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ISSUES

Whether Johns work is eligible for copyright under the Copyright Act.

Whether the work by John met the requirements for copyright protection

Whether johns work can be protected under the copyright laws of Nigeria as he is a Ghanaian

1. Whether Johns work is eligible for copyright under the copyright act

This issue is resolved in the positive.

Works eligible for copyright under the act is provided for in Copyright Act s1(1) which includes literary work, musical work, artistic works cinematograph works, sound recording and broadcast. These works are eligible for copyright in Nigeria under the copyright act. The act goes further to say in section 1(2)(a) that a literary, musical, or artistic work shall not be eligible unless sufficient effort has been expended on it to give it an original character and that the work has been fixed in any medium of expression now known or latter to be developed.

John read the book Purple hibiscus and inspired by it wrote his own book with the same storyline and plot and he recorded it in an audio file as he did not have time to write it out. One important nature of copyright is that it is an expression of ideas and not the idea in itself. This can be seen in the case of University of London press v University of tutorial press where examination papers which although peculiar to everyone and basically has the same idea being testing students was held to be protected as the expression of the idea in those papers is what was protected, the way it was arranged, the way the questions were and other important factors.

Thus, copyright protects how ideas are expressed by individuals and not the idea in itself. Hence, provided john has expended enough time, effort and skill in the novel he wrote though he got inspiration from another novel, it gives it an original character and is eligible for copyright protection under the act.

Secondly, John recorded the novel in an audio file, thus the requirement of fixation has also been passed as the work was fixed in a definite medium of expression. The moment John recorded the novel he had an existing copyright in the novel and anyone who tampered in his rights.

1. Whether the work by John met the requirements of copyright protection.

Requirements for copyright protection are originality, fixation and qualification of the author. Originality by virtue of section 1(1)(2)(a) means that sufficient effort must have been expended on the work to give it an original character. This is seen in University of London Press v University Tutorial Press. Fixation requires that the work be fixed in a definite medium by virtue of section 1(2)(b). qualification of the author is provided for in Section 2-5 of the Copyright Act and it provides that an author should be a national or domiciled in Nigeria, he should have published his work first in Nigeria, it should be a work given to him by the government or he should be a member of a treaty Nigeria is also a member to. Section 41 also [provides for reciprocal extension of rights where individuals who are citizens of or domiciled in a country to which Nigeria is a party to any treaty or international agreement with that country shall have the protection of the act as regards works produced by that person provided that country also covers the works protected under the Nigerian copyright act.

Hence john passes the requirements as the work is original and fixed as seen above and he is also a qualified author being that he is a Ghanaian and Ghana is a member of Berne convention, Marrakesh treaty and some other conventions and treaties which Nigeria is a party to so such rights will be extended to John being that he is a Ghanaian and due to the reciprocal extension of protection provided for in the act.

1. Whether Johns work can be protected under Nigerian Copyright as he is a Ghanaian

This issue is resolved in the positive.

From the foregoing, it can be inferred that John’s work can and will be protected under Nigerians law as Ghana is a member of some international treaties and conventions which Nigeria is a party to, as a result, Nigeria owes John that right to protect such work made by him even if he is in Nigeria.

ADVISE

As an intellectual property student, I will tell John that his right in his work has been infringed by Ope when she published the work without his consent. Johns work is eligible for copyright, it met the requirements for copyright and even though he is a ‘foreigner’ as Ope said, he passes the test of qualifying author as Ghana is a member to some parties and international agreements which Nigeria is also a party to.

John should bring an action against Ope for infringement of his right to publication as she published his work without his consent.

John should also not be bothered about the fact that Ope said he got the idea from reading another book as copyright is concerned with the protection of expression of ideas and not ideas in themselves. There are lots of novels with the same storyline and plot but they have different characters, different settings, hence the expression of the idea. John was inspired to record his own novel from purple hibiscus which is informal because most works are drawn from inspiration from other works. The way john presebts his own novel and expressed it enough to make it original is what really matters.