



KENYA COPYRIGHT BOARD



ADVISORY ON MEMES AND COPYRIGHT LAW

This week a series of memes generated from videos made by two Kenyan comic artists named Arap Marindich and Tula have been trending in various social media platforms offering comic relief during election campaign period.

The memes have been utilized by individuals and corporates thereby raising significant copyright concerns.

A meme is an image, video or text used in social media for humorous or political banter and illustrative of a line of thought on a topic under discussion. Memes are in most cases static images created from a photograph, illustration, text, or video that is protected by copyright.

A Copyright holder has the exclusive rights to copy, reproduce, make adaptation, publish, and broadcast their work for a fixed period established under the Copyright Act.

In that regard, a copyright owner can create a meme from his photograph or video in exercise of their rights under copyright. Such memes can be exploited for the benefit of the author through advertising and as Non-Fungible Tokens (NFTs).

Therefore, a meme generated without the authority of the Copyright owner is an infringement on their copyright particularly the exclusive rights to reproduce, copy, adapt and publish since the original photograph or video undergoes some alteration and incorporation of a text.

While the use of memes in social media is tolerated, its creation and use for commercial purposes can attract significant civil liability and must be cleared from the authors.

It is worth noting that in some cases, content used for generating memes may be in public domain or released under creative commons license.

Consequently, corporate bodies must consider conducting due diligence on the status of photographs or videos before being tempted to join the fun.

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KENYA COPYRIGHT BOARD.
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