



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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JANUARY – APRIL 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 312: INFORMATION TECHNOLOGY AND THE LAW

Date: APRIL 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

Q1. “My Lords, one of the less welcome consequences of the information technology revolution has been the ease with which it has become possible to invade the privacy of the individual. No longer is it necessary to peep through keyholes or listen under the eaves. Instead, more reliable information can be obtained in greater comfort and safety by using the concealed surveillance camera, the telephoto lens, the hidden microphone and the telephone bug. No longer is it necessary to open letters, pry into files and conduct elaborate inquiries to discover the intimate details of a person’s business or financial affairs, his health, family, leisure interests or dealings with central or local government. Vast amounts of information about everyone are stored on computers, capable of instant transmission anywhere in the world and accessible at the touch of a keyboard. The right to keep oneself to oneself, to tell other people that certain things are none of their business, is under technological threat.” Lord Hoffman in *R v Brown* [1996] 1 ALL ER 545, 555-556.

Using this quote as your point of departure, evaluate the extent to which the Kenya’s legal framework strikes a balance between various competing interests, as are apparent from the quote. **(30 marks)**

Q2. It has been argued that Cybercrimes require a wider response than just mere criminal law.

Discuss this view in the context of the approach taken under Kenyan law.

(20marks)

Q3. Discuss the essential elements of online contracts, noting to point out any differences between such contracts and non-online contracts. **(20 marks)**

Q4. Explain the interface between Information Technology and each of these forms of Intellectual Property:

a) Copyright

(10 marks)

b) Patents

(10 marks)

Q5. In his keynote address at the Investigators and Prosecutors Annual Conference at Kilaguni Lodge in the Capital Territory on 27th February 2018, the Attorney General of the Federal Republic remarked as follows:

“In this digital era, it is no longer enough for law enforcement agencies to rely on purely physical means for tracking down and apprehending criminals. They need to rely on expertise in Cybersecurity, surveillance and digital sleuthing. The question, perhaps, is whether our legal framework enables and allows this, both at the level of investigation and prosecution.”

Critically analyse the Attorney General’s remarks.

(20 marks)

END