NAME; OKON EDIDIONG JOSEPH

MATRIC NO; 16/LAW01/161

COURSE INTELLECTUAL PROPERTY

LEVEL; 400

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QUESTION

**ANSWER**

The first legal issue is whether John has copyright in the work. The second legal issue is if Johns work has satisfied the requirement of originality. The third issue is whether he can institute an action for infringement against Ope.

The first legal issue will be answered in the affirmative.Before a person can qualify for copyright protection under Nigerian law, there must be some connection between the author and Nigeria. This could be in respect of the nationality or domicile of the author, place of first publication, government works and by virtue of international agreements. Although John is a Ghanaian, as far as he is domiciled in Nigeria. He can qualify for copyright. See the case of Microsoft v Frankie.

The second issue will be answered in the affirmative. Originality is defined in section1(2) of the C.A. Originality does not mean newness or novelty or result of an inventive thought. It is sufficient time, effort, skill, judgment, labour has been expended on the work by the author. The work or expression of the idea must be a result of the author’s intellectual creation, independent skill, labour and judgment of the author. See *University of London Press v. University Tutorial Press* [1916].Concerning the fact that John got his inspiration from work that is created from the scratch without reference or inspiration from another work is therefore more likely to be original. Nevertheless, most works are drawn from or inspired by other existing works or the existing stock of knowledge, such could still qualify. It does not matter that what the author created existed before so far his creation is not a result of copying the existing work. John has satisfied the requirement of originality.

Johns work also satisfies the requirement of fixation because his work is as a sound recording.Fixation of any kind of sound would qualify including recitations, reading of a book, sound of an animal, waterfall, computer generated sound, musical instruments etc Not limited to music or human soundThe fixation can be in analogue, or digital format or any other formatSee C.B.S Songs Ltd & Ors v. Armstrad Consumer Electronics Plc. Through fixation copyright can protect the expression of an idea. Section 1(2)(b) also defines fixation.

The third legal issue will be answered in the affirmative. Yes John can sue Ope for infringement because he has satisfied all the requirements of copyright protection whichis; qualification of an author, fixation and originality.