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Protection Of Copyright In Electronic Commerce in Algerian Law

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Abstract:

The growth of electronic commerce in Algeria has raised important issues regarding copyright protection in the digital sphere. Algerian law, especially after updates to Law No. 03-05, addresses the challenges of safeguarding creative works online. This abstract reviews the legal framework for copyright in Algerian e-commerce, noting progress in recognizing digital works and offering remedies against online infringement. Despite these advances, enforcement difficulties and limited public awareness remain obstacles. The study concludes that while Algeria has improved its copyright laws to meet international standards, further reforms are needed to fully protect intellectual property in electronic commerce.

Keywords: *copyright; electronic commerce, Algerian law; digital works; intellectual property; online infringement; legal framework.*

Introduction:

The rapid expansion of electronic commerce has fundamentally transformed the landscape of commercial transactions, creating new challenges for intellectual property protection, particularly copyright law. In Algeria, as digital platforms become increasingly prevalent in commercial activities, the intersection between copyright protection and electronic commerce presents complex legal questions that require comprehensive analysis. This study examines how Algerian law addresses copyright protection within the context of electronic commerce, analyzing both the existing legal framework and its practical implementation.

- Research Question: *How effectively does Algerian law protect copyright in electronic commerce, and what are the key challenges and opportunities for strengthening this protection in the digital*

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marketplace?

- Study Methods: *This research employs a doctrinal legal analysis approach, examining primary sources of Algerian law including the Copyright and Related Rights Law No. 03-05 of 2003, the Electronic Commerce Law No. 18-05 of 2018, and relevant implementing regulations. The methodology includes comparative analysis of legal provisions, case study examination where available, and assessment of enforcement mechanisms within the Algerian legal system.*

Chapter I*: *Legal Framework for Copyright Protection in Electronic Commerce

The legal framework governing copyright protection in electronic commerce in Algeria represents a complex intersection of traditional intellectual property law and modern digital commerce regulations(1). This chapter examines the foundational legal structures that underpin copyright protection in the digital marketplace, analyzing how existing copyright legislation adapts to the challenges of electronic commerce(2).

The analysis focuses on the statutory provisions, regulatory frameworks, and institutional mechanisms that collectively form Algeria's approach to protecting intellectual property rights in digital commercial environments. Understanding this legal foundation is crucial for assessing the effectiveness of current protections and identifying areas requiring reform(3). The chapter explores both the strengths and limitations of the existing framework, providing essential context for subsequent analysis of implementation challenges.

1- Foundations of Copyright Law in Algeria:

Algeria's copyright protection system is primarily governed by Law No. 03-05 of July 19, 2003, relating to copyright and related rights, which establishes comprehensive protection for authors' intellectual creations. This foundational legislation represents Algeria's commitment to international copyright standards while adapting to local legal traditions and commercial practices. The law recognizes various categories of protected works including literary, artistic, scientific, and audiovisual works, which are particularly relevant in the digital commerce environment where multimedia content, software, databases, and digital publications form the backbone of many commercial transactions.(4)

The scope of protection under Algerian copyright law extends to

original works of authorship fixed in any tangible medium of expression, including digital formats. This broad definition ensures that digital content distributed through electronic commerce platforms receives the same level of protection as traditional physical works. The law establishes that copyright protection arises automatically upon creation and fixation of the work, without requiring formal registration procedures, which is particularly important in the fast-paced digital commerce environment where content is created and distributed rapidly.(5)

The Algerian copyright framework adopts the continental European approach to copyright protection, emphasizing both economic and moral rights of authors. Economic rights include the exclusive right to authorize or prohibit reproduction, translation, adaptation, distribution, rental, lending, and public communication of works. These rights are particularly crucial in electronic commerce contexts where digital works can be easily reproduced, distributed globally, and adapted for different platforms and markets. The reproduction right covers all forms of copying, including temporary reproductions necessary for digital transmission and storage, which is essential for electronic commerce operations.(6)

