Intellectual Property Test

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Matric no: 16/law01/207

Course Title & code: Intellectual property ( LPB 406)

Level: 400

Lecturer: Ifeoluwa Olubiyi (Dr.)

Question

John is a Ghanaian student of ABUAD who decided to stay back in school during the Easter break. During this period, he read the novel ‘Purple Hibiscus’ by Chimamanda Adichie. Upon inspiration he decided to also write a novel based on the same storyline/plot. Having thought about the novel and with no time to write it out, he recorded it on his phone as an audio file. Some weeks ago, his friend, Ope, listened to the music on his phone including the novel. Unknown to John, Ope has gone to publish the novel. On discovering this, he threatened to sue her. She has laughed at him that he has no copyright under Nigerian law because he is a foreigner who got the idea from reading another book and only recorded it on his phone and did not publish the work. As an intellectual property law student, John has approached you for your legal opinion. Advise him with the aid of statutory and judicial authorities. **(10 marks)**

Answer

Legal issues:

1. Whether john has copyright to the work

This would be answered in the affirmative.

In other to answer this question, it is imperative that we establish the different requirements that informed this answer with also providing statutory and judicial provisions

Firstly, the requirement of the category must be established by virtue of section 1(1), this work is a sound recording as provided by the work so it is eligible for copyright.

And also the question of originality, fixation, and qualification must be answered,

By virtue of section1 of the act, a work must possess sufficient level of effort, skill and labour on making such a work.

The work must be fixed in material or definite medium which is known or to be developed upon later, and from which it can be perceived, reproduced or communicated either in a machine or etc

Another question maybe posed as to the qualification of the said Mr. John and if copyright would subsist. By virtue of section 3 of the copyright act it provides that copyright shall be conferred by the section on any literary, musical or artistic work or cinematographic work first published in Nigeria or being a sound recording is made in Nigeria.

An author is a person who first made the work.

The answer to this question is in the affirmative and to apply the said rule to the question would be that: that john who is certified an author because he made the work as provide by section 51 which defined who an author is, john has copyright to the work because he met the requirements for originality because he did not copy chimammands rather he drew inspiration from it work, fixture because he made the work and made it into a sound recording and he qualifies as the owner of the work because by the provision of section 3(1)(b) being a sound recording, and it is made in Nigeria he is eligible for copyright work.

In conclusion, john has copyright to the work and also ope has infringe on the work because she made use of the work in such a way that permission for publishing was not taken and he can also bring an action for infringement and he can seek a remedy for conversion.