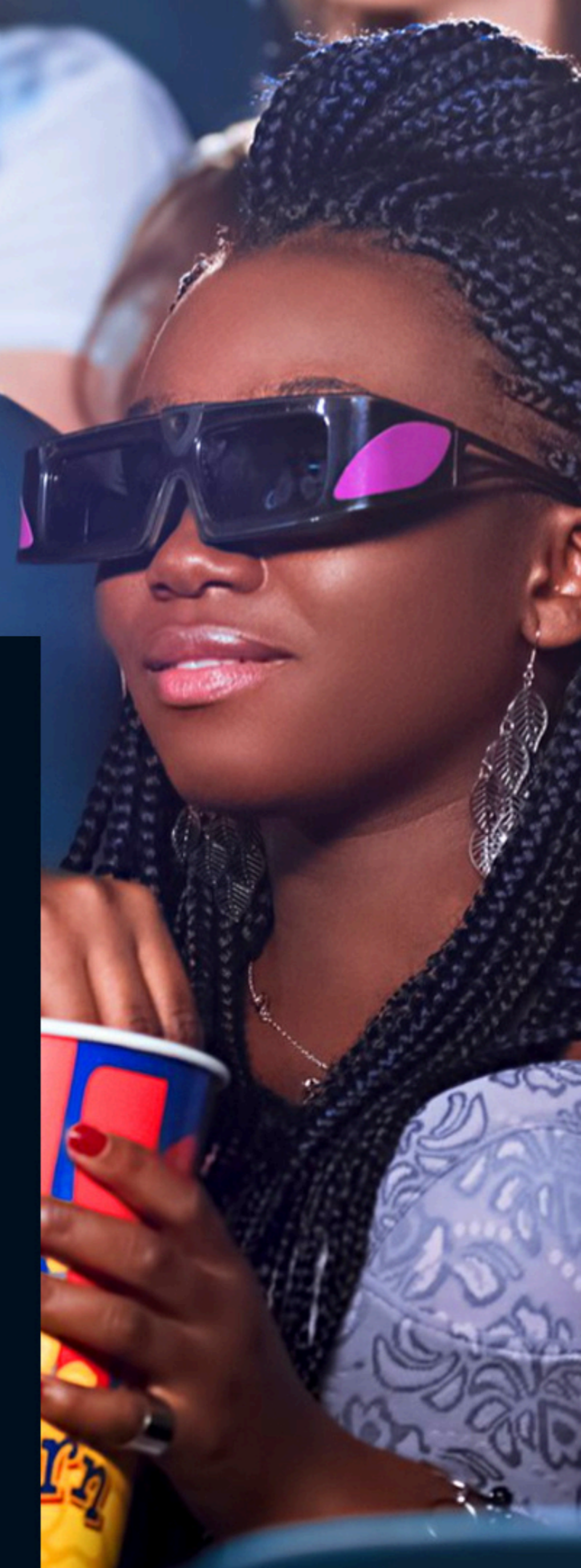




DUALE, OVIA &
ALEX-ADEDIPE

Nigeria Court Confirms the Legal Import of a Co-Owner's Assignment of Copyright in a Composite Work

On Tuesday, June 11, 2024, the Federal High Court entered Judgment in Suit No: FHC/L/CS/1691/2021 Netflix Inc & Anor v. Mr. Ezra Enesi, confirming the current legal position on copyright licensing over co-owned/co-authored works, particularly on the legal effect of paying license fees to one co-owner to acquire necessary rights to use a co-owned/composite copyright work.



On Tuesday, June 11, 2024, the Federal High Court entered Judgment in Suit No: **FHC/L/CS/1691/2021 Netflix Inc & Anor v. Mr. Ezra Enesi**, confirming the current legal position on copyright licensing over co-owned/-co-authored works, particularly on the legal effect of paying license fees to one co-owner to acquire necessary rights to use a co-owned/composite copyright work.

In this case, Sony Music Publishing (UK) Limited ("**Sony**") was assigned all rights in the composite work in the song by famous afrobeat musician Wizkid, "**Joro**," (the "**work**") via the **Masters' Use Agreement** executed by **only one** co-owner/co-author of the work. Sony, in turn, granted **Starco TV3 Limited** a license under a **Synchronization & Broadcasting License Agreement** to use and synchronize "Joro" in the TV Series "**Sex Education**," which was streamed on **Netflix**. Mr. Ezra Enesi (second co-owner in the composite work, Joro) claimed unauthorized use and infringement of copyright in the composite work – Joro, against Netflix Inc.



The Federal High Court (the "**Court**"), in its Judgment, upheld **Section 11(5) and 11(6) of the Copyright Act [now Section 30(5) and 30(6) of the Copyright Act 2022]**, confirming an assignment or license of copyrights in a composite work granted by one co-owner is valid and lawful to bind and be for the benefit of all other co-owners. By the Copyright Act, persons are deemed co-owners if they share a joint interest in the whole or any part of the Copyright work or interest in various parts of a composite production.

As such, where a licensee acquires assigned rights under a license from one co-owner (as licensor) to use a subject copyright work, the co-owner (licensor) is deemed in law to be acting on behalf of his co-owner(s) such that the burden of having to obtain any further license or pay additional fees for the use of same copyrighted work from other co-owners is obviated. Under Nigeria Copyright law, the co-owner (licensor) who has granted such a license retains the obligation to share all consideration received under the license agreement with other co-owners equally, subject to any prior agreement revenue split between co-owners.



The Court rightfully held that Mr. Ezra Enesi, as co-owner of composite work in Joro, is bound by the license agreements in the ***Masters' Use and Synchronization & Broadcasting License Agreements***, respectively, and as such, not entitled to any further claim or compensation from Netflix, Starco TV3 Limited or Sony Music Publishing (UK) Limited as regards the use and synchronization of the composite work – ***"Joro" - in the TV Series "Sex Education"***, which was streamed on **Netflix**.

This Judgment is a breath of fresh air for streaming platforms, production companies, producers, directors, and persons who may need to acquire rights to use co-owned copyright works. Agreements entered and license fees paid to one co-owner of such work suffice and discharge the licensee of any other obligation to procure additional licenses or pay additional fees to other co-owners for rights to use the same subject work.



The Judgment, delivered in favour of Netflix Inc. and Starco TV3 Limited, aligned with all arguments and submissions canvassed by Duale, Ovia, and Alex-Adedipe (“DOA”) led by Soibi Ovia, FCI Arb. (UK), Sunday Elisha Maji, Yejide Ogunpitan and Sonia Akinbiyi.



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