

# Understanding Copyright and Software Protection for MSMEs and Innovators in Kenya

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Imagine this. You are a small business owner. You notice that farmers around you struggle to keep records of their farm inputs. You decide to build a simple mobile app called 'Farm-io' that helps them track their expenses, yield and profits. You spend months testing and improving it, and finally the app works: the farmers love it, and it goes viral among farmers and the agricultural community. Then one day, someone else releases an app that looks exactly like yours. Same features, same graphics, same flow and even the reports look similar.



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This is where innovators/MSMEs feel helpless. The question becomes, “How do I protect what I created?” The answer begins with understanding copyright and software protection. This blog is a follow-up to a webinar previously held by the Green and Digital Innovation Hub (gDIH) on the same theme: understanding copyright and software protection for MSMEs and Innovators in Kenya. During the webinar, many participants raised practical questions about ownership, copying and how innovators can protect their software. It became clear that while interest in Intellectual Property is growing, many MSMEs and innovators still find the topic abstract and technical.

## What is Copyright?

Copyright is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture, and films, to computer programs, databases, advertisements, maps, and technical drawings. In Kenya, copyright is governed by the Copyright Act (Cap 130). The law recognizes computer programs (software) as protected works, meaning your mobile app qualifies for copyright protection from the moment you create it, as long as it is original and recorded in some form/affixed in a tangible form.

Copyright protection extends only to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such. In simple terms, it protects the way you express an idea, not the idea itself. For MSMEs and innovators, this distinction is critical. In the Farm-io example, the idea of helping farmers track their records is not protected. Anyone can have that idea. What is protected is how that idea was expressed, how that app was designed, how the screens were arranged, how the code was written, how the information was displayed and how users interact with it.



Under the Copyright Law;

- In the case of two authors, the two shall be known as the joint authors of the work.
- In the case of works created for hire or works created under a contract of employment, unless otherwise stated in a contract, the employer or the person who commissioned the work shall be the owner of the work.
- Copyright in material produced by a government department belongs to the Government.

Using the Farm-io example, imagine you are the one who personally designed and coded the Farm-io app from start to finish. You came up with the idea, wrote the code, designed the interface and launched it. In this case, ownership is straightforward. You are the author and the copyright belongs to you. If someone later copies your app, you have a clear basis to claim infringement because you created it.

Now consider a slightly different situation. You had the idea for Farm-io, but you approach a freelance developer and ask them to build it for you under contract. You paid them, they delivered the app and you launched it. In this case, because the work is commissioned by you, you own the copyright. In Kenya, copyright for commissioned works initially vests in the creator (author) but is deemed transferred to the person commissioning the work, provided there is no written agreement to the contrary. While ownership transfers, it is strongly advisable to have a written contract specifying ownership to avoid disputes.

In another scenario, Farm-io was built by a small team. You worked with a friend who handled the coding while you focused on the design and user experience. Both of you contributed creatively to the final product. In this case, you are considered joint authors. This means both of you own the copyright together.

To avoid ownership issues, MSMEs and innovators should always use clear agreements that assign ownership of the software to the business, define roles and contributions and clarify rights to modify or reuse the code. Without such agreements, your control over your own product may be weaker than you think. To read more on Intellectual Property ownership, please visit: <https://www.gdih.org/who-owns-what-determining-intellectual-property-ownership-in-kenyas-innovation-landscape/>

## II.Registration

**gDIH** GREEN & DIGITAL INNOVATION KENYA

### COPYRIGHT REGISTRATION

AUTOMATIC PROTECTION. STRONGER PROOF.

**MYTH**  
Copyright exists only if you register.

**FACT**  
Copyright is automatic the moment you create and record your work.

**WHEN YOU CREATE & RECORD...**  
Save code on a laptop | Upload designs to the cloud | Publish content online  
**YOU ALREADY OWN COPYRIGHT.**

**AUTOMATIC IS NOT ENOUGH. PROOF IS WHAT MATTERS.**  
Ownership is easily questioned—until you have proof of composition date.  
Then you must prove what the work was created and who created it.

**REGISTRATION = YOUR TITLE DEED**  
Your Software + Registration = Stronger Proof  
An official record that saves you time, stress and money.

