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TEST

SOLUTION

LEGAL ISSUE

1. Can a foreigner claim copyright in Nigeria
2. Whether or not the work passes the test of originality
3. Whether John is entitled to copyright protection in Nigeria as a Ghanaian
4. Whether or not John can sue Ope on the grounds of infringement

INTRODUCTION

Copyright can be defined according to the dictionary as an exclusive right granted to publish and sell literary or musical or artistic works.

Copyright started from Britain which means a right to copy. In Civil law jurisdictions copyright is called Authors Right or Related Rights.

According to Bain Bridge Copyright defines in terms of what it protects like literary works artistic sound recordings etc.

Coming down to the question given John is a Ghanaian student of Abuad which makes him a foreigner. Putting into words the first legal issue ..Yes a foreigner can claim copyright in Nigeria and this is only possible if the country in question is a member states of IP organization or international treaty. As In the case of Microsoft corporation v Franike Assiciates limited.

The work passes the test of originality and any work which is simplistic will not pass the test of originality eg photography as provided for under section 4 of the Copyright Act and also in the case of Peter Obe v Grapvine communications for graphs.

In the case of University of London press v University of tutorial press Ltd , it was stated that the expression need not be original or novel in form but must originate from the author and from the event the work was from Chimmanda the author of the actual work therefore it does passes.

Also from the nature of copyright no registration is needed. Copyright is vested the moment the work was created or fixed in a medium of expression. Fixation can be seen under section 1(2)(b) of the Copyright Act..Also in the case of Donoghue v Allied newspaper Ltd where it was stated from Tomlin J that not have taken part in the production of the express matter of copyright does not make you a joint owner.

In regards to publication , it becomes relevant where the work has not been subject to the nationality or domicile of the author as provided for under section 3 of the copyright Act.

In advicing John , I would say that he can successfully claim copyright because he satisfies all the requirements and can be protected because even sound recordings of a persons work can be protected.

In conclusion, John although got his idea from another didn’t mean to publish the work and ad a Ghanaian his work can be protected and can sue for infringement which is provided for under section 15 of the copyright Act. Also Berne convention allows a foreigner to enjoy his copyright protection although in the Fanike case a certicate was required.

GOD HELP ME!!