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Intellectual property

This scenario provided raises differents issues which will be succinctly explored in a bid to advice the client, John on the legal options available to him whilst navigating the various issues raised here.

There are several legal issues raised in this scenario, the first being if John as a foreigner can claim copyright in Nigeria. This refers to the status of the author and by virtue of section 2 of the Copyright Act , ‘- any of the authors is at the time when the work is made, a qualified person, that is to say- an individual who is a citizen of or is domiciled in Nigeria. The Blacks Law Dictionary defines a domiciled person as a person who 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. From the provided information John though he is a Ghanian citizen is a student of ABUAD who decided to stay back. From the foregoing it is safe to say that he is domiciled in Nigeria and that rsolves the first issue of if he can claim copyright in Nigeria as a foreigher.

The second issue to be explored are the requirements for copyright protection as regards to this situation.

1. A work that is first published in Nigeria shall be eligible for copyright protection – ***section 3 CA***
2. Does it pass the requirements of Originality?

* Although the work was derived from another novel it can be said to pass the requirement of originality this is because, Originality does not mean newness or novelty or result of an inventive thought It means: Sufficient time, effort, skill, judgment, labor etc. has been expended on the work by the author and The work was not copied from another work. Originality is in the skill and labour involved in selecting or arranging existing subject matter to create a new work. By this stipulation, the work can have the same plot but not the same storyline.

1. Copyright begins from creation. Copyright is vested in the copyright owner from the moment the work was created or fixed in a medium of expression. No registaration is required before copyright can be granted by law.

* The third legal issue to be looked into is the issue of fixation and if the audio file recoreded on his phone can be regared as a fixed medium. A literary, musical or artistic wok shall not be eligible for copyright unless 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 ***Section 1(2)(b) CA.*** sound recording such as his can be regarded to be in a fixed mediumThrough fixation copyright can protect the expression of an idea and not the idea in itself Yeni Anikulapo Kuti & Ors v. T.M Iseli & Ors.

Finally, the Berne Convention allows a foreigner to enjoy his copyright so he has full legal right to sue Ope for infringement.