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Matric Number: 16/law01/138

Legal Issue is whether John has copyright in the work. This is answered in the affirmative.

Section 1(1) of the Copyrights Act [hereafter referred to as CA] lists works eligible for copyright. These include; Literary works, Musical works, Artistic works, Cinematograph films, Sound recordings, and Broadcasts. Sound recordings are considered to be entrepreneurial works.

Once, it is established that the work falls under one of the categories listed, there are three requirements to determine if the work is eligible for copyright protection. These requirements are:

1. Originality
2. Fixation
3. Qualification of the author

The test of originality is mainly for literary, musical and artistic works. Originality is in the skill and labor involved in selecting or arranging existing subject matter to create a new work. Copyright is a reward for financial investment rather than creativity. A case to illustrate this is the case of University of London Press v. University Tutorial Press.

The test of fixation requires that “the work has been fixed in any definite medium of expression now known or later to be developed, from which it can be perceived.” As per Section 1(2)(b) CA. This is echoed in the case of Yeni Anikulapo Kuti & Ors v. T.M Iseli & Ors.

Qualifying the author entails confirming that the author’s domicile is Nigeria, or that the author is from a member state of an International Agreement of which Nigeria is part. When the question arises as to whether a country is a member state to a treaty to which Nigeria is also a party, a certificate from the NCC to that effect shall be conclusive proof of that. And this is well illustrated in the case of Microsoft Corp. V. Franike Associates Ltd.

In John’s case, his recording fulfills the originality requirement because of his efforts he exerted in creating the story.

It also fulfills the fixation requirement because he expressed the same idea expressed in the Purple Hibiscus book in his own way. This he did by basing a completely new story in the same plot style.

Finally, his work fulfilled the last test because Ghana is a member state of the Berne Convention and as such, he can enjoy the benefits of copyrights protection.