

OKOSUN STEPHANIE IMUETIYANOSA

16/LAW01/166

INTELLECTUAL PROPERTY TEST

8-5-2020

ANSWER.

The legal issue in this context is whether John has copyright over his work. First of all for a work to be eligible for copyright it must satisfy the following requirements;

Originality

For a work to be considered original it means that sufficient effort, skill, judgement and labour has been put into that work. It does not mean newness or novelty. So in the case of John, his work can be considered original. It does not matter that he drew inspiration from Chimamanda's purple hibiscus because most works are inspired by pre-existing works, so such works would qualify so far as it is not a result of copying an existing work. See *Ladbroke Football Ltd v William Hill Football Ltd*.

Fixation

A literary, musical or artistic work must be in a definite medium of expression to qualify for copyright. This is because copyright protects expression of ideas and not ideas itself. This could be in a form of recording, pdf file, documents etc. as a result of this John's work satisfies this qualification because he recorded his work as an audio file which serves as a medium of expressing his idea. See *Yeni Anikulapo Kuti & Ors v TM Iseli & Ors*

Qualifying author

Before a person can qualify for CP protection under the Nigerian law, there must be some connections between the author and Nigeria. This could be as regards to his nationality or domicile of author, first publication of his work, government works or virtue of national agreements. Although John is not a citizen of Nigeria nor does he reside in Nigeria nor did he first publicize his work in Nigeria or is he working for government, he will still be regarded as a qualifying author by virtue of national agreement. S5(1) CA states that works on the date of first publication are made by authors who are nationals or domiciled in a member state or work first published in a member state, UN or its agencies OAU or ECOWAS will be protected by copyright in Nigeria. Note that Nigeria only extends protection to fellow members of a treaty and to the

extent of its obligation under each treaty. due to this john will be able to claim copyright in Nigeria because Ghana is a member state of the berne convention. See Microsoft corporation v franike associates ltd.

In conclusion, john can claim copyright of his work because he satisfies the above requirements of copyright protection in Nigeria.

I would advice john to go ahead and sue ope for infringing on his rights.