NAME- THOMPSON IDARA

MATRIC NUMBER- 16/LAW01/199

LEVEL- 400 LEVEL

COURSE- INTELLECTUAL PROPERTY

The legal issues in this case scenario are;

1. whether john has copyright in the work
2. Whether a foreigner can claim copyright in Nigeria

For a work to be qualified for copyright protection it has to pass certain requirements which include:

1. Originality- A work would not be eligible for copyright unless sufficient effort has been expended in making the work to give it an original character. This is seen in Section 1(2) (a) of CA
2. Fixation- According to Section 1(2) (b) a work would not be eligible for copyright unless the work has been fixed in any definite medium of expression which can later be reproduced.
3. Qualifying Author- Before a person can be qualified for copyright protection there must be connection between the author and Nigeria. Also, if the author or one of the author is a citizen or domiciled in Nigeria he can be qualified as an author.

According to section 51 sound recording can be seen as the first fixation of a sequence of sound, capable of being perceived orally and can be reproduced. In other words the work must must be in a fixed form that it can be reproduced in any device or machine. See the case of C B S Song Ltd v Armstrad Consumer Electronics Plc

Nigeria is a party to number of international treaties and this extends protection to works emanating from other citizens of member countries of such international agreements or treaties as in Section 5(1) of CA.

From the case scenario John is qualified for copyright protection in Nigeria as he passes the requirement for copyright protection. The work in question can be seen as a sound recording. John is not domiciled in Nigeria but he is a citizen of Ghana which is a member state to a treaty to which Nigeria is also a party so his work can be protected as in Microsoft Corp v Franike Associates Ltd. John can claim right and Ope who listened to the novel on his phone and published it has infringed on his right and John can bring an action against Ope. Although he got the idea from the novel Purple Hibiscus he expended effort on the work and modified it.

In conlusion, John can bring an action against Ope as he infringed on his right and he can seek remedies for that as he is qualified as an author. Even though he is not a citizen of Nigeria, Ghana is a member state to an international treaty and agreement so his work is protected.