

Foreign Copyright Enforcement in Nigeria:  
The Essential Role of Reciprocity and Ministerial  
Recognition - CA/L/794/2021 - VoiceWeb  
International Limited v. Emerging Markets  
Telecommunication Services & Ors  
(Unreported)

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# The Litigation Process

Pleadings → Discovery → Trial → Appeal



In **VoiceWeb International Limited v. Emerging Markets Telecommunication Services & Ors** (2021) CA/L/794/2021 (unreported)—a case in which our firm represented the first respondent—the Court of Appeal held that where a foreign copyright owner seeks to enforce its copyright in Nigeria based on its country's treaty membership with Nigeria, treaty membership alone is insufficient. Nigerian law requires a Ministerial Order published in a Federal Gazette extending copyright protection to the foreign country on the basis that the Minister is satisfied that the protection is reciprocal. VoiceWeb International Limited, a Cyprus-incorporated company, assumed that because both Nigeria and Cyprus were signatories to the Universal Copyright Convention 1952, it could enforce its alleged copyright in Nigeria. However, the Court of Appeal decided that VoiceWeb did not have the right to sue for infringement of copyright in Nigeria because there was no evidence of a Ministerial Order published in a Federal Gazette extending copyright protection to Cyprus.

VoiceWeb sought to enforce copyright in a gaming concept against Emerging Markets Telecommunication Services (trading as Etisalat, now 9mobile) and other Nigerian entities. VoiceWeb argued that treaty membership, evidenced by a Nigerian Copyright Commission certificate, satisfied the statutory requirements. The Court of Appeal disagreed, confirming that foreign copyright owners must produce evidence that the Minister has, by Order published in the Federal Gazette, specifically extended the Copyright Act's protection to works from their country of origin.

Incidentally, by emphasizing the statutory requirement for published ministerial orders, the Court of Appeal provided implicit support for the view that its controversial 2012 decision in **Microsoft Corporation v. Franike Associates Ltd** (2012) was wrongly decided. In **Franike**, the Court of Appeal refused copyright protection to Microsoft despite the United States being specifically listed in the Copyright (Reciprocal Protection) Order 1972. The Order was not cited to the court, suggesting **Franike** was decided per incuriam. The **VoiceWeb** decision effectively provides a roadmap for distinguishing or revisiting **Franike** in future cases involving United States copyright owners.

## THE CASE



VoiceWeb sued Emerging Markets Telecommunication Services and other Nigerian entities, claiming ownership of the "Check & Win" gaming concept and mechanism, including its source code, technical know-how, and proprietary data. VoiceWeb alleged it had presented the concept to EMTS, which subsequently entered into a similar arrangement with another Nigerian company and promoted the "Etisalat Easy Millions Promotion" using the same gaming mechanism without VoiceWeb's consent.

VoiceWeb commenced proceedings at the Federal High Court, Lagos, seeking declarations of ownership and entitlement to the confidential information in the "Check & Win" concept, declarations that the respondents' promotion constituted copyright infringement, perpetual injunctions against unauthorised use, and substantial damages totalling billions in Naira, Dollars, and Euros.

The defendants challenged VoiceWeb's right to sue, arguing VoiceWeb had not produced a Gazette issued by the Minister as required under the Copyright Act. The Federal High Court accepted this argument and struck out the copyright infringement claims on the ground that VoiceWeb had not satisfied the statutory precondition for foreign copyright owners seeking protection in Nigeria.

VoiceWeb appealed to the Court of Appeal.

### THE COURT OF APPEAL'S ANALYSIS



The Court of Appeal determined whether VoiceWeb had satisfied the statutory requirements for a foreign copyright owner to sue in Nigerian courts. Under the Constitution, the Federal High Court possesses exclusive jurisdiction over copyright matters. However, the question was not the court's jurisdiction but whether VoiceWeb had the right to invoke that jurisdiction.

VoiceWeb argued it had complied with statutory requirements by producing a certificate from the Nigerian Copyright Commission proving that both

Nigeria and Cyprus are signatories to the Universal Copyright Convention 1952.

The Court of Appeal held this was insufficient. The court confirmed that for a foreign copyright owner to sue in Nigerian courts, the Minister must have issued an Order published in the Federal Gazette extending the Copyright Act's protection to works from that foreign country. The court emphasised that whilst international treaty membership is necessary, it is not sufficient to confer the right to sue. Foreign copyright owners must produce evidence of the published Ministerial Order specifically extending protection to their country.

VoiceWeb's failure to produce such evidence proved fatal to its multi-billion Naira claim.

### PRACTICAL INSIGHTS

VoiceWeb relied on the Copyright (Reciprocal Extension) Order 1972, which extends copyright protection to countries listed in its Schedule—all signatories to the Universal Copyright Convention 1952. Cyprus does not appear on that list, which further explains why VoiceWeb's claim failed at the threshold stage.

Significantly, the Copyright (Reciprocal Extension) Order 1972 remains the only ministerial order extending copyright protection to foreign countries that has been issued to date. This means the 1972 Order provides the current definitive list of foreign copyright owners who can enforce their rights in Nigerian courts.

**For copyright owners from unlisted countries** (including Cyprus, and notably most Asian and many African countries), the decision confirms they cannot enforce copyright in Nigerian courts regardless of treaty membership. This affects licensing strategy: foreign copyright owners from unlisted countries should structure agreements to rely on contractual remedies or arbitration

rather than Nigerian court enforcement. Before entering licensing arrangements, verify whether your country appears in the 1972 Order's Schedule.

**For copyright owners from listed countries** (including the United States, United Kingdom, France, Germany, and other countries in the 1972 Order's Schedule), the decision provides welcome clarity and confirms they can enforce their rights in Nigerian courts. The **VoiceWeb** case's emphasis on published ministerial orders effectively provides grounds for distinguishing **Microsoft v. Franike** [2012], where the Court of Appeal refused protection to Microsoft despite the United States appearing in the 1972 Order. The critical Order was not cited in **Franike**, suggesting that decision was reached without awareness of the relevant statutory instrument. United States and other listed-country copyright owners can now rely on **VoiceWeb** to demonstrate their right to sue in Nigerian courts.

**For Nigerian entities**, the decision provides straightforward verification and defence mechanisms. Simply check whether the foreign copyright owner's country appears in the 1972 Order's Schedule. If not, the foreign owner cannot enforce copyright through Nigerian courts regardless of any treaty obligations, providing a complete threshold defence. This verification should form part of due diligence when licensing foreign copyright or facing infringement claims.

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