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Course: intellectual property

The legal issue is whether the sound recording of the novel by John can be protected by Copyright law of Nigerian even though he is a ghanian who is domiciled in Nigeria as a student of Abuad?

Copyright in it’s concept has a unique nature. Copyright however protects the expression of idea of a work and not the idea itself hence there can be different novels with the expression of the same idea yet the work can be termed as original as a result of the difference in the expression of an idea. Art 9.2 tips provides that copyright protection shall extend to expressing not to ideas, procedures, methods of operation or mathematical concepts as such.

For a work to be eligible for copyright the first question that needs to be addressed is whether the work falls within the categories of works which are eligible under Section 1(1) copyright Act. After ascertaining this depending on the type of work concerned the next question is whether the 3 preconditions required is satisfied. However for a work to be eligible for copyright protection under the Nigeria copyright law three preconditions must be satisfied. The three preconditions of originality, fixation and qualify/connecting factor must be satisfied. Section 1(1) copyright act however also provides for work which are eligible for copyright, the works eligible for copyright include Literary works, musical works, Artistic work,cinematograph films, sound recordings and broadcasts.

Originality in this sense does not mean newness or novelty or result from inventive thought.Originality in this sense means sufficient time, effort, skill and labour that has been expended on the work by the author. The work or expression of the idea must be as a result of the author's skill , labour and judgement. In Ladbroke Football LTD v William hill it was held that the test of originality is qualitative rather than qualitative. The work however satatisfies the test of fixation because it is provided in Section 1(2) of CA that has long as a work is in a fixed medium and it is created it satisfies the test of fixation. The requirement of qualifying factor which provides that the there must be a connection between the work and Nigeria .The connecting factor contemplated in the act will be by place of first publicatin., International agreement, domicile or nationality of the author as provided 2 of CA.

In conclusion as a result of the three requirement satisfied which is the requirement of originality, fixation which is as a result of the work in a fix medium that is soundrecording and connecting factor which is the fact the John is domiciled in Nigeria even though he is not a national and also according to the provision of section 5CA by virtue of international agreements and reciprocal extension of protection by virtue of Section 41 the work will be protected under Nigeria law of copyright.I advise that John should bring an action of infringement against ope for infringement. The right provided in S.7 CA can be exercised by only John.