

The legal issues for determination include

1. whether the novel will be eligible for copyright
2. whether he is entitled to copyright protection in Nigeria as a Ghanaian
3. Whether it passes the requirement of originality
4. whether he can sue Ope on the ground of infringement

PRINCIPLE OF LAW

Copyright is a proprietary right which confers exclusive rights to authorize or prohibit certain uses on his works by others.

It should be noted that no registration is required for copyright. Copyright is vested in the copyright owner from the moment the work was created or fixed in a medium of expression. Therefore, no registration, deposits, affidavit, payments or any other formalities are required before copyright is granted by the law. By virtue of Art 5.2 Berne convention, the enjoyment and exercise of these rights shall not be subject to any formalities

Requirements for copyright protections include

1. Originality: Sec 1(2)(a) provides that a literary, musical or artistic work shall not be eligible for

copyright unless sufficient effort has been expended on making the work to give it an original character.

2. Fixation: A literary, musical or artistic work shall not be eligible for copyright unless the work has been fixed in a definite medium of expression now known or later to be developed from which it can be perceived, reproduced or otherwise communicated either directly or with the aid of any machine.

3. Qualifying author: It should be noted that before a person can qualify for copyright protection under the Nigerian law, there must be some connection between the author and Nigeria. This could be in respect of nationality or domicile of the author, place of first publication.

Domicile refers to a place a person is physically present and regards as home to which the person intends to return and remain even though currently residing elsewhere

Infringement of copyright
It should be noted that in order to succeed in an infringement action, the plaintiff must fulfill certain requirements

1. That copyright subsides in a

work alleged to be infringed

2. the ownership of the copyright is vested in the plaintiff either as author, assignee or licensee

3. the defendant has done an act in relation to the work exclusive to the plaintiff

4. The defendant has no authority to do the act complained of

Application of principle

Applying the above principle to the question, John's work shall be eligible for copyright because copyright is vested on the owner from the moment the work was created or fixed.

Also John is entitled to copyright protection because although he is from Ghana, he resides in Nigeria. Therefore he is domiciled in Nigeria.

Also John's work passes the requirements of copyright in the sense that it is original because he put sufficient effort in making the work.

Also John recorded the work on his phone as an audio file therefore the work has been put in a fixed medium.

Lastly, he can sue Ope for infringement because Ope went ahead to publish the work without John's Consent or permission.