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**16/LAW01/180**

**INTELLECTUAL PROPERTY TEST**

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The Legal issue in the given scenario is whether John has copyright in the work

I answer this question in the affirmative.

Going by the provisions of **Section 1 and 2 of the Copyright Act** there are some requirements for copyright protection which include originality, fixation and qualification of the author. A literary, musical or artistic work shall not be eligible for copyright unless sufficient effort has been expended on making the work to give it an original character. Originality here means that sufficient time, effort, skill and judgment has been expended on the work by the author. This is as seen in the case of ***University of London Press v. University Tutorial.*** Works drawn from or inspired by other existing works or stock of knowledge could still qualify as original.

A work shall unless not be eligible for copyright unless the work has been fixed in any definite medium of expression which can be perceived, reproduced or otherwise communicated with the aid of a device or machine.

Through fixation copyright protects expression of ideas and not the idea in itself.

Also the third requirement is the qualification of an author, before a person can qualify for copyright protection under the Nigerian law, there must be some connection between the author and Nigeria, which could be by nationality or domicile of the author.

Also by virtue of **Section 51 of the Copyright Act** an author of a sound recording is the person who makes the recording.

Now applying the rules aforementioned to the given scenario John has copyright in the work because he is author of the work. John’s novel which was inspired by Chimamanda Adichie’s Purple Hibiscus qualifies as an original work because he didn’t copy her work he only drew inspiration from it.

Secondly, his sound recording of his novel is in a fixed medium of expression thus passing the fixation test.

Thirdly and most importantly, John has the qualification to be an author of a work in Nigeria because although he is a Ghanaian he is a domicile of Nigeria due to the fact that he lives and schools in Nigeria. Also, the place of first publication is Nigeria by virtue of his sound recording which is provided for in **Section 3 of the Copyright Act**.

Now John can sue Ope for infringing on his copyright because she published and reproduced John’s novel without his consent also infringing on his economic rights as an author.

**In conclusion,** Ope has infringed on John’s Copyright by publishing and reproducing John’s work without his consent as such John’s action for infringement will be successful and John is entitled to remedies like Conversion.