

IPSP033 - Essential Patent Law

Assignment 01 - 721244

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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 this assignment is my own work.
- I have acknowledged in the bibliography accompanying the assignment 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 assignment I will receive zero per cent for the assignment.
- 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.
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NOTE

Please note that footnotes will be denoted as ¹ and will appear at the bottom of the page. References will be denoted by [1] and will appear at the end of the document.

¹This is a footnote.

1 Identify three forms of unlawful competition which are applicable in the given scenario. [6]

Brian may seek relief, amongst other grounds, on the basis of:

- **Passing off**, in light of the similarities of the registered trademarks both companies operate under, as per [article 10^{bis}(3)(1)][2], [article 2(1)][3] and [article 16(1)][4].
- *Damage another's goodwill or reputation*, specifically the **Dilution of their goodwill or reputation**, in regard to the lessening of distinctive character or advertising value of the CHICKENBITE trademarks, as well as the appearance and presentation of the product, as per [article 3(2)][3]
- **Unfair competition in respect of secret information**, where Danny unlawfully acquired the memory stick with the recipe discovered by Brian, as per [article 39(2)][4] and [article 6(1)][3].

2 Citations to use

[2], [4]

Patent Cooperation Treaty [5]

3 Discuss whether the device qualifies as an invention for the purposes of patent protection.

4 Discuss whether the device meets the novelty requirement.

5 Discuss whether the device meets the inventiveness requirement.

References

- [1] Patents Act No. 57, 1978. [Online]. Available: <http://www.wipo.int/wipolex/en/details.jsp?id=6256>.
- [2] Paris Convention for the Protection of Industrial Property, 1883. [Online]. Available: http://www.wipo.int/treaties/en/text.jsp?file_id=288514.
- [3] Model Provisions on Protection Against Unfair Competition, 1996. [Online]. Available: [ftp://ftp.wipo.int/pub/library/ebooks/wipopublications/wipo_pub_832\(e\).pdf](ftp://ftp.wipo.int/pub/library/ebooks/wipopublications/wipo_pub_832(e).pdf).
- [4] Agreement on Trade-Related Aspects of Intellectual Property Rights, 1994. [Online]. Available: https://www.wto.org/english/tratop_e/trips_e/trips_e.htm.
- [5] Patent Cooperation Treaty, 1970. [Online]. Available: <http://www.wipo.int/pct/en/texts/articles/atoc.html>.