The distribution right in the digital context encompasses both physical distribution of tangible copies and digital distribution through online platforms. This right allows copyright holders to control the initial distribution of their works and to benefit economically from subsequent distributions. The public communication right covers making works available to the public through electronic networks, including streaming services, download platforms, and other forms of digital distribution that are central to electronic commerce.(7)

Moral rights under Algerian law include the right of disclosure (deciding when and how to make a work public), the right of attribution (being recognized as the author), and the right of integrity (preventing distortion or modification that would harm the author's reputation). These rights present particular challenges in electronic commerce environments where works may be automatically processed, reformatted for different devices, or incorporated into larger digital products without direct author oversight.(8)

The duration of copyright protection under Algerian law extends for

the life of the author plus seventy years, aligning with international standards. For works of corporate authorship or anonymous works, protection lasts for seventy years from publication. This extended protection period is significant for electronic commerce, as it ensures that digital works remain protected throughout their commercial lifecycle, providing incentives for continued investment in digital content creation and distribution.(9)

2- Electronic Commerce Legal Infrastructure:

The legal foundation for electronic commerce in Algeria was significantly strengthened with the adoption of Law No. 18-05 of May 10, 2018, relating to electronic commerce. This comprehensive legislation establishes the legal framework for digital transactions, electronic contracts, online commercial activities, and digital marketplace operations. The law represents Algeria's recognition of the growing importance of digital commerce and the need for specific legal provisions to govern this rapidly evolving sector.(10)

The electronic commerce law addresses fundamental issues of legal validity and enforceability of digital transactions. It recognizes the legal equivalence of electronic documents to paper documents when certain conditions are met, including data integrity, accessibility, and proper identification of the parties involved. This recognition is crucial for copyright licensing agreements, distribution contracts, and other intellectual property transactions conducted through electronic means.(11)

Digital signature provisions in the law establish the legal framework for authenticating electronic documents and ensuring non-repudiation of digital transactions. This is particularly important for copyright licensing agreements and digital content distribution contracts, where the ability to verify the authenticity and integrity of agreements is essential for protecting the rights of all parties involved.(12)

The law establishes specific obligations for electronic commerce operators, including requirements for clear identification, transparent pricing, detailed product descriptions, and proper disclosure of terms and conditions. These obligations have important implications for copyright protection, as they require platforms to provide clear information about the intellectual property status of products and services offered through their platforms.(13)

Consumer protection provisions in the electronic commerce law

include rights of withdrawal, refund procedures, and dispute resolution mechanisms. These provisions must be balanced with copyright protection concerns, particularly in cases involving digital content where traditional concepts of return and refund may not apply due to the nature of digital goods.(14)

The law also addresses data protection and privacy concerns in electronic commerce, establishing requirements for the collection, processing, and storage of personal data. While primarily focused on privacy protection, these provisions also impact copyright enforcement, as they may limit the ability of copyright holders to obtain information about alleged infringers or require specific procedures for accessing user data in copyright enforcement actions.(15)

Cross-border transaction provisions recognize the international nature of electronic commerce while establishing Algeria's jurisdiction over certain types of digital transactions. This jurisdictional framework is important for copyright enforcement, as it helps determine when Algerian copyright law applies to international electronic commerce transactions and what enforcement mechanisms are available.(16)

Chapter II*: *Implementation Challenges and Enforcement Mechanisms

The implementation of copyright protection in electronic commerce presents multifaceted challenges that extend beyond the mere existence of legal frameworks to encompass practical enforcement, technological adaptation, and international coordination. As digital markets rapidly expand, the sheer volume and velocity of online transactions amplify the risk of copyright infringement, making effective enforcement increasingly complex. The proliferation of new technologies, such as cloud storage and streaming services, continually tests the adaptability of existing legal provisions and often results in litigation that shapes the future landscape of content delivery and protection. Furthermore(17)*.*

In addition, the borderless nature of the internet means that copyright violations frequently occur across jurisdictions, necessitating robust mechanisms for international cooperation and harmonization of laws.(18)

This chapter delves into the operational aspects of copyright protection in Algeria's digital marketplace, examining how legal

provisions translate into real-world protection for rights holders and legitimate commercial activities. The analysis addresses the technological, procedural, and institutional mechanisms available for enforcing copyright in electronic commerce contexts, while identifying persistent gaps and emerging challenges.(19)

