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COURSE; INTELLECTUAL PROPERTY

ANSWER.

We have two legal issues in this work. The first legal issue is whether John can sue and seek remedy over copyright of his work which Ope had already published (infringement) in Nigeria.

The second legal issue is whether John can claim copyright as a foreigner in Nigeria and if he has copyright in the work.

In applying the principles to these legal issues mentioned above, starting with the second legal issue. We have to determine the originality of the work done by John. In *Peter v Graperine Communications Ltd* a work that is generally simplistic will not pass the originality test i.e. graphics. Here we can see that John put in reasonable effort and time into creating his own work. So we can see the originality here and John has the right of authorship. In essence John has copyright in his work on the ground of originality. *Hollinrake v Trustwell* where a literary work was defined as a work attempting to offer information, instruction or pleasure for literary enjoyment. Using section 2 it provides for qualification of an author only requires nationality or where one is domicile. Also under the principle of national treatment a person who is domicile in a country using Nigeria as an example John who is domicile in Nigeria but from Ghana his copyright can be protected as long as both countries are members of an intellectual property treaty. So in essence John who wants to be protected in Nigeria will be protected as a Nigerian.

Moving on to the first legal issue as stated above in order to succeed in an infringement action the plaintiff must satisfy the following criteria John has to prove the following stated below;

- a. That copyright subsists in his work alleged to be infringed.
- b. That the ownership of copyright is vested on the plaintiff either as author, assignee and exclusive licensee.
- c. That the defendant has done an act exclusive to the plaintiff.
- d. That the defendant has no authority to do the act complained of.

Section 15 provides for infringement making a piece available to the general public constitutes infringement. Ope published John's work without his permission was infringement. Using the requirements listed above Ope has infringed.

In conclusion my advice to John is that John is the owner of the piece and has right of authorship. Ope has clearly infringed and is liable to infringement. So in essence John can sue Ope and seek remedy for his published work done by Ope. (*Copyright work*) in *Yemiton v Daily Times Nigeria Ltd* and another where the defendant published the plaintiff's work without his consent.

