

INTERNET ASPECTS OF COPYRIGHT AND TRADEMARKS (IPSP066)

22 MAY 2018

DURATION: 24 HOURS

100 MARKS

Instructions to all candidates:

- ☐ Answer all the questions
- ☐ Upload your answers as Assignment 3 on myUnisa by 29 May 2018.
- ☐ This is an open-book examination.

PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE ANSWERING THIS EXAMINATION.

- (a) Ensure that you give reasons for each answer when instructed to do so.
- (b) We expect a certain amount of detail in your answers.
- (c) When answering the examination, remember that an open-book examination is a test at a higher level than the usual type of test, where memory is tested as much as insight. In an open-book examination, you need not memorise any information, so you are expected to prove that you can use information, rather than merely repeat it. In brief, what is being tested is factual knowledge and understanding, not memory skills.
- (d) For this reason, you do not earn marks by merely detailing a list of all the information that you think might be relevant to a particular question. This gives no indication that you know what statutory or other provisions are applicable in a specific context. You are expected to identify precisely what information applies, and then explain why you think so. Also, because you have the guide available when answering questions, we do not give marks for direct quotations from the guide.

- (e) Problem-type questions.

A number of students lose marks because they do not approach these questions correctly. When answering such questions, it is important to first clarify for yourself the area of work where the answer must be sought. Once you have done this, set out the relevant legal principles. Deal only with those principles that relate to the given facts.

Next, apply these principles to the facts. This is where a number of students lose marks - they set out the law in some detail, but then do not illustrate how it applies to the factual situation they have been asked to solve.

Finally, state your conclusion.

Also remember that the facts are merely there to illustrate the legal issues we want you to address – if you think the facts are insufficient, just say that it is impossible to reach a definite conclusion. Do not waste your time on unnecessarily lengthy speculation on what might be the case in various scenarios.

- (f) Remember to give us adequate information to assess your knowledge.
- (g) Finally, although some of you have worked together when doing this module and formed discussion groups or study groups, this does not mean that you may consult each other when formulating and writing the answers to the examination questions. You must work alone as otherwise we are unable to assess your abilities. Students who submit identical or substantially similar answers, or who have obviously copied answers from someone else, will be guilty of infringing the University examination regulations and will be liable to punishment as determined by the University Council.

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Name:

Declaration

I know that plagiarism is to use someone else's work and pass it off as my own.

I know that plagiarism is wrong.

I confirm that the answers to the examination questions are my own work.

I have acknowledged in the bibliography accompanying the answers all the sources that I have used.

I have not directly copied without acknowledgement anything from the Internet or from any other source.

I have indicated every quotation and citation in a footnote or bracket linked to that quotation.

I have not allowed anyone else to copy my work and to pass it off as their own work.

I understand that if any unacknowledged copying whatsoever appears in my answers I will receive zero per cent for the examination.

I am aware of the UNISA policy on plagiarism and understand that disciplinary proceedings can be instituted against me by UNISA if I contravene this policy.

I indicate my understanding and acceptance of this declaration by entering my name hereunder:

Name:

QUESTION

Sibusiso approaches you for legal advice. He tells you that he wants to have his own web site on the Internet, on which he plans to sell sound recordings to students. The site will be hosted by HostNet in South Africa. He wants to register the domain name 'united' preferably in one of the generic top-level domains, or, if that is not possible, in one of the country code top-level domains. UNITED is a well-known trademark registered in the United States of America in respect of airlines and courier services. He also wants to place samples from the sound recordings for sale on his web site. And, finally, he wants to add links to other sites hosted on servers in the United States of America on which samples appear from the sound recordings for sale on Sibusiso's web site. He is unsure whether these samples have been made with the consent of the various rights holders.

Give a list of fifteen (15) questions that you will ask Sibusiso in order to advise him in this matter. For each question you should provide a justification of not more than five sentences per question. Finally, your answer should explain the logical sequence of your questions.

NOTE: Your answer should not exceed seven (7) typed pages.

[Total: 100 marks]