



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

DEPARTMENT OF LAW AND LEGAL SERVICES

EXAMINATION PAPER

COURSE CODE : LLB 311

COURSE TITLE : Intellectual Property

DURATION : 3 Hours

LEVEL : 3.1

13 APR 2023

INSTRUCTIONS TO CANDIDATES:

1. This exam is out of 70. Answer **Three Questions**.
2. **SECTION A** is compulsory. Choose any two questions from **SECTION B**.
3. Notes, handouts and textbooks **are not** allowed into the examination.
4. Cellphones **are not** allowed into the examination room.
5. Begin each answer to a full question on a fresh page

NB: DO NOT TURN OVER THE QUESTION PAPER OR COMMENCE WRITING UNTIL INSTRUCTED TO DO SO.

SECTION A

ANSWER ALL QUESTIONS IN THIS SECTION

QUESTION ONE

Mr Byron is a Zimbabwean male qualified engineer. In 2022, he invented a new engineering model for the construction of suspended bridges in any area considered to be a low-veld area. Mr Byron wants to patent his invention and approaches you for legal advice. You are therefore requested to write a piece of legal opinion detailing the following elements:

- a) What is a patent and how did this law develop in general?
- b) Persons qualified to make the application;
- c) The required format for the application;
- d) Requirements for patentability;
- e) The role and functions of the Intellectual Property Office in this application; and
- f) Grounds under which the application may be rejected.

You are required to offer a piece of legal opinion on the above issues by making reference to necessary legal authority, particularly the relevant sections in the relevant Act.

[30 Marks]

SECTION B

ANSWER ANY TWO QUESTIONS FROM THIS SECTION

QUESTION TWO

Eric Matshidiso is a famous Zimbabwean Sungura Artist with over 20 years of experience in this music genre. In 2013, he released his fourth studio album titled Kwatinoenda Kure. In this Album, there was trendsetting song titled Mjolo Wami which was an instant hit. In 2023, a young and upcoming artist named Blaz ve Dzungu released a track with the same vocals as Mjolo Wami by Eric Matshidiso on Youtube. Following the release of this song, Blaz ve Dzungu attracted 10 Million views within one week and subsequently received a 10000\$ payout from Youtube as a result of the views he garnered. Eric Matshidiso has discovered this song on Youtube and feels that his musical rights have been infringed by Blaz ve Dzungu. Eric Matshidiso has approached you seeking legal advice as to what action, if any, can he take against

Blaz ve Dzungu? He also want to know the elements he should prove for such an action to be successful, the available or probable remedies to this infringement and the forum under which he can lodge his complaint. **[20 Marks]**

QUESTION THREE

Global Consultant group have designed their logo and motto. To this end they want to register their trademark with the Intellectual Property Office in Zimbabwe. They have approached for legal advice seeking clarity as to the following issues:

- a) What is a trademark?
 - b) Who qualifies to make an application for registering a trademark in Zimbabwe?
 - c) What are the basic requirements for the registration of a trademark?
 - d) What is the effect of registering a trademark in Zimbabwe?
 - e) What are the grounds under which the registration of trademark may be prohibited?
 - f) Which forum can one approach to challenge or appeal the refusal of registering a trademark?
- [20 Marks]**

QUESTION FOUR

- (i) Discuss the role and function of ZIPO, ARIPO and WIPO. In your discussion also factor in the relevance and applicability of the TRIPPS agreement in the Zimbabwean Jurisdiction. **[10 Marks]**
- (ii) Discuss the relationship or link between the Constitution of Zimbabwe and Intellectual Property Rights in general terms. **[10 Marks]**