



SCHOOL OF LAW

FINAL EXAMINATION: JANUARY, 2022

CODE: LLB 411

UNIT: INTELLECTUAL PROPERTY RIGHTS IN
SPORT AND ENTERTAINMENT

INSTRUCTIONS:

TIME: 2 HOURS

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This paper contains **FIVE** questions.

Question **ONE** is compulsory.

Answer any other **TWO** question.

Question **ONE** carries **30 MARKS** and the rest carry **15 MARKS** each.

Question one

Batmen cricket team has been practising and playing at Utawi sports club in Nairobi. The players have noticed an individual identified as Mwembe Pele who has been present every Saturday. It was discovered that Mwembe Pele has been recording their sessions and taking photographs of the team to sell to a local media house Sema TV Ltd, which used the clips in the news segment broadcast. Further, Mwembe Pele has been printing T-shirts with the teams trademarked name Batmen and selling them. The team has also discovered that one of the photos Mwembe Pele took is now being used in an advertisement by Kanairo breweries. It shows a photo of the team with all of them holding different alcoholic beverages. They wrote to Mwembe to demand he stopped exploiting the team and he wrote back to inform them that the sport did not belong to them and they could not stop him. The team would like to know if they have any legal recourse in law as they had not consented to any of this act.

Relying on relevant law, advise them the team of the rights they have and what they would need to prove in order to successfully hold the violators liable in a court of law. (30 marks)

Question two

In an effort to reduce back pain and injury after long bicycle rides cycling enthusiast Thomas Tola has developed a bicycle frame that better absorbs shock. Tortola replaced the pole on which the seat is mounted with a pair of parallel rings designed to dissipate energy from the ground along its curved structure. While the concept is not new, the replacement of the pole with parallel rings is an addition that relieves back pain and injury. He has decided to call his bicycle the Tola bicycle, named after himself. He wonders whether he can own any intellectual property protection.

Identify the different types of intellectual property applicable in sports and establish whether Tola can claim them. Base your answer on relevant law. 20 marks

Question 3

Explain the relationship between sports regulation, the law and intellectual property. Base your answer on relevant statute and case law. (15 marks)

Question 4

Baraka Water enterprise is a new entrant in the drinking water business in Kenya and in order to become more visible, decided to use sports to market its bottled water. The executive director Mr Shanzu Bobo approached Ligi Stars, a football club in Nairobi that is highly ranked in the premier league and offered to provide them with team jerseys and supply water during all their competitions. Ligi stars were happy to receive the items in a recent event. However, Mr Shanzu noticed that they were wearing another competitor's jerseys and even put up their banners all over the stadium. He is very upset and has accused Ligi stars of breaching Baraka water's rights as a sponsor and has demanded that they ban all other brands of water from now. Ligi stars deny

that Baraka waters is a sponsor. They claim that they received donations from Baraka water and that was it.

Basing your answer on relevant law, determine if sponsorship exists. (15 marks)

Question 5

Basing your answer on relevant statutory and case law, discuss how intellectual property can be used for sports marketing. (15 marks)