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**ANSWER**

**ISSUE**

1. Whether the novel as a recording is ascertained to fall within the categories of protected works and also whether the work fulfills the three requirements necessary for copyright to subsist in a work.
2. Whether John as a foreigner, has copyright under Nigerian law.

**PRINCIPLE**

A work would be copyright protected once it is ascertained to fall within the categories of protected works by virtue of Section 1(1) of the Copyright Act. The three requirements to be met are Originality, Fixation and Qualification of the author.

**APPLICATION**

In addressing the first issue, John’s works falls within the categories of protected works according to the act as it is a sound recording. His work could be seen as an audio book, which means that it can be protected under copyright. It also satisfies the requirement of originality by virtue of Section 1(2)(a), although it was the product of the inspiration he got from reading a novel written by someone else. The fact that his novel was recorded on his phone made his work no longer an idea, but the expression of an idea which satisfies the requirement of Fixation by virtue of Section 1(2)(b) of the Copyright Act. Fixation of any kind of sound would qualify. It is not limited to music or human sounds [ C.B.S Songs ltd & Ors v. Armstrad].

The second issue basically deals with the third requirement necessary which is the qualification of the author. This requirement applies to all categories of works. Before a person can qualify for copyright protection under Nigerian law, must be some connection between the author and Nigeria. According to Section 5(1) of the Copyright Act, By virtue of international agreements, works which are made by authors who are nationals or domiciled in a member state, UN or its agencies, OAU or ECOWAS may be protected by copyright in Nigeria. Since John is a Ghanaian, his work would be protected by copyright in Nigeria because Nigeria shares a treaty with Ghana which makes Ghana a member state. This goes to say that, although John is a foreigner in Nigeria, his work would be protected by copyright in Nigeria [Microsoft Corp. v. Franike Associates ltd].

In **conclusion**, with the above being said, John would be able to sue Ope for copyright infringement as his work is protected under copyright in Nigeria because his work satisfies all the necessary requirements. Even though he is not a citizen of Nigeria, his work would be protected because Nigeria extends protection to fellow members of a treaty and to the extent of its obligation under each treaty [Francis, Day & Hunter v. Feldman & Co].