

**16/ Law01/ 006**

**Aderoju Abeje Adesola**

**IP Test**

The work made by John can be said to be a sound recording as it was fixed in an audio file, sound recording was defined in Section 51 of the Copyright Act as the fixation of a sequence of sounds capable of being perceived aurally and of being reproduced but does not include sound track associated with a cinematograph film.

Before a work can be protected by copyright it has to meet the requirements, the first requirement is originality as provided in Section 1(2)(a) of the Copyright Act it requires a sufficient amount of effort and skill to be put into the work and it must not be a copied work. In this scenario John although inspired by Purple Hibiscus actually took time and thought out his own story based on the plot of Purple Hibiscus and that satisfies the requirement of originality. Copyright is a property right that protects the expression of an idea and not merely the idea itself. Fixation is one of the requirements of a work eligible for copyright as provided in Section 1(2) (b) of the Copyright Act. In the case of *Yeni Anikulapo Kuti & Ors v. TM Iseli & Ors* it was held that written lyrics as well as tapes containing yet to be published songs sufficiently reduced the work to a permanent form from which it could be perceived, in the present scenario John recorded his idea in his phone as an audio file this is sufficient to qualify as fixation as there is a record which serves as proof of what has been created. Another requirement for copyright is the qualification of the author Section 2 of the Copyright Act provides for copyright by virtue of the authors nationality or domicile, Section 3 provides for copyright by reference to the place of first publication of the work or country of origin of the idea, Section 4 provides for copyright in works of government and lastly Section 5 provides for copyright by reference to international agreements.

If John had published his work he could have gotten copyright protection by reference to international agreements as provided in Section 5 of the Copyright Act, Section 51(2) (a) provides that a work is published if copies of it have been made available in a manner sufficient to render the work accessible to the public. However since the work was not published it can be said that John has copyright in the recording by reference to country of origin as the recording was made in Nigeria, Section 3(1)(b) of the Copyright Act provides that copyright shall be conferred by this section on every work which is eligible for copyright and which being a sound recording, is made in Nigeria, and which has not been the subject of copyright conferred by section 2 of this Act.

Therefore it can be said that John had copyright in his work as the author of the sound recording therefore Ope has infringed on his copyright by going to publish the expression of his idea. John will be advised to take action against Ope to stop her from infringing his right through any of the remedies of infringement such as Injunction.