



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

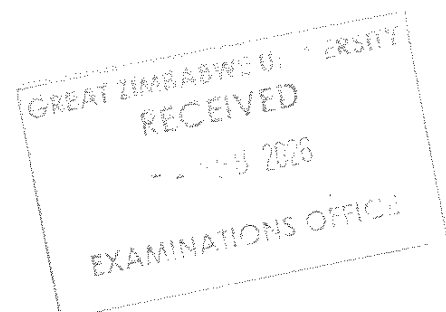
LEVEL 5 SEMESTER 1

EXAMINATION QUESTION PAPER

MODULE CODE	LLB 511
MODULE NARRATION	INTELLECTUAL PROPERTY LAW
DATE	SUPPLEMENTARY EXAMINATION
DURATION	3 HOURS
TOTAL MARKS	70

INSTRUCTIONS TO CANDIDATES:

1. Write legibly.
2. Section A is compulsory, answer any TWO questions from section B.
3. Students are permitted to take into the examination unannotated copies of Zimbabwean Intellectual Property Law statutes as well as unannotated copies of Conventions and Treaties they may deem necessary.
4. This question paper is 6 pages long.



SECTION A

THIS QUESTION IS COMPULSORY.

QUESTION 1

Critically discuss whether Artificial intelligence (AI) can be considered to be an author in terms of the Zimbabwean Copyright Law and does its work subject to protection in Zimbabwe.

[30 marks]

SECTION B

ANSWER TWO QUESTIONS FROM THIS SECTION

QUESTION 2



Intercontinental Great Brand – Cadbury Oreo, a company based in Zimbabwe approaches you for legal advice. They inform you that their competitor, Parle Products Private Limited – Parle Fabio recently rebranded some of their biscuit packaging and that they now have biscuits sold under the name FABIO or FAB! O which is very similar to their own (OREO)? They also tell you that this is problematic because even the biscuits themselves are chocolate with vanilla cream and look identical to the biscuits sold under the OREO brand. They further inform you that before the rebranding, Parle had previously used the brands FAB and FAB! for all their biscuits. However, upon rebranding, only the chocolate-vanilla cream biscuits were rebranded as FABIO or FAB! O.

When Intercontinental Great Brand became aware of the rebranding, they wrote a letter to Parle Products informing them that the new branding and packaging was very similar to their own and that this was a violation of their intellectual property rights. In this letter, they informed

them that Intercontinental Great Brands registered the mark "OREO" with the Zimbabwe Intellectual Property Office in 2020, in a class that covers biscuits and other food items. They also informed them that they had received complaints from their customers who had mistakenly bought FABIO instead of OREO.

Parle Products, however, refused to stop making and selling FABIO branded products, arguing that FABIO and OREO are two distinct words and that the only similarity between them is the letter "O" at the end of both words. They also argued that the packaging is common to the trade and therefore Intercontinental Great Brands could not prevent other biscuit producers from using similar packaging.

Intercontinental Great Brand Product also tells you that they have used the brand OREO and the OREO packaging depicted above for more than 20 years in Zimbabwe and that if FABIO continues selling these very similar biscuits, it will cause both financial and reputational damage to their brand, as they are both sold in the same supermarkets.

With reference to case laws and other authorities, advise Intercontinental Great Brand as to whether they can take legal action against Parle Products, and if so, on what basis. In your answer discuss the factors that the court will likely consider, their prospects of success, as well as available remedies. **[20 Marks]**

QUESTION 3

"Unlike other jurisdictions where legislative steps have been taken to address the challenges of enforcement of intellectual property rights on digital platforms, the Zimbabwean intellectual property laws are still trapped in the by-gone analogue era"

29. Discuss this assertion with regards to the Zimbabwean Intellectual Property Laws, highlighting lessons which Zimbabwe may draw if it is to modernise its Intellectual Property Laws. Your answer should make reference to all Intellectual Property Rights, the basic Principles of Intellectual Property and theories of Intellectual property law.

[20 Marks]

QUESTION 4

Critically discuss the requirements that determine the patentability of an invention.

[25 Marks]

QUESTION 5

How do Patentees rights and Patient rights sometimes conflict, and which generally prevails?

[25 Marks]

QUESTION 6

With reference to relevant case laws outline the test and conditions to be satisfied in registering an Industrial Design.

[25 Marks]

**END OF QUESTION PAPER
TOTAL MARKS: 70 MARKS**