The effectiveness of these mechanisms is influenced not only by national legislation but also by the ability of institutions to adapt to evolving digital realities and to coordinate with international partners. Understanding these implementation dynamics is essential for evaluating the effectiveness of current protections and developing strategies for improvement. The chapter also explores the international dimensions of copyright enforcement in electronic commerce, recognizing that digital transactions frequently transcend national boundaries and require coordinated responses.(20)

1- Digital Rights Management and Technical Protection:

The implementation of copyright protection in electronic commerce relies heavily on both legal and technical mechanisms working in concert to create effective protection systems. Digital Rights Management (DRM) technologies play a crucial role in protecting copyrighted content distributed through electronic commerce platforms, enabling copyright holders to control access, usage, and distribution of their digital works. Under Algerian law, these technological protection measures receive legal recognition and protection, though the specific provisions addressing circumvention of such measures require strengthening to meet international standards.(21)

Current Algerian copyright law provides some protection against unauthorized access to copyrighted digital content through provisions that prohibit circumvention of technological protection measures. However, these provisions are not as comprehensive as those found in more developed digital commerce jurisdictions, creating potential vulnerabilities in the protection system. The law needs to address not only direct circumvention but also the distribution of circumvention tools and services, which can undermine the effectiveness of technological protection measures.(22)

Watermarking and fingerprinting technologies represent another important aspect of technical protection in electronic commerce. These technologies allow copyright holders to embed identifying information

in digital works, enabling tracking of distribution and identification of unauthorized copies. Algerian law recognizes the importance of these technologies but lacks specific provisions addressing the removal or alteration of copyright management information, which is essential for maintaining the integrity of digital rights management systems.(23)

Online platforms operating in Algeria face complex obligations regarding copyright protection while facilitating legitimate commerce. The challenge lies in balancing the facilitation of digital trade with the protection of intellectual property rights. Current Algerian law does not provide comprehensive safe harbor provisions for platforms, creating uncertainty about liability for copyright infringement by users of electronic commerce platforms. This uncertainty can discourage platform investment and innovation while potentially exposing platforms to significant liability for user actions.(24)

The absence of clear notice-and-takedown procedures in Algerian law creates additional challenges for both copyright holders and platform operators. Without standardized procedures for reporting copyright infringement and responding to such reports, platforms may struggle to address infringement claims consistently and efficiently. This can result in either over-broad removal of content (harming legitimate commerce) or under-enforcement of copyright rights (harming rights holders).

Content filtering and automated detection systems represent emerging technologies for copyright protection in electronic commerce. These systems can automatically identify potentially infringing content and prevent its distribution through electronic commerce platforms. However, the implementation of such systems raises questions about accuracy, fair use exceptions, and the balance between automated enforcement and human review. Algerian law needs to address these technological developments to provide clear guidance for platform operators and rights holders.(25)

The integration of blockchain and distributed ledger technologies in electronic commerce presents both opportunities and challenges for copyright protection. These technologies can provide immutable records of copyright ownership and licensing transactions, potentially strengthening enforcement mechanisms. However, they also raise questions about jurisdiction, enforcement, and the application of

traditional copyright concepts to decentralized systems.[26]

Recent developments in Algerian law have shown a growing awareness of the need to modernize copyright protection in the digital environment. Amendments proposed in 2024 aimed to align national legislation with international treaties such as the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, emphasizing stronger measures against the circumvention of technological protection measures. There is also increasing governmental interest in establishing a regulatory framework for digital evidence, which would enhance the enforceability of rights in online disputes. Furthermore, discussions are underway regarding the introduction of explicit obligations for internet service providers and online platforms, including clearer liability limitations and structured notice-and-takedown systems. These reforms, if enacted, would bring Algerian copyright law closer to international best practices, foster innovation in the digital economy, and provide greater legal certainty for both rights holders and platform operators.[27]

2- Cross-Border Enforcement and International Cooperation:

