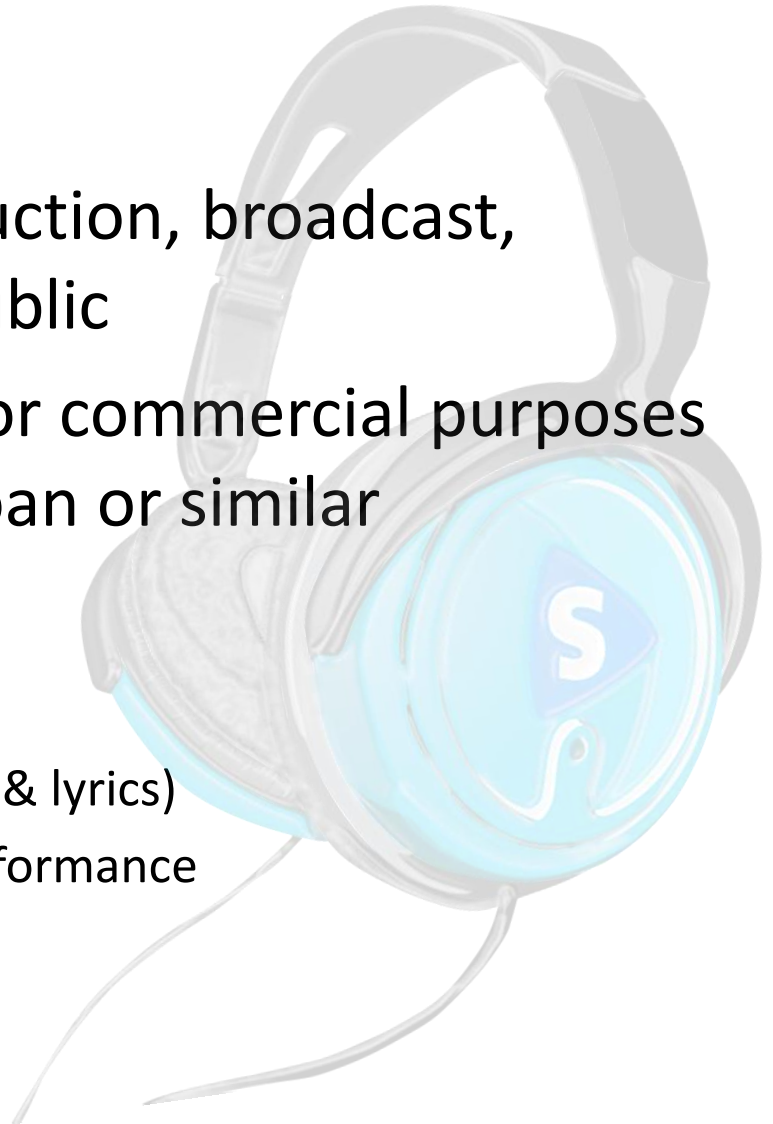


Copyright in Sound Recording

- Exclusive right to control
 - Direct or indirect reproduction, broadcast, communication to the public
 - Distribute to the public for commercial purposes (e.g. rental, lease, hire, loan or similar arrangement)

Musical Work = Composition (melody & lyrics)

Sound Recording = Recording of a performance



Licenses

- Required by digital media service (like Spinlet) to distribute (i.e. make available for downloads or streaming).
- Take the form of Agreements, which may either be exclusive or non-exclusive
- May also contain other restrictions (e.g. territory)
- Sets out reporting/accounting expectations, etc.

