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MATRIC NUMBER: 16/LAW01/O97

INTELLECTUAL PROPERTY TEST

ANSWER:

The question bothers on the requirements of copyright . The legal issue in this question is whether John is a qualifying author. It is important to note that there are three requirements for copyright protection namely; originality, fixation and qualification of the author.

The general rule as to the qualification of the author is that there must be some form of connection or nexus between the author and Nigeria either by nationality or domicile, place of first publication, government works and by virtue of international agreements. Essentially, the requirement for the qualification of the author applies to all categories of works .

Based on the scenario, section 5 (1) of the Copyright Act will apply. It provides that by virtue of international Agreements, works which on the date of first publication are made by nationals or domiciled in a member state of United nations or its agencies, Organisation of African Unity or Economic Community of West African States may be protected by copyright in Nigeria.

John is a Ghanian and it is general knowledge that Ghana is a member of ECOWAS and as such can be protected by copyright in Nigeria. In the case of Ifeanyi Okoye & anor v. Prompter & Quality Services & anor, the Court held that “ The literary or artistic work of a sufficiently intelligent and highly talented person, not a graduate may be eligible for copyright”.

In conclusion, I will advise John to sue Ope for infringement on his copyright and where evidence is sort concerning the treaty, Section 5(2) of the Copyright Act which states that “ where the question arises as to whether a country is party to an obligation in a treaty or other international agreement which Nigeria is also a party, a certificate from the Commisssion to that effect shall be conclusive proof to that fact. Thus, John can get a certificate to show that Ghana and Nigeria are parties to the same treaty.