

OBODOECHI CHIDERA
16/Law01/148
INTELLECTUAL PROPERTY
8th of May, 2020

The legal issue for determination is whether the sound recording of the book idea by John can be protected by copyright. Does the recording fall within the categories of protected works and whether it fulfills the requirements of a work that can be protected by copyright. Another issue is whether he can claim copyright as a foreigner, that is, if the the foreigner's work can be protected by Nigerian Copyright Law.

According for the Copyright Act, Section 1(1), a sound recording is eligible for copyright. Also, according to section 1(2) of the act, for a work to be eligible is has to have originality, fixation, and qualifications of the author according to section 5(1) which says that by virtue of international agreements, works which on the date of first publication are made by the authors who are nationals or domiciled in a member state of the UN or this agencies, OAU, ECOWAS may be protected by copyright in Nigeria.

For the first issue, John's work can be considered to have originality even though he was inspired by another book 'The purple hibiscus', because there was a sufficient amount of labour, skill and energy involved, this can be seen in University of London Press v. University Tutorial Press. A sound recording is eligible for copyright. John put his idea in a fixed medium by means of sound recording which is can be protected by copyright.

John's work can be protected even though he is a foreigner because according to section 5(1), if his country is a member of the same treaty with Nigeria then his work can be protected in Nigeria. Ghana is a member of Ecowas and Berne Convention so therefore, he can have his work protected by the Copyright Act in Nigeria, this was so in the case of Francis, Day & Hunter v. Feldman & Co.

Therefore, John can sue Ope for publishing his work without his consent because according to the Copyright Act, his work can be protected by the Nigerian Copyright Law and the sound recording can be protected because it was put in a fixed medium. Fixation can protect expression of ideas and not ideas itself and John's sound recording was an expression of and idea.

Conclusion, John can sue Ope for infringement, he can sue for damages, injunction on further publication, right of conversion and return of profits made. John's work can be protected and it can also be protected in Nigeria even though he is a foreigner.