**FARM-TO EXAMPLE**  
A registered copyright makes it easier to prove ownership when a copycat app appears.

**WHY REGISTER?**

- EASIER DISPUTE RESOLUTION**  
Use your certificate as evidence in copyright based on strong evidence.
- BETTER ENGAGEMENT WITH STAKEHOLDERS**  
Helpful with investors, incubators, app stores, distributors and potential partners.
- IMPROVED BUSINESS CREDIBILITY**  
Investors and partners get confidence that you own and protect your innovation.
- SERIOUS ABOUT INNOVATION**  
Shows your business understands and values its intellectual property.

**EVERYDAY RECORD-KEEPING STILL MATTERS**  
Save different versions of your software | Keep emails and messages showing progress | Document timelines and milestones | Back up files and code regularly

**FARM-TO EXAMPLE**  
Prototype screenshots, best versions, feedback emails from farmers, and code repositories will help prove how the product evolved and who created it.

**REGISTER FOR PROOF. DOCUMENT FOR CLARITY. PROTECT YOUR INNOVATION.**

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One of the biggest myths among MSMEs and innovators is that copyright protection only exists if you register your work. In reality, copyright is automatic. The moment you create something original and record it in a tangible form (such as saving your code on a laptop, uploading designs to the cloud or publishing content online), you automatically own it. This means that Farm-io was already protected the very first day you finished writing the code and saved it. However, while copyright is automatic, **proof is not**. This where many innovators run into trouble. When everything is going well, no one questions ownership.

Problems usually arise when money, growth or competition enters the picture. At that point, being able to clearly show when the work was created and who created it becomes extremely important.

Think of copyright registration like a title deed for land. You may have been living on the land for years, but the title deed makes ownership easier to prove. In the same way, registering your software or digital content creates an official record showing that you are the owner. If a dispute arises, this record can save you time, stress and money. For example, if Farm-io was formally registered and a copycat app appeared on the market, it would be much easier to demonstrated ownership. Instead of relying on explanations and personal records, you would have a recognized certificate from the Kenya Copyright Board showing that Farm-io belongs to you. This becomes helpful when engaging lawyers, investigators or even app stores (for takedown) and potential partners. Beyond disputes, registration also improves your credibility as a business. Investors and partners often want to know who owns the software behind the product before committing resources. A registered copyright shows that the business takes its innovation seriously and understands the value of what it has created.

Even with registration, everyday record-keeping still matters. Saving different versions of your software, keeping emails or messages that show development progress, documenting timelines and backing up files can all help establish authorship.

For MSMEs and innovators that work with small teams or freelancers, these simple practices can prevent major misunderstandings later on. In the Farm-io example, Records such as early prototype screenshots, test versions, feedback emails from farmers, or code repositories with timestamps would all help show how the product evolved and who was behind it.

Download our IP handbook that provides steps and requirements for registering copyright in Kenya here: <https://www.gdih.org/wp-content/uploads/IP-Handbook-Final-Edited-Ver.pdf> )

### What can you do when someone copies your software?

Copyright infringement happens when someone uses or reproduces your protected work without your permission. In the software context, this often involves copying the code, duplicating design elements, replicating user flows or even distributing your application without authorization. Going back to Farm-io, imagine discovering that the competing app not only tracks farm expenses, but uses the same wording for buttons and notifications, displays screens in the same order, uses the same colors and icons and even produces reports that look exactly like yours. When these similarities stack up, it becomes harder to argue that the app was independently developed and it becomes copyright infringement.

**GDih** **COPYRIGHT INFRINGEMENT**  
 KNOW YOUR RIGHTS. PROTECT YOUR INNOVATION.

**WHAT IS COPYRIGHT INFRINGEMENT?**  
 Using or reproducing your protected work without permission.

- Copying code
- Duplicating design elements
- Replicating user flows
- Distributing apps without authorization

**FARM-TO EXAMPLE**

- Same wording
- Same order
- Same colors
- Same icons
- Same reports

**STACKED SIMILARITIES = INFRINGEMENT**

**KNOW THE LIMITS**  
 Copyright protects expression, not ideas or functionality.

- Ideas
- Concepts
- Common functions
- Purpose

**COMPETITION IS NOT ILLEGAL**  
 Others can build their own apps using their own creative expression.

Uber Bolt Same purpose. Different expression.

