



NATIONAL OPEN UNIVERSITY OF NIGERIA
14/16 AHMADU BELLO WAY, VICTORIA ISLAND, LAGOS
FACULTY OF LAW
2019_2 SEMESTER EXAMINATION

COURSE CODE: PPL 436

COURSE TITLE: LAW OF INDUSTRIAL PROPERTY II

Time: Two and a half hours

Instruction: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS. (QUESTION 1 (ONE) ATTRACTS 25 MARKS)

1. Gucci launched its \$3,000 sheepskin/fur winter boots reminiscent of the traditional Uggs worn by Eskimos since 1700. At the base of boots is the popular Gucci green-red-green stripes with gold beetle embroidery. Unlike the Uggs, Gucci's boots have unique but impracticable kitten heels. They applied to the Irish IP Authority to register industrial property rights in four different constituents of the boots which they listed:
 - i. Ugg Winter Boots (for the look of the boots)
 - ii. Sheepskin/fur boots (for the material out of which the boots are made)
 - iii. Green-red-green stripes with gold beetle embroidery (for Gucci's popular brand)
 - iv. Ugg boots with kitten heels (For the unique design of the boots)

Some of the constituents were registered while others were not. Pep&Co. made exact copies of the boots using faux suede/faux fur. They called it 'Gucci Uggs by Pep&Co' and offered it for sale in their Ireland shops at \$30. Martina visited the shop and bought 20 pieces of the boots. She took them to the UK to give out to her friends and family as Christmas gifts.

- a. If you were the Irish IP Authority, which of the constituents will you register or refuse to register and why giving reasons
- b. Advise Gucci on the possibility of maintaining an action for infringement against Pep&Co and Martina.

- 2a. Categorise the following and advise on the possibility of their acceptance as industrial property:
- i. A non-addictive variety of marijuana leaves proven to reduce the risk of cancer. The first batch of mature leaves has just been harvested by Sam, an evangelical pastor. They are for his personal use and he has no intention of selling the leaves or making a profit from them.
 - ii. A unique whistling sound made by trapping air between gap teeth. Members of the Obi family all of whom have gap teeth are known to use the sound as a form of greeting and identification amongst themselves.
 - iii. The Aihevba family anthem. A song composed by the children of Sam Aihevba and sung during their family meetings. Every member of the family is charged with the responsibility of teaching the song to their spouse and children.
 - iv. A wooden scooper given to every new wife of the Adewale family for use in serving amala to their husbands. The scooper has diamond shaped incisions which gives amala a star-spangled appearance reminiscent of the Adewale family Oriki.
 - v. A smooth, highly nutritious paste based on a secret recipe consisting of blended beans, fish and vegetables which Adanma uses in weaning her babies.
3. The following are descriptions of two different products on an online shopping site:
- i. 'Chilled Armand de Brignac Brut Gold NV Champagne 1968 with Ace of Spades logo. 75ml gold bottle, 5% alcohol volume – ₦120,000.00'
 - ii. 'Black Grand Cherokee Jeep Sports Utility Vehicle with Jeep logo. 2008 model, Full option, 4 wheel drive with Alloy wheels and Torque Converter Automatic Gear function. – ₦2.8 million'

With the aid of a table, differentiate between the parts of each product that are registrable as trademarks and the parts that are not, giving reasons for your classification.

4. With the aid of relevant authorities, discuss the functions of trademarks.
5. Healing Touch Clinic, Abuja is operated by Dr. Nkoyo who branded its building, stationery, ambulance and furniture with her favourite colours - emerald green and burnt orange. The Clinic has been in operation since 2000 and it only opens from 5.00am to 7.00pm. It enjoys good patronage because of excellent service, quality drugs and qualified staff. Abike recently opened a chemist on the next street. She named it Healing Touches Chemist and painted it emerald green and burnt orange. The Chemist is open from 8.00pm to 12 midnight and is doing very well. She now wishes to register 'Healing Touches Chemist' as a trademark. Advise Dr. Nkoyo.
6. Advise on the following scenarios:
 - i. Lagos Heart Foundation is a well-known and regarded charitable organisation involved in research and support on heart related ailments which receives funding from the Lagos State Government. Its Head of Finance who was recently dismissed for fraud has registered the Eko Heart Foundation.
 - ii. Razzler Cigarettes have recently launched a new variant of their cigarette – Razzler Gold (RG). Though Razzler is known for its green, plastic packaging with ten thin cigarettes, the packaging for RG is a gold coloured paper box containing twenty thick cigarettes similar to the popular John Player Gold Leaf (JPGL) brand. RG is sold at 30% less than JPGL.
 - iii. Inspiration 92.3 FM airs a popular call-in show called 'Family Matters'. The telephone number to participate is 0700 – 923 – 923. Lagos Life 93.2 FM just started airing its own show called 'Family Issues' with call in number 0800 – 923 -923.