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Course: Intellectual Property

Copyright literally means the right to copy or reproduce. A property right which subsists in various works such as literary works, artistic works, musical works, sound recordings, films and broadcasts. Copyright is a proprietary right which confers exclusive rights to authorise or prohibit a wide range of activities relating to qualified subject matter.

**The Legal issue in the question John,a Ghanaian who is the original creator of the audio, has exclusive copyright of his work in Nigeria. The answer is YES**

**Section 1(1) of the Copyright Act provides for works protected by copyright which include;**

1. Literary works
2. Musical works
3. Artistic works
4. Cinematograph films
5. Sound recordings; and
6. Broadcasts

Copyright does not protect ideas unless it original and fixed. According to section 1(2), a literary, musical or artistic work must satisfy the twin requirements of originality and fixation.

The work of the Ghanaian satisfies the twin requirement of the act. It is original and fixated. Works that satisfies these requirements enjoys automatic copyright protection, without the need for registration or compliance with any formal or procedural rules.

**In the case of Microsoft Corporation V Franike Associates Ltd,** the appellant filed a suit against the respondent seeking among other things, a declaration that the respondent had infringed on the copyright of the appellant through products offered for sale to the public.

The owner of copyright in a work has control over the publication of the work. Infringement means issuing copies of a work to the public. The owner of copyright is statutorily given a property right and is given certain rights to perform certain acts in relation to the work. Except a person falls within the category of those who may exercise the right of an owner, the right to the copyright will be deemed to be infringed by any person who without the license or authorization of the owner of the copyright, performs acts which has been reserved exclusively for the owner of copyright.

Take a look at **Berne Convention (1886):** This is the oldest International Law Governing Copyright; it was ratified in 1886 but its latest version was adopted in Paris in 1971. It provides a minimum standard for protection of Copyright and establishes a system where no formal registration is required for Copyright protection. It uses the **"Principle of National Treatment"** where countries are required to recognize the Copyright of foreigners without any further formalities. This is the closest system to true "International Intellectual Property Rights protection.

Thus, a foreign business in Nigeria automatically enjoys its Copyright protection if its home country is a signatory to this Convention.

However this rather settled point of international law has been challenged by the Nigerian Courts in the case of Microsoft Corporation v. Franike Associates Ltd (2011). The Nigerian Court held that while the Copyright of a foreign company like Microsoft was protected in Nigeria, for the purpose of an infringement litigation it requires a certificate from the Nigerian Copyright Commission stating that its home country (the United States) is a signatory to the relevant international treaties such as the Berne Convention.

The basic points to note are;

1. That the work of the Ghanaian is his original work of him.

2. It does not need to register his copyright.

3. That the Nigeria did not exclude him from enjoying his copyright.

4. That Berne convention allows a foreigner to enjoy his copyright protection through in the case of Microsoft V Franike, it requires a certificate stating that the country is a signatory.

In the circumstances, John does not need to register his copyright on the audio since he is resident in Nigeria.