**IF INFRINGEMENT OCCURS: CHOOSE YOUR PATH**

- 01 ASSERT OWNERSHIP**  
 Send a formal notice with registration and records, your message carries weight.
- 02 NEGOTIATION**  
 Open a conversation. Clarify boundaries and agree on a way forward (license, fr, or partnership).
- 03 MEDIATION**  
 A neutral third party helps both sides reach a mutually acceptable solution.
- 04 ARBITRATION**  
 A neutral arbitrator or panel makes a binding decision faster and private than court.
- 05 LAWSUIT**  
 Court action if infringement continues. Seek orders, damages and accountability.
- 06 ENFORCE & PROTECT**  
 Protect your innovation. Send a strong message that creativity deserves respect.

**KEY TAKEAWAYS**

- Protect your work.
- Keep records & register.
- Many disputes are resolved outside court.
- Communication is good & can go a long way.
- Innovation deserves protection.

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At the same time, it is important to understand that copyright does not prevent others from building their own farm management apps, tracking expenses etc. Competition itself is not illegal. Another developer is free to solve the same problem as long as they do so using their own creative expression and create original work. This is why you can find many apps in the same space that feel different even though they serve the same purpose. For example Uber and Bolt. They serve the same purpose which is connecting riders with drivers through smartphone apps, food delivery and logistics services, yet they are different. For many MSMEs and Innovators, when infringement occurs, the idea of enforcing their rights sounds tedious. The assumption is often that enforcement means expensive court cases and long legal battles when in reality, many disputes are resolved/settled long before they reach that stage.

If infringement occurs, often, the first step is simply asserting ownership. A formal notice explaining that you own the work and that unauthorized use should stop is sometimes enough. When backed by registration and clear records, such communication carries more weight. Many people copy because they believe the creator will not act or lacks proof.

First, document the copying. Second, confirm what exactly has been copied, for instance is it the interface, code, app flow etc. Third, check your ownership documents such as GitHub/code repository timestamps and invoices. Fourth, send a formal notice or seek legal advice. Fifth, consider negotiation, mediation, arbitration or litigation depending on the seriousness of the infringement

**Negotiation** simply means opening a conversation with the person or business using your work without permission. In many cases, infringement happens because boundaries were never clear, not because of bad intention. Through negotiation, you can explain your position, assert your rights and agree on a way forward. This might involve stopping the unauthorized use, paying a license fee or formalizing a partnership. For MSMEs an innovators, negotiation is often effective because it preserves business relationships while protecting your interests. If negotiation fails or becomes too emotional, mediation is another practical option. **Mediation** involves a neutral third party who helps both sides talk through the dispute and reach a mutually acceptable solution. The mediator does not decide who is right or wrong but guides the discussion so that both sides can understand each other's perspectives. Mediation focuses on resolution rather than blame.

Another option is **arbitration**, which is more structured than mediation but still outside the court system. In arbitration, the parties present their dispute to an arbitrator or panel of arbitrators who then make a binding decision. Arbitration is often faster than a court case and can be tailored to suit technical disputes such as software ownership.

