NWANKWO, OBIANANMA C.

16/ LAW01/137

The legal issue is whether John has copyright over this work under the Nigerian law because he is a foreigner and whether John has copyright over the woork because he got the idea from another work and whether recording it on his phone can suffice as fixation. All these legal issues may be answered in the affrimative. These legal issues basically ask if the work passes the requirements of copyright. First of all, it is important to decipher what typ eof work this is and it is a sound recording.The law in Sections 1 and 2 of the Copyright Act states that before any work can  qualify for copyright, it must pass the given requirement and these requirements include; originality, fixation and qualifying author. As regards whether he has copyright over the work because he is a foreigner which bothers on qualifying author, the law in Section 2 of the CA states that before a person can qualify for copyright protection under Nigerian law, there must be some connection between the author and Nigeia which could be in respect of nationality or domicile. from the above, we can say that John's work qualifies for copyright protection because Ghana is one of the countries covered in the Berne convention and he is Ghanaian also the work was published in Nigeria.it is also important to note that publication becomes relevant where the work has not been subject to nationality or domicile of the author as seen in section 3 CA.The requirement of qualifying author is discussed in the case of Microsoft Corp v. Franike Associates ltd. Also as regards whether John has copyright because he got the idea from another work, this covers originality and Johns work is original. according the Section 1(2) of the CA, a literary, musical or artistic work shall not be eligible for copyright unless sufficient effort has been expended on making the work to give it an original character. Originality as is seen above does not necessarily mean newness, it means that sufficient time, effort has been spent on the work by the author. the case of University of London Press v. University tutorial press stated that originality basically means that the work or expression of ideas must be a result of the authors intellectual creation and as we can see John's work has this requirement. Also as regards whether recording it on the phone can suffice as fixation, Section 1(2)(b) states that a literary, musical or artistic work shall not be eligible for copyright unless the work has been fixed in any definite meduim of expression now known or later to be developed. the case of Kuti v. T.M. Iseli staes that through fixation copyright protects expression of ideas and not ideas itself.The work was in a fixed meduim. In essence, John

has copyright over the work because he satisfies all the requirements as we have seen above. In conclusion, AS we have seen above all the requiremnts have been met by John and as such he has copyright over the work and can sue Ope for infringement.