**MATRIC NO: 16/LAW01/142**

The law is an instrument used to grant copyright protection to authors of creative works, thus encouraging them to be consistent in their intellectual efforts.

Copyright generally, refers to the exclusive rights granted by the law to authors such as the rights of reproduction, publication, performance, translation, broadcast, adaptation and distribution to the public, as provided in *Section 6 of the Copyright Act.*

The first legal issue to be addressed here is whether John’s alleged work falls within the category of works that are protected by copyright.

Sound recordings are works that are eligible for copyright protection, as provided in Section 1(1) of the Copyright Act.

‘Works’ here refers to translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections, of works, which by reason of the selection and arrangement of their content, present an original character, as provided under *Section 51 of the Copyright Act.*

The second legal issue is whether copyright subsists in the work.

The three requirements for copyright to be said to be in a work are as follows-

1. Originality.

Sufficient effort, time, skill, judgment, labour must have been expended on the work by the author to give it an original character, as provided in Section 1(2)(a) of the Copyright Act.

The Copyright Act is not concerned with protecting ideas but the expression of that idea, per Peterson J in University of London Press v University Tutorial Press.

Additionally, the product of one man’s skill, labour and capital must not be appropriated by another person, per Lord Atkinson in Macmillian v Cooper.

1. Fixation.

Such work must have been fixed in any definite medium of expression now known or later to be developed, from which it can be perceived, reproduced or otherwise communicated either directly or indirectly with the aid of any machine or device, as provided in Section 1(2)(b) of the Copyright Act.

This requirement of fixation simply means that it must be in a tangible medium, as established in the case of Anikulapo Kuti v Iseli.

Copyright, like other intellectual property rights, is territorial i.e. it is granted by the laws of each country and there is nothing like an international copyright protection.

Where a work does not qualify by virtue of nationality or domicile, it can still be protected based on country of origin.

Section 3(1)(b) of the Copyright Act provides that copyright shall be conferred by this section on every work which is eligible for copyright being a sound recording, made in Nigeria, and which has not been the subject of copyright conferred by Section 2 of this Act.

Another provision important for foreign copyright owners seeking to enforce their rights in Nigeria is that of Section 41(d) of the Copyright Act which provides a reciprocal protection for broadcasts and sound recordings made in that country.

Thus, upon a careful consideration of the above judicial and statutory authorities, it is this writers legal opinion to John is on reliance on the authority of the case law of Microsft Corp v Franike Asso Ltd., That if John is interested in enforcing a foreign copyright in Nigeria, he needs to obtain a certificate from the Nigerian Copyright Commission proving that the country of origin of the work of the author is from a country that is party to an international treaty to which Nigeria is also a party.

Also, John will have to prove that there is a reciprocal extension of copyright protection through an order of federal gazette.

If Ghana is not a party to the Berne Convention or the TRIPS Agreement, John may have to approach the Minister of Justice by himself.