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M/NO: 16/LAW01/123

The issue for determination is if John has copyright in the work. In order to determine the above identified issue there is need to satisfy the following criterias ;

1. If as a foreigner he qualifies for copyright protection in Nigeria?
2. If he has satisfied the requirements for subsistence in copyright?

On the first issue, section 2 of the Copyright act provides that; *copyright shall be conferred by this section on every work eligible for copyright of which the author..... (a) an individual who is a citizen of or is domiciled in Nigeria...*” from the foregoing , John though not a citizen of Nigeria is domicile here and qualifies for copyright protection in Nigeria.

On the second issue, the requirements are on Originality and fixation. On the issue of originality it qualifies if sufficient effort has been expended on the work to give it an original character and not necessarily mean newness or novelty, as was decided in the case of *London press v. University Tutorial Press* where the court emphasised expression of thought and not copying from another person in interpreting the qualification of originality. Same also in the case of *Express Newspapers plc v. News (UK)Ltd* where selection of quotations from an interview were held to be an original work involving the exercise of judgement and discretion in selection.

On the issue of fixation it means it is fixed in a definite medium of expression which it can be perceived or communicated with the aid of a device or machine. In John’s case he had recorded or fixed his expression of idea in his phone which qualifies as fixation. In the case of *Yeni Anikulapo Kuti &Ors v. T.M Iseli* the court held that written lyrics and tapes yet to be published still qualified as fixation.

In conclusion I am of the opinion that John qualifies for copyright protection and if he decides to sue Ope his claim will be successful based on the above argument