

**UGANDA MARTYRS UNIVERSITY**

**NKOZI**

**UNIVERSITY EXAMINATION**

**MAY 2023**

**FACULTY OF LAW**

**BACHELOR OF LAWS (LLB) YEAR IV SEMESTER II FINAL ASSESSMENT AY  
2022/2023**

**INTELLECTUAL PROPERTY LAW II**

**LLB 4214**

**DATE:** Tuesday 23<sup>rd</sup> May, 2023

**TIME:** 2.00 PM– 5: 30 PM

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**Instructions:**

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1. This is a **three & a half hours exam.** Please read all questions carefully before answering.
2. Although this is an **OPEN BOOK** exam and students are allowed to bring only notes and relevant statutes into the examination room, consultation with any student in the examination room is not permitted and will be punishable.
3. Candidates shall attempt a total of **FOUR** questions.
4. Each question carries 25 marks.
5. No **names** should be written anywhere on the examination book.
6. Ensure that your **Registration number** is indicated on all pages of the examination answer booklet.
7. Any type of examination malpractice will lead to automatic disqualification
8. Use the exam answer booklet for all your rough work

### **QUESTION 1**

- (a) Trademark protection should not be considered as an Intellectual property right. Discuss the arguments for and against trade mark protection. **(10 Marks)**
- (b) Copyright for academic works and patents for scientific inventions should be abolished. Discuss **(8 Marks)**
- (c) 'Non registration of a mark does not preclude a person from enforcing their rights in it'. Discuss. **(7 Marks)**

### **QUESTION 2**

a) **Spring Water Ltd** is a brand of bottled water derived and bottled in Kasangati. For the first time in 10 years Spring Water, the premium bottled water brand in Uganda is changing the look of its iconic bottle. The company has announced the launch of a new 700ml bottle, specifically designed to fit into gym bags and a car cup holder in a bid to increase its appeal among active customers. The water will be packaged in a plastic recyclable square shaped bottle with a blue bottle cap and a large handle for easy grip.

Spring Water Ltd brand manager has approached you for advice on whether they can protect their bottle. **Advise on the criteria for successful trademark registration (12 Marks)**

b) With reasons backed by case law, advise Spring Water on the patentability of their invention. **(13 Marks)**

### **QUESTION 3**

Jena Herbal Uganda Ltd is a renowned manufacture of "Jena herbal products" would like to protect its trademark "**COVIDEX**" from infringers. The company has approached you as an expert in Intellectual property law for the advice on how to proceed.

a) As a student from of intellectual property law in Year IV at Uganda Martyrs University, Nkozi, advise the company on the procedural steps they should take to protect this trade mark. **(10marks)**

b) Before they could complete the process of applying for a trademark, Jena Herbal finds another herbal remedy for flu 'COVIFLU' with similar packaging on the shelves of various pharmacies. Advise them or how to deal with this development and remedies if any. **(15 Marks)**

#### **QUESTION 4**

- (a) Making reference to the Industrial Properties Act of Uganda and the TRIPS Agreement, discuss the circumstances under which the rights of the patentee may be interfered with. **(10 marks)**
- (b) What are the available remedies available to a patentee whose rights have been unfairly infringed upon? **(15 marks)**

#### **QUESTION 5**

- (a) Discuss how the courts have dealt with good will and reputation as an essential element of passing off. **(13 marks)**
- (b) Explain how trademark infringement is handled in an online environment. **(12 marks)**

#### **QUESTION 6**

- (a) Write short notes on the following **(13 marks)**
  - (i) Defences to copy right infringement
  - (ii) defences to patent rights infringement
- (b) Distinguish between;
  - (i) Deceptive marks and confusingly similar marks. **(12 marks)**
  - (ii) Assignment and licensing of trademarks.

#### **QUESTION 7**

- a) How do the courts determine the presence of the 'Inventive step' necessary for patentability under the Industrial Properties Act, 2014? **(10 Marks)**
- b) Discuss Patent infringement and the available remedies to the owner of the patent **(15 Marks)**

### **QUESTION 8**

Write short notes on the following

- a) Utility Models **(8 Marks)**
- b) Protection of Trade Secrets **(7 Marks)**
- c) Protection of Industrial Designs **(5 Marks)**
- d) Types of Trademarks **(5 Marks)**