



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A MAIN EXAMINATION

AUGUST – DECEMBER 2018 TRIMESTER

FACULTY OF LAW

EVENING / REGULAR PROGRAMME

CLS 404: INTELLECTUAL PROPERTY LAW

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Date: DECEMBER 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions. This is a partial open book examination. Examinees are allowed to carry a clean copy of the TRIPS Trademark Act and Copyright Act.

- Q1. Mr. Ogonji, a local trader, with a duka in Thika supplies a very special coffee which he feels is very distinct. The coffee grows in KilimaMbogo so he has decided to give it the name 'KilimaMbogo'. He comes to your office and explains that he needs protection of his coffee. He further says that you need to give him international protection in 6 countries in one class under the Nice Classification of Goods & Services.
- Identify the IPR that is most suitable for him giving reasons why you have identified the same. **(4 Marks)**
 - Explain in detail the local system and the international system you have selected as the best mode of protecting. **(20 Marks)**
 - In the system you have identified above, explain the repercussions of expungement within 5 years in the country of origin. **(6 Marks)**
- Q2. Geographical indications (GIs) in Kenya are registered as a Trade Mark under the Trade Marks Act Cap 506 for want of a GI legislation. In your opinion, is this justice to this type of IPR? Discuss. **(20 Marks)**
- Q3. "Copyrights are a bundle of rights which give the owner, negative rights." Discuss this statement, giving the significance of the Berne Convention in copyright. **(20 Marks)**

- Q4. Convention on Biological Diversity read together with article 11 and Protection of Traditional Knowledge and Cultural Expressions Act is meant to empower indigenous communities. Using examples and case law, explain this type of intellectual property. Is there any justification for keeping this type of IP right off TRIPs? **(20 Marks)**
- Q5. By referring to any decided case law, discuss the significance of compulsory license in medicine patents. **(20 Marks)**

END