

CPE 513 Assignment

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MATRICULATION NUMBER: ENG1503549

LEVEL: 500

QUESTION ONE

Option B: LaDev Initiative would be punished for forgery for forging a document under the Nigerian Penal Code.

Section 363 of the Nigerian Penal Code states that *"Whoever makes a false document or part of a document, with intent to cause damage or injury to the public or to a person or to support a claim or title or to cause any person to part with property or to enter into an express or implied contract or with intent to commit fraud or that fraud may be committed, commits forgery"*.

With this in view, LaDev's action of making false documents with the intention of making a false claim is an offence by the provision of this Law. This fact holds true whether LaDev emailed the forged documents through the internet or not.

LaDev's action of forgery would have been punishable by the Section 13, of the Nigerian Cybercrime Act, 2015 which states *"A person who knowingly accesses any computer or network and inputs, alters, deletes or suppresses any data resulting in inauthentic data with the intention that such inauthentic data will be considered or acted upon as if it were authentic or genuine, regardless of whether or not such data is directly readable or intelligible, commits an offence and is liable on conviction to imprisonment for a term of not less than 3 years or to a fine of not less than 7,000,000.00 or both"*, if there was an explicit occasion of unauthorised access to a computer in order to obtain and alter the contents of the certificates. Other options are incorrect as there was no explicitly stated "computer forgery" in the case statement.

QUESTION TWO

Option D: Some jurisdictions punish dissemination as well as possession of child pornography.

According to Section 23, sub-section 1 of the Cybercrime Act, 2015, *"Any person who intentionally uses any computer system or network for producing, distributing, transmitting, procuring or possessing child pornography commits an offence under the act and shall be liable to punishment on conviction"*. Also, Section 50, sub-section 1 of the same Act states that *"The Federal High Court located in any part of Nigeria regardless of the location where the offence is committed shall have jurisdiction to try offences under this Act"*. As a result of this, any Federal High Court in Nigeria has jurisdiction to try such cases while others do not, thereby making option D the most appropriate answer.

Option C would have been correct if not for the inclusion of animated images as the Act specified that the images must be realistic in Section 23, subsection 4(c) of the same Act. Option B is invalid as Section 50 of the same Act has earlier shown that not all courts have jurisdiction to try the case. Option A is also invalid as section 23 specifies “child pornography” and not just “pornography”.

QUESTION THREE

A digital signature (a form of electronic signature) is in reality a mathematical algorithm routinely used to validate the authenticity and integrity of a message. Digital signatures use a standard format called “Public Key Infrastructure” (PKI) to provide the highest levels of security and universal acceptance.

When an electronic document or resource is signed, the signature is created using a private key which is always kept secure by the signer. The mathematical algorithm acts like a cipher, creating data matching the signed document called a hash and encrypting the data. The resulting encrypted data is the digital signature. If the document changes after signing, then the signature becomes invalid.

In order to protect the identity of signatures, PKI requires that the keys be created, conducted and saved in a secure manner often requiring the services of reliable organizations known as a Certificate Authority (CA).

QUESTION FOUR

This question was omitted in the question booklet

QUESTION FIVE

Option C: Computer Software can both be patented and copyrighted in Nigeria

The Nigerian Copyright Act (NCA) classifies computer programs (also referred to as software) as literary works which are eligible for copyright protection. Copyright protects the unique expression of a software program as described in the source and object codes. The provision made by this act allows the codes used in making a software copyrighted, and hence protecting the author from unauthorised production or distribution. The Nigerian Patents and Designs Act also allows for patenting of software, however, unlike copyright which protects software codes, patent protects the invention including the method and processes used in developing the software, once they have been fixed in a tangible format. The conditions for patentability as stipulated by the Nigerian Patents and Designs Act must be met before it can be granted.

QUESTION SIX

LaDev Initiative Ltd. Is liable under the provisions of the Section 14, sub-section 1, of the Nigerian Copyright Act, 1999 as Computer Programs are listed as literary works under Section 39 of the Act.

QUESTION SEVEN

Option A: Unauthorized access to another person's computer system.

The above claim is explicitly backed up by Section 6, sub-sections 1 – 4 of the Nigerian Cybercrime Act, 2015. The section begins by stating that “Any person, who without authorization, intentionally accesses in whole or in part, a computer system or network for fraudulent purposes...”. The explicitly describes the process of hacking and hence is described by the provisions of this act. Hacking based scenarios are thoroughly enumerated in this section of the Act. All other options could be valid in some instances but they are wrong as they do not embody the action of hacking as shown in the section 6 of this Act.

QUESTION EIGHT

According to section 24, sub-section 1(b) of the Nigerian Cybercrime Act, 2015, “Any person who knowingly or intentionally sends a message or other matter by means of computer systems or network that he knows to be false, for the purpose of causing annoyance, inconvenience, damage, obstruction, insult, injury, criminal intimidation, enmity, hatred etc. commits an offence under this Act and shall be liable on conviction to a fine of not more than ₦7,000,000 or imprisonment for a term of not more than 3 years or to both such fine and imprisonment”.

