



UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
DIPLOMA IN LAW
FINAL EXAMINATION PAPER NOVEMBER 2021

TITLE OF PAPER : INTRODUCTION TO TAX LAW II
COURSE CODE : IDE LAW LAW315
TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : **Answer all questions.**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GIVEN
BY THE INVIGILATOR**

QUESTION 1

Nhlakanipho designed a brand for his products that he produced and wants to sell the products. He wants to protect the brand as a word and as a logo. He comes to you to help him protect the brand and clear out certain doubts he had about this process.

- (a) Name and define the process to be used in protecting Nhlakanipho's brand and further explain to him the importance of such protection. (7)
- (b) Explain the different types of such a process and briefly discuss the categories. (8)
- (c) Discuss the case of ***Honda Giken Kogyo Kabushiki T/A Honda Motor Co Ltd v Big Boy Scooters***, and what the case touched on with its findings. (10)

[25 marks]

QUESTION 2

Nelisiwe has done a Bachelor of Science in Agriculture at the University of Eswatini Luyengo campus. She is very passionate about plants and decides to further her studies specifically medicinal plants and trees and how it helps to cure various ailments in the human body. She decides to record or write down all the plants and trees she studied and all the findings of its cure and method of processing each for consumption. She produced the information in a form of a thick book which she hopes to publish and sell for profit.

- (a) Define the process she will have to opt for to protect her work and mention the exclusive rights and authority the owner of such has to others and how long the protection lasts for such protection? (10)
- (b) Give Nelisiwe a list of the things that can be protected by such a process and give three examples of each? (5)
- (c) Explain to Nelisiwe the thing that cannot be protected under this process? (5)

- (d) Lastly explain to Nelisiwe on what constitute an infringement of such a process and the penalties imposed? (5)

[25 marks]

QUESTION 3

- (a) Explain what an Industrial Design is stating the differences between Industrial Design protection and trademark and patent protection. (3)
- (b) Describe the way in which an Industrial Design can be protected. (2)
- (c) List the benefits of Industrial Design protection for the owner of the protection, the consumer of the product and the economy. (5)
- (d) Explain what unfair competition means stating and explaining the examples of unfair competition. (5)
- (e) List at least ten examples of the categories of unfair competition. (10)

[25 marks]

QUESTION 4

Sipho likes fiddling with things creating and dismantling his creation when he is not satisfied. One day in his playfulness he made a beautiful creation that when he put it to test it worked beautifully. Immediately he thought that his creation could be very useful in the kitchen in many ways. The special food processor he created was such that all the ingredients which have to be processed are measured and poured in the surrounding cups attached to the main bowl with an opening that allows the ingredient to pour automatically in the main bowl, one after another after each has been timed as to how long it is allowed to process in the main bowl. After testing it many times to ensure it works well, he was excited and wanted to sell the product. His only glitch was that he had little knowledge about how to go about protecting his invention before it hit the market. He did not want his beautiful handiwork to be stolen by anyone hence the need to protect his invention. Sipho approaches you as an Intellectual Property law attorney for advice.

- (a) Advise Siphho on the right process he can use to protect his invention and give a brief definition of that process? (5)
- (b) Advise Siphho of the importance of the process and its advantages? (5)
- (c) Advise him on some of the common problems that can render the application of protecting with such a process unsuccessful? (5)
- (d) Explain to Siphho that if the application is successful and his invention is eventually protected and, in the event someone decides to copy his invention and sells it for profit without his permission, how the law can be enforced against that person who infringes his invention and the penalty imposed on such an infringer. Also, what are the types of infringement, give a brief explanation of each? (10)

[25 marks]