



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

DEPARTMENT OF LAW AND LEGAL SERVICES

EXAMINATION PAPER

MODULE CODE : LLB 311
MODULE TITLE : INTELLECTUAL PROPERTY LAW
SPECIAL REQUIREMENTS:
DURATION : 3 HOURS
LEVEL : 3.1
DATE : 14 JUN 2024

INSTRUCTIONS TO CANDIDATES:

1. This exam is out of **100**.
2. Answer **any two** questions from section A and **any two** questions from section B..
3. Notes, handouts and textbooks **are not** allowed into the examination.
4. Cell phones **are not** allowed into the examination room.
5. Begin each answer to a full question on a fresh page.
6. No materials allowed.

SECTION A:

ANSWER ANY TWO QUESTIONS FROM THIS SECTION

QUESTION 1

- a) Explain with reference to case law where applicable the principles of
- i) Territoriality of intellectual property rights
 - ii) National treatment
 - iii) Most favoured nation
 - iv) First sale doctrine
 - v) Priority

[10].

- b) Consider the theories justifying the existence of intellectual property rights. Discuss whether these theories adequately justify the creation of monopolies in relation to information in our modern day society.

[15]

[25 Marks]

QUESTION 2

- a) With reference to the Copyright and Neighbouring Act [CAP 26:05] discuss whether or not moral rights are transmissible and alienable.

[10]

- b) The unauthorised commercial dealing in copied material constitutes copyright infringement. Discuss the causes and effects of piracy.

[15]

[25 Marks]

QUESTION 3

Using the case of **Polaris Zimbabwe (Pvt) Limited v Zapchem Dteregent Manufacturers CC (trading as Starchem) SC 68/04** discuss the requirements for a successful action based on passing off.

[25 Marks]

SECTION B

ANSWER ANY TWO QUESTIONS

QUESTION 4

Tesclothing (Pvt) Ltd got a tender to supply safety shoes to RIMOCO (Pvt) Ltd a mining company. Tesclothing supplied safety shoes to RIMOCO with the logo name, style and exact details of Shammar Apparels. The duly registered trademark of Shammar Apparels was embossed on the boots and packaging of the safety shoes supplied by Tesclothing. The supply of the safety shoes was without the consent of Shammar Apparels. Devastated by such an act, Shammar Apparels wishes to institute legal proceedings on the basis of infringement of intellectual property. With reference to the relevant statutes and case law advise Shammar Apparels on the intellectual property rights that have been infringed upon.

[25 Marks]

QUESTION 5

Shumirai graduated from the Zimbabwe Ezekiel Guti University last year with a first class degree in Software Engineering. She has not been able to obtain employment to date. Seeing the transport problem in Zimbabwe, Shumirai decides to create a software application called *Baya* which hails rides for passengers in exchange for a fee payable to the driver. The application allows for the passenger to propose a fee to the driver and negotiate his or her fee downward. She would like to register a patent over her a software application and she approaches you a law student. Advise Shumirai on whether or not her software application *Baya* is patentable.

[25 Marks]

QUESTION 6

With reference to *Innskor Africa Limited v Slice Distributors (Pvt) Ltd* HH06/23 discuss the test for trademark infringement and the possible remedies available to a party whose trademark rights have been infringed upon.

[25 Marks]

QUESTION 7

a) Discuss the requirements that one has to satisfy to obtain plant breeders rights in Zimbabwe. **[15]**

b) The Plant Breeders Act [CAP 18:16] affords entitlements and protection to a holder of plant breeders' rights. Fully explain the different rights and entitlements afforded to a right holder in terms of the Plant Breeders Act. **[10]**

[25 Marks]

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