In contrast to the above stated law, 3T Networks as a legal entity in itself is not subject to any punishment or liability. This is because the Act transfers the offence, its liabilities and punishments directly to the person responsible for the action rather than the platform, business or company through which the offence of defamation was committed.

Nevertheless, 3T Networks can be held accountable as a witness to Monica's defamation and hence can be required by the order of the court to provide definite information about the person who is responsible for the harassment and defamation.

Any failure to provide this information to the appropriate quarters by 3T Networks exposes the company to another range of charges such as obstruction of justice or contempt of the court. This holds true only if 3T Networks has the information required but is unwilling to provide it.

QUESTION NINE

Section 6 of the Nigerian Cybercrime Act, 2015 (which is the section handling unauthorised access to a computer system or network) maintains that an unauthorised user is liable if they have intentions to perform fraudulent activities. In Onyeka's case, since no fraudulent activity had been performed and Onyeka had no intentions for such, the courts will acquit Onyeka of all charges except Firstoba Smart Clinic is able to prove to the courts that Onyeka had intentions to perform fraudulent activities. In lieu of this, it is advisable to drop all charges against Onyeka as there is no way to prove that he had fraudulent intentions.

QUESTION TEN

This question was omitted in the question booklet

QUESTION ELEVEN

According to the second schedule (a) of the Nigerian Copyright Act, 1999, which enlists exceptions from copyright control, it is stated that "the doing of any of the acts mentioned in the said section 5 by way of fair dealing for purposes of research, private use, criticism or review or the reporting of current events, subject to the condition that, if the use is public, it shall be accompanied by an acknowledgment of the title of the work and its authorship, except where the work is incidentally included in a broadcast". Since Ada Bright is truthfully using these articles for his research and private study, he is exempted by the law from the liabilities of copyright infringement.

QUESTION TWELVE

According to Section 21, sub-section 1 of the Nigerian Cybercrime Act, 2015, "Any person or institution, who operates a computer system or a network, whether public or private, must immediately inform the National Computer Emergency Response Team (CERT) Coordination Center of any attacks, intrusions and other disruptions liable to hinder the functioning of another computer system or network, so that the National CERT can take the necessary measures to tackle the issues". In lieu of this, Ms. Obasi can report Mr. Mayowa's activities to the National CERT for proper response and handling of the situation. If the issue of fraudulent digital signature is not a priority on their list of issues to tackle, they should hand over the case to the appropriate quarters or direct Ms. Obasi on how to go about it.

QUESTION THIRTEEN

According to Section 24, sub-section 1(b) of the Nigerian Cybercrime Act, 2015, “Any person who knowingly or intentionally sends a message or other matter by means of computer systems or network that he knows to be false, for the purpose of causing annoyance, inconvenience, damage, obstruction, insult, injury, criminal intimidation, enmity, hatred etc. commits an offence under this Act and shall be liable on conviction to a fine of not more than ₦7,000,000 or imprisonment for a term of not more than 3 years or to both such fine and imprisonment”. This makes it clear that any attack on a person’s personality with grievous intentions is an offence by the provision of this Act. Sub-section 2 of the same section also highlights that threatening messages are convictable offenses. Section 26 of the Act also stands firmly against the use of racist messages.

QUESTION FOURTEEN

A. Patent

- The application must ensure that the patent meet the necessary conditions which include: Novel invention, capable of industrial application, compliance with public policy and morality, only one invention in a registration and a full description containing a full disclosure of the details of the invention, the processes involved and all that it entails.
- An application containing the applicant’s full name and address as well as the full description earlier stated and all other relevant information will be made to the Registrar of Patents and Designs
- The application is to be accompanied by the prescribed fees as determined by the Registry from time to time
- Upon successful application and screening, the patent will be awarded to the applicant

B. Copyright: Nigerian law does not require registration of copyright. As soon as an original work is reduced to a fixed and tangible form, the work is automatically copyrightable in Nigeria. The NCC however provides copyright owners the option to register their work and deposit a copy with the NCC which serves as public notification of the existence of the work.

C. Trademark

- Application for an item to be trademarked is made to the Registry and a search is conducted for availability check of such a mark to be registered. An acknowledgement letter is issued to the applicant.
- Upon successful search, an acceptance letter is issued to the Applicant and such letter is an initial evidence that the Trademark has been duly registered.
- Following the acceptance of the registration, the Trademark is being published on a Trademark Journal (this is to afford anyone with a pre-existing trademark to oppose the Registrar to stop registration. Such opposition must be made within 2 months of the publication. In the absence of any opposition, to the publication

in the journal, or opposition has been made and successfully resolved in favour of the applicant, the Certificate of Registration will be issued for the trademark sought. The Certificate indicates the evidence of due registration and completion of all processes. It confers a right on the proprietor or the owner to use the trademark to the exclusion of every other entity.