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Matric No: 16/Law01/054

Course Title: Intellectual property

Intellectual Property Test

Answers

The legal issue in the given scenario is whether John indeed has Copyright under the Nigerian law for the audio file he recorded on his phone and whether John can qualify as an author for copyright protection considering his is a foreigner and Whether Ope has infringed on John’ rights. In order to answer the question it is best to first understand what Copyright is. Copyright can be said to be a property right, it protects expressions of ideas and not the idea itself. Copyright consists of both moral and economic rights.

In order for John to know whether he has Copyright over his work it must fall under works eligible for Copyright, which is found under **Section 1(1) of the Copyright Act**. They include: literary works, musical works, Artistic works, cinematography films, sound recordings and broadcast. Considering what John made was an Audio file of a book, it would go under sound a recording which is considered one of the works eligible for copyright.

There are three requirements under the law for copyright protection. They include Originality, Fixation and Qualification of an author. Requirement for originality is found under Section 1(2)(a) of the Copyright Act, in order for a work to have copyright protection it must have been original, not in the sense of newness or novelty, it means sufficient time and effort must have been put into the work for it to qualify. The work or the expression of idea must have been a result of the authors’ intellectual creation and independent skill as was done in the case of **University of London Press v. University Tutorial Press.** Considering the fact that John read “Purple Hibiscus’’ and was able to form his own story means that he passed the requirement of originality. Fixation is the next requirement found under Section 1(2)(b) of the Copyright Act. In order for the work to qualify for copyright protection it must be fixed in a definite medium. An Audio file qualifies as being fixed in a medium form. This can further be seen in the case of **Yeni** **Anikulapo Kuti & Ors v. T.M Iseli & Ors,** where the court held that recording his songs was good enough for copyright protection over them. The next requirement id Qualification of the Author, this basically means that before a person can qualify for copyright protection under the Nigerian law, there must be some connection between the author and Nigeria. In this case John happens to be Ghana schooling in ABUAD which is located in Nigeria, it can therefore be said that he is domicile in Nigeria due to the fact that he schools there which may give him copyright protection over his work according to **Section 2 of the Copyright Act.** it is also possible to look at Section 5(1) of the Copyright Act which refers to International Agreement, considering the fact the John is Ghanaian, it is possible that Ghana and Nigeria are part of an international agreement which automatically gives John Copyright protection over his work in Nigeria.

According to the scenario given after Ope listened to the audio file on John’ phone she went ahead to publish it, this may be seen as an infringement over Johns copyright considering the fact that the requirements for copyright protection has been met by John.

In Conclusion, the legal questions may all be answered in the affirmative, John indeed has copyright over his audio because he passed all the copyright protection requirements and he is domiciled in Nigeria due to the fact that he schools in ABUAD. John qualifies as an author and Ope had infringed on John’ right by publishing the novel without his consent. The best advice to give John is to let him know that he can bring legal actions against Ope because he indeed has Copyright Protection over his work.