

# ZIMBABWE EZEKIEL GUTI UNIVERSITY

## FACULTY OF LAW

INTELLECTUAL PROPERTY LAW – LLB 301

19 NOV 2019

**DURATION: 3 HOURS**

### **INSTRUCTIONS TO CANDIDATES**

1. Answer **four questions**.
2. All questions are compulsory.

### **Materials allowed in exam**

Constitution of Zimbabwe, 2013.

### **INFORMATION FOR CANDIDATES**

1. Notes, handouts and textbooks are not allowed into the examination.
2. Cellphones are not allowed into the examination room.
3. 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.**

**QUESTION 1**

How effective is the Zimbabwean legislative framework and International law in protecting and regulating the right to Intellectual property in Zimbabwe?

[25 Marks]

## QUESTION 2

a) You are a law officer working for a large commercial firm in the country. Part of your duties are to provide legal advice on whether works created by certain clients enjoy copyright protection. List and discuss all the relevant principles you should keep in order to determine whether a work enjoys copyright protection. (10)

b) You warn your client that a patentee could institute proceedings for infringement. What relief would the patentee be able to claim. (5)

c) Your client works in the pharmaceutical industry and specifically produces generic medicines and wants to start manufacturing and testing a new drug. You advise that patent searches should first be conducted in order to establish whether or not there may be an existing patent which may be infringed by the exploitation of their new drug

Your client is adamant that she wants to proceed with launching her new generic medicine, as she is convinced that the patentee is abusing her patent rights. In this regard, discuss the requirements for patentability in order to obtain a compulsory licence. (10)

[25 Marks]

## QUESTION 3

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"... a work may be original even if the author has drawn on knowledge common to himself and others or has used already existing material provided he has spent skill, labour and judgement on it..."

Originality is one of the requirements for the subsistence of copyrights. With the aid of relevant statutes and case law and texts analyse this requirement.

[25 Marks]

## QUESTION 4

a) With reference to case law, discuss the three forms of trade mark infringement as provided for in the Trademarks Act including the appropriate remedies in each instance. (12.5)

b) Write a short note on the protection of well-known trade marks in Zimbabwe. (12.5)

[25 Marks]