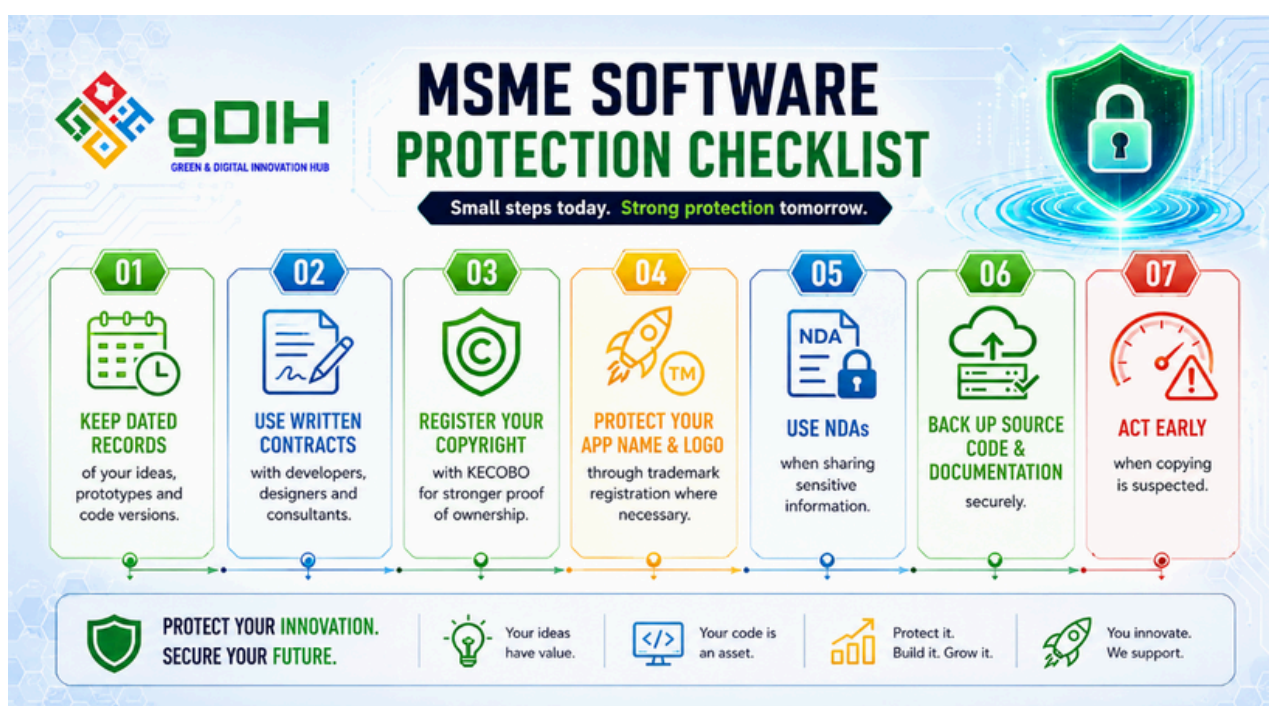
When all these alternatives do not work, a lawsuit becomes an option. Court action may be necessary if someone continues to copy, distribute or profit from your software despite warnings and attempts to resolve the matter amicably. A **lawsuit** allows you to seek remedies such as orders to stop the infringement, compensation for losses suffered or accountability for profits made through unauthorized use. While litigation can be time consuming and expensive, it sends a strong message that your rights matter and that innovation cannot be exploited without consequences.

For software-based businesses, copyright is a strong starting point, but it should not be the only protection strategy. The app name and logo may need

trademark protection. Technical inventions may require patent advice. Customer databases, algorithms, pricing models and internal processes may need confidentiality measures, NDAs and strong access controls. For MSMEs, the best approach is to combine copyright registration, clear contracts, proper documentation and basic business protection measures.

### Takeaway for MSMEs and Innovators

For MSMEs and innovators, copyright provides a strong foundation for protecting software and digital creations. The Farm-io example shows that building a great solution is only part of the journey. Protecting that solution is equally important. By understanding what copyright covers, clarifying ownership and taking practical steps to safeguard your work, you can turn your innovation into a secure and valuable business asset.



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Protecting software comes down to the everyday decisions developers make, how they build their systems, how they manage access and how well they document their work. These small, intentional steps are what really keep your work from being copied or misused. When you look at software closely, it is made up of different layers: your frontend, backend, databases, APIs and even how results are displayed. All of these pieces reflect your thinking as a developer. That's what makes your product unique.

In practice, there are a few simple habits that go a long way, i.e.:

- Keep dated records of your idea, prototypes and code versions. Use version control tools like GitHub to track your work and show how it has evolved
- Keep your code in private repositories and control who has access
- Be careful not to expose sensitive logic, especially on the frontend

- Use written contracts with developers, designers and consultants.
- Make sure you have the necessary permissions to use any data and the rights to use AI outputs commercially (in case you used AI)
- Register your copyright with KECOBO for stronger proof of ownership.
- Protect your app name and logo through trademark registration where necessary.
- Use NDAs when sharing sensitive information.
- Back up source code and documentation securely.
- Check whether the developers you have engaged have used open source software, and check if you are in compliance with software licenses.
- Act early when copying is suspected.

For inquiries and access to IP Services, kindly visit the gDIH Intellectual Property Help-desk via [gDIH Intellectual Property Help Desk - Green & Digital Innovation Hub](#).

### References

1. The Copyright Act of Kenya (Chapter 130, Laws of Kenya)
2. “How do you register copyright for your software?” by Kenya Copyright Board: <https://www.facebook.com/KenyaCopyrightBoard/videos/how-do-you-register-copyright-for-your-software-listen-and-take-action-according/1726884438708299/>
3. “Intellectual Property Rights for Mobile Applications” by World Intellectual Property Organisation: <https://www.wipo.int/en/web/mobile-apps/index>



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