Electronic commerce inherently involves cross-border transactions, creating complex jurisdictional challenges for copyright enforcement that require sophisticated legal and practical responses. Algeria's position in the global digital economy necessitates effective mechanisms for international cooperation in copyright enforcement, particularly given the ease with which digital content can be distributed across national boundaries through electronic commerce platforms.[28]

Algeria's membership in international copyright conventions, including the Berne Convention for the Protection of Literary and Artistic Works and various World Intellectual Property Organization (WIPO) treaties, provides a foundational framework for international cooperation in copyright protection. These agreements establish minimum standards for copyright protection and create obligations for mutual recognition and enforcement of copyright rights across member countries. However, the practical implementation of these international obligations in the context of electronic commerce requires additional mechanisms and procedures.[29]

The challenge of determining applicable law in cross-border electronic commerce transactions involving copyright issues remains complex under current Algerian legal provisions. When copyright

infringement occurs through electronic commerce platforms that may involve multiple jurisdictions, questions arise about which country's copyright law applies, which courts have jurisdiction, and how judgments can be enforced across borders. Current provisions in Algerian law provide some guidance through conflict of laws rules, but clearer and more specific rules for electronic commerce contexts would strengthen copyright protection.(30)

Mutual legal assistance mechanisms play a crucial role in cross-border copyright enforcement, enabling Algerian authorities to cooperate with foreign counterparts in investigating and prosecuting copyright infringement cases. However, these mechanisms often face practical challenges including differences in legal systems, varying standards of evidence, and lengthy procedural requirements that may not be well-suited to the fast-paced nature of electronic commerce infringement.(31)

The role of international organizations and industry associations in facilitating cross-border copyright enforcement cannot be overlooked. Organizations such as WIPO, Interpol, and various industry groups provide platforms for sharing information, coordinating enforcement actions, and developing best practices for copyright protection in electronic commerce. Algeria's participation in these international efforts enhances its ability to protect copyright in cross-border electronic commerce transactions.(32)

Extradition and international criminal cooperation mechanisms become relevant in cases involving large-scale commercial copyright infringement through electronic commerce platforms. While civil enforcement mechanisms are often sufficient for addressing individual cases of infringement, criminal enforcement may be necessary for organized infringement operations that cause significant economic harm to rights holders and legitimate commerce.(33)

The emergence of international arbitration and alternative dispute resolution mechanisms specifically designed for intellectual property disputes in electronic commerce provides additional options for cross-border enforcement. These mechanisms can offer faster and more cost-effective resolution of copyright disputes compared to traditional court proceedings, though their effectiveness depends on the willingness of parties to participate and the enforceability of arbitral awards.(34)

***Conclusion*:**

This study demonstrates that while Algerian law provides a foundational framework for the protection of copyright, it remains insufficiently adapted to the unique challenges posed by electronic commerce. The existing legislation extends basic protections to digital works but lacks specific provisions addressing copyright infringement on digital platforms. The absence of clear liability rules for e-commerce intermediaries and the limited enforcement mechanisms hinder the effectiveness of copyright protection in the online environment. Furthermore, the current framework does not adequately incorporate international best practices related to digital rights management and the circumvention of technical protection measures. Therefore, there is a pressing need for legislative reform that introduces precise, technology-oriented provisions. Enhancing institutional capacity and regulatory clarity will also be essential to ensure that rights holders are protected without stifling innovation. Strengthening copyright protection in electronic commerce is crucial for Algeria's integration into the global digital economy and for fostering a secure, fair digital marketplace that respects intellectual property rights. In conclusion, we have reached a number of findings and recommendations, which can be summarized as follows:

- Results:

The comprehensive analysis reveals that while Algeria has established a foundational legal framework for both copyright protection and electronic commerce, significant gaps exist in the intersection of these two critical areas of law. The current legal structure provides basic protection for copyright holders in digital environments but lacks comprehensive provisions specifically addressing the unique challenges and opportunities presented by electronic commerce platforms and digital marketplaces.