Copyright Management

- Who manages all the licenses with all the distributors?
 - Labels
 - Artists
 - Collecting Society a.k.a. Copyright Collective

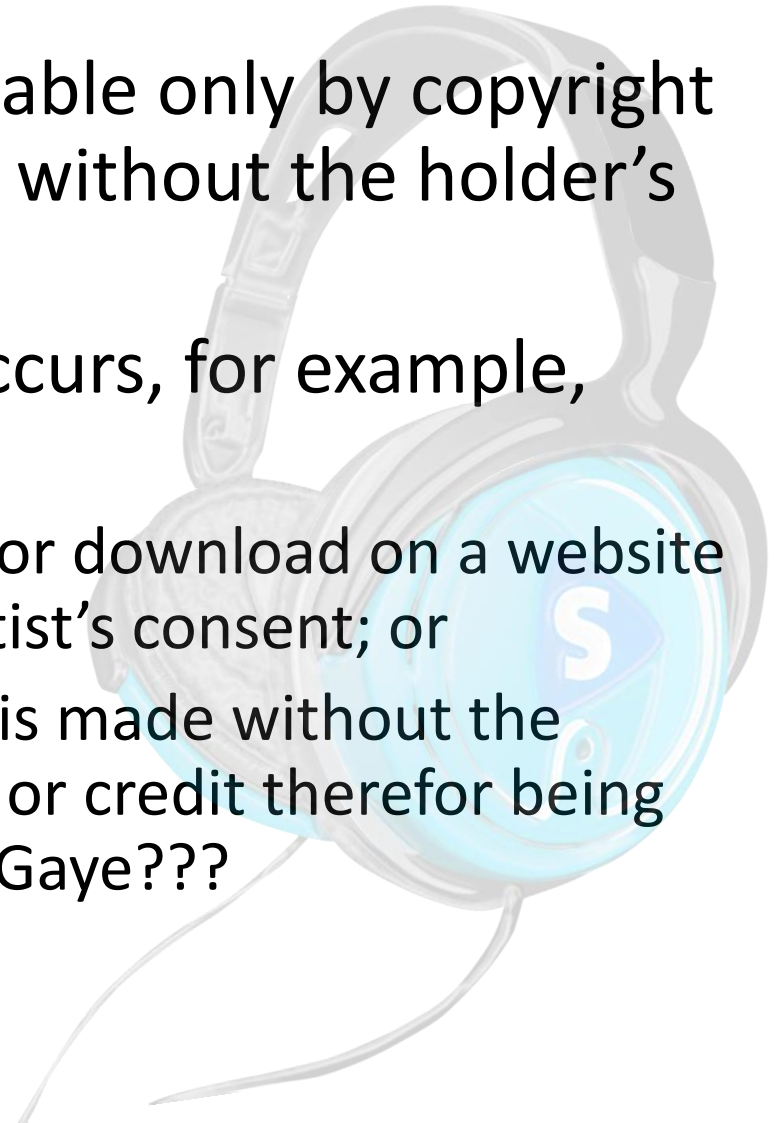


Copyright Collectives

- Societies/Organisations that license large-scale use of works on behalf of rightsholders.
- They also collect and distribute royalties to rightsholders.
- Examples – COSON (Nigeria); SAMRO (SA); PRS For Music (UK); MCSK (Kenya); ZIMURA (Zimbabwe); ASCAP, BMI (USA).

Copyright Infringement

- Occurs when an action doable only by copyright holder is done by another without the holder's permission.
- In digital distribution, it occurs, for example, when
 - content is made available for download on a website or app, without label or artist's consent; or
 - a remix or derivative work is made without the copyright holder's consent or credit therefor being given e.g. Pharrell/Marvin Gaye???



Remedies for Infringement

- Injunction
- Statutory Damages
- Actual Damages
- Punitive Damages
- Legal Fees/Costs
- Criminal Punishment



Infringement – Spinlet's Approach

- Takedowns (DMCA)
- Cease-and-Desists
- YouTube Dispute Claims
- Sometimes we get [wrongly] accused of infringement
 - We disable content
 - Investigate source
 - Leave disabled/re-enable



Royalties

- 3 main types (for distribution).
 - **Recording Royalties:** basic royalty artists and labels get with every stream and download
 - **Mechanical Royalties:** royalties earned by composers/publishers on each unit/copy sold or reproduced containing their composition
 - **Neighbouring Royalties:** Royalties earned & collected on behalf of neighbouring rights holders.
Producers/work for hire?



Thanks for Listening

