Nigeria

“MCSN v. Compact Disc et al.”

Decision of the Supreme Court

14 December 2018 – Case No. SC. 425/2010

*Musical Copyright Society Nigeria (Limited/GTE)
(MCSN) v. Compact Disc Technology Limited, Nu
Metro Home Entertainment (West Africa) Limited and
Nu Metro Retail Nigeria Limited*

Copyright Act, Secs. 10, 11, 16, 17, 39

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Keywords Retroactivity · *Locus standi* · Collective management organisation (CMO) · Action of infringement · Copyright assignment or transfer · Licence to exercise rights

1. A community interpretation of Secs. 10, 11, 16, 17 and 39 of the Copyright Act acknowledges five categories of persons who may institute or commence an action relating to infringement of copyright either personally or in a representative capacity: an owner; an assignee; an exclusive licensee (Sec. 16); a person carrying on the business of negotiating granting of licences, collection and distribution of royalties for not more than 50 owners of copyright (Sec. 17); and a collecting society (Sec. 39).
2. The right to sue is exercisable either jointly or severally by any one or more of the persons listed.
3. An owner, assignee and exclusive licensee act in a personal capacity while a person under Secs. 17 and 39 acts in a representative capacity. As such, the latter requires a licence or exemption in order to have the rights exercised.
4. The Copyright (Amendment) Decree No. 42 of 1999, which introduced Sec. 15A (now 17), is not retroactive. The Decree specifically states its commencement date to be the 10th of May 1999.

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