

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
LL.B SUPPLEMENTARY EXAMINATIONS
L589 – INTELLECTUAL PROPERTY

AUGUST 2023

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. This paper contains six questions. Answer any **FOUR (4)** questions.
 2. All questions carry equal marks.
 3. All answers must be numbered and begin on a new page.
 4. Reference to decided cases is **strongly** encouraged.
 5. Where relevant, reference to provisions of the Industrial Property Order 1989 and Copyright Order 1989 must be made.
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QUESTION 1

Indicate the relevant intellectual property right (IPR) for protection of each of the following. Provide a reason for your choice of IPR:

- a) Contents of NUL website. **(4 Marks)**
- b) The technology behind Apple's latest I phone. **(4 Marks)**
- c) Lyrics to a popular song by Makaota. **(4 Marks)**
- d) A title of a local newspaper 'Local Eye'. **(4 Marks)**
- e) A photograph of Limpho taken on holiday in Durban. **(4 Marks)**
- f) Design sketches for Armani suits. **(5 Marks)**

[25 MARKS]

QUESTION 2

Discuss five requirements for conferment of trademark protection as set out in Section 26 of the Industrial Property Order, 1989. **[25 MARKS]**

QUESTION 3

Briefly explain each of the following:

- a) Economic rights. **(5 Marks)**
- b) Person skilled in the art. **(5 Marks)**
- c) Dilution. **(5 Marks)**
- d) Infringement. **(5 Marks)**
- e) Novelty. **(5 Marks)**

[25 MARKS]

QUESTION 4

Discuss the case of *Donoghue v Allied Newspaper Ltd [1938] Ch 106* as it relates to authorship of a protected work. **[25 MARKS]**

QUESTION 5

Section 3 of the Copyright Order, 1989 provides for originality of a work as the fundamental requirement for copyright protection. Discuss this requirement with reference to decided cases. **[25 MARKS]**

QUESTION 6

a) Sengoli has written a book on his exotic travels and experiences as a hunter. He is uncertain about whether the book is capable of copyright protection because after completing it, he gave it to his wife who said it was a bit dull and lacks creativity. Advise Sengoli on whether the book is protected under Lesotho's copyright law.

(10 Marks)

b) Ms Glass is an enthusiastic law professor at NUL. She wants her class to have the latest information about new developments in Human rights law. Just before class, she discovers a great new article from which she photocopies, at the university, 2 pages for distribution to the entire class. Has Ms Glass committed an act of infringement by making copies of the article without permission from its author?

(5 Marks)

c) Pule is a painter. One of his paintings is a portrait of a beautiful woman, which he reproduced in print and sold 1000 copies. Pule sold the original painting to an art gallery in Maseru City. Pule is shocked one day to see the original painting hanging in a local tavern with a moustache drawn on the woman's face. Advise Pule on his rights, if any, over the painting.

(10 Marks)

[25 MARKS]