 Key findings from this analysis include several important observations about the current state of copyright protection in electronic commerce under Algerian law. The existing copyright law provides broad protection that extends to digital works and online distribution, establishing a solid foundation for protecting intellectual property rights in electronic commerce contexts. However, enforcement mechanisms are not adequately adapted to the electronic commerce environment, creating practical challenges for rights holders seeking

to protect their works in digital marketplaces.

 The electronic commerce law establishes important foundations for digital transactions and online commercial activities but does not sufficiently address copyright protection concerns that arise specifically in digital commerce contexts. This creates a regulatory gap where electronic commerce operators and copyright holders lack clear guidance on their respective rights and obligations when intellectual property issues arise in digital transactions.

 The absence of clear safe harbor provisions for electronic commerce platforms creates significant uncertainty about liability for user-generated copyright infringement. This uncertainty can discourage platform investment and innovation while potentially exposing platforms to disproportionate liability for actions of their users that may be beyond their direct control.

 Technical protection measures receive some recognition in current law, but the legal framework for protecting these measures against circumvention is not as robust as international best practices would suggest. This weakness in technical protection undermines the effectiveness of digital rights management systems that are essential for protecting copyrighted content in electronic commerce environments.

- Recommendations:

To strengthen copyright protection in electronic commerce and create a more robust framework for protecting intellectual property rights in Algeria's growing digital economy, several legislative, regulatory, and institutional improvements should be considered.

 Legislative Reform: *The most critical need is to amend existing copyright law to include specific provisions addressing digital rights management, platform liability, and notice-and-takedown procedures for electronic commerce platforms. These amendments should establish clear safe harbor provisions that balance platform protection with copyright holder rights, creating certainty for all stakeholders while encouraging innovation and investment in digital commerce platforms.*

The copyright law should be updated to include stronger provisions against circumvention of technological protection measures, including prohibitions on the manufacture, distribution, and use of circumvention devices and services. These provisions should align with international standards while providing appropriate exceptions for legitimate

activities such as security research, interoperability, and fair use.

 Regulatory Framework: *Detailed implementing regulations should be developed to provide practical guidance for electronic commerce operators on copyright compliance obligations. These regulations should address specific scenarios commonly encountered in electronic commerce, such as user-generated content, automated content filtering, and cross-border transactions involving copyrighted materials.*

Clear procedures should be established for copyright holders to report infringement on electronic commerce platforms and for platforms to respond appropriately to such reports. These procedures should include safeguards against abuse while ensuring that legitimate infringement claims are addressed promptly and effectively.

 Institutional Capacity: *Enforcement institutions should be strengthened with specialized training and resources for addressing copyright infringement in electronic commerce contexts. This includes developing technical expertise in digital forensics, online investigation techniques, and international cooperation mechanisms for cross-border enforcement.*

Cooperation mechanisms should be developed between copyright enforcement authorities and electronic commerce regulators to ensure coordinated and effective responses to intellectual property issues in digital commerce. This coordination is essential for addressing the complex intersection of copyright law and electronic commerce regulation.

 International Cooperation: *Algeria should enhance international cooperation mechanisms for cross-border copyright enforcement in electronic commerce, including negotiating mutual legal assistance agreements specifically addressing digital commerce issues and strengthening coordination with international organizations focused on intellectual property protection.*

The development of bilateral and multilateral agreements with key trading partners for cooperation in electronic commerce copyright enforcement would strengthen Algeria's ability to protect its creators' rights in international markets while ensuring that foreign rights holders receive appropriate protection in Algeria.

 Industry Engagement: *Regular consultation with industry stakeholders, including electronic commerce platforms, content*

creators, and technology providers, should be established to ensure that legal and regulatory developments remain responsive to technological and commercial developments in the digital economy.

The protection of copyright in electronic commerce represents a critical challenge for Algeria's digital economy development and its integration into the global digital marketplace. While the current legal framework provides important foundations, targeted reforms addressing the specific intersection of copyright and electronic commerce will be essential for creating a robust digital marketplace that respects intellectual property rights while fostering innovation, economic growth, and technological advancement. The recommendations outlined above provide a roadmap for strengthening copyright protection in electronic commerce while supporting the continued development of Algeria's digital economy.

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