



**NATIONAL OPEN UNIVERSITY OF NIGERIA
14-16 AHMADU BELLO WAY, VICTORIA ISLAND LAGOS
SCHOOL OF LAW
MARCH/APRIL 2015 EXAMINATION**

COURSE CODE: LAW 436

COURSE TITLE: LAW OF INTELLECTUAL PROPOERTY II

TIME ALLOWED: 3 HOURS

INSTRUCTIONS: ANSWER QUESTION ONE AND ANY OTHER THREE QUESTIONS

1. It is now settled that an inventor owns a property right in respect of his invention. The central role of the patent system is to guarantee a limited term of protection in return for the inventor's agreement to disclose details of his invention and consequently to abandon his property right in it. Discuss.

2a. What is the significance of a well known mark protection for the development of passing off.

2b. Explain how an initially distinctive product name may become generic. How can passing off actions help to prevent this?

3. Explain with statutory authority and case law, the defences available to the defendant in a registered design case.

4a. Discuss the following cases pointing out their relevance to intellectual property law

- i. *Southern V. How* (1968) Popham 13
- ii. *Euromarket designs Inc. V. Peters and Crate & Barrel* (2001) FSR 288
- iii. *Darcy V. Allin* (1602) 11 Co Rep 84b
- iv. *Niger Chemist V. Nigeria Chemist* (1961) All NLR 171
- v. *Holly Hobbies Trademark* (1984) FER 199

b. Define a patent and trace the historical development of patent law.

5a. With the aid of case law, distinguish between ownership of a patent and the inventor, bearing in mind the defences to infringement to patent.

b. Write short notes on the following:

- i. Patent
- b. Designs
- iii. Trademark

6a. With the aid of decided authorities, explain the case of *Euromarket designs Inc. V. Peters and Crate & Barrel* (2001) FSR 288 as it relates to advertisement on the internet.

b. Consider whether each of the following could be registered under the provisions of the Trademark Act LFN 2004:

- i. The sound of a bird for breakfast cereal
- ii. The red and white colour for a telecommunications company
- iii. Heart shape of a soap.

