ILIYA-EZEKIEL NDATSE 16/LAW01/107

The Legal issue for determination is whether John can bring an action for infringement of copyright against Ope.

The general rule as regards to a foreigner claiming copyright in Nigeria was stated in SECTION 2 OF THE COPYRIGHT ACT , where it stated that the author or one of the authors must be a citizen of or domiciled in Nigeria. Domicile refers to a place a person is physically present and regards as home, a person’s true, fixed, principal and permanent home, to which the person intends to return and remain even though currently residing elsewhere. Also, SECTION 3 OF THE COPYRIGHT ACT states that a work is eligible for copyright if (a) Literray, musical, or artistic work, it is first published in Nigeria. (b) Being a sound recording, is made in Nigeria and which has not been the subject of a copyright conferred by section 2 of the act. This was stated in IFANYI OKOYE V. PROMPT AND QUALITY SERVICE. It should be noted that the BERNE CONVENTION gives right to foreginers to enjoy copyright protection provided his country is a signatory. MICROSOFT V FRANIKE upholds this principle.

On Originality, generally a work is regarded as original where suficient effort has been given or expanded in making the work to give it an original character, according to SECTION 1 (2) (a) OF COPYRIGHT ACT. Originality means that suffient time and labour has been expanded on the workby the author. In LADBROKE FOOTBALL LIMITED V WILLIAN HILL FOOTBALL LTD, it was stated that originalityb means that the work shoild originate from the author.

A literary, Musical or Artistic work shall not be eligible for copyright unlessed it it expressed in a fixed medium. SECTION 1 (2) (B) OF THE CA the work has been fixed in any 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 aid of any machine or device. It was stated in Yeni Anikulapo Kuti & Ors v. T.M Iseli & Ors that copyright protects the expression of works in a fixed medium.

A sound recording qualifies is eligible for copyright acording to SECTION 51, Sound recording is any fixation of any sequence capable of being percived aurally and of being reproduced but does not include sound tracks.

Publication is making the work available to the public according to SECTION 51 (2) OF THE CA

Applying this priciple of law, John has satisfied all the requirement and he can therefore bring an action for infringement. Although he is not a Nigerian SECTION 3 OF THE CA and the BERNE CONVENTION gives him right to protect his work under copyright and his work can be ssen as original because he only drew inspiration from Purple Hibiscus and his work was in a fixed medium which was his phone. Such recording qualifies as sound recording which can be protected by copyright. He has the right of publication and by Ope publishing that work she has infringed on Johns copyright and he can bring an action.