



UNIVERSITY  
OF  
JOHANNESBURG

<b><u>FACULTY</u></b>	: LAW
<b><u>DEPARTMENT</u></b>	: MERCANTILE LAW
<b><u>CAMPUS</u></b>	: APK
<b><u>MODULE</u></b>	: CAPITA SELECTA (MERCANTILE LAW)
<b><u>SEMESTER</u></b>	: SECOND
<b><u>EXAM</u></b>	: MAIN

<b><u>DATE</u></b>	28 OCT 2021	<b><u>SESSION</u></b>	08:30-11:30
<b><u>ASSESSOR</u></b>	PROF RW ALBERTS		
<b><u>EXTERNAL MODERATOR</u></b>	MR CR KRÜGER		
<b><u>DURATION</u></b>	3 HOURS	<b><u>MARKS</u></b>	: 60

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NUMBER OF PAGES: **2 PAGES** (Including the cover page)

**INSTRUCTIONS:**

- 1 Your answers must be substantiated in detail.
- 2 Submit the answers on Blackboard.
- 3 For questions WhatsApp the lecturer at 0823769275.
- 4 This is an open-book examination. You may use any materials but are not allowed to share information with other students.
- 5 You are not allowed to be in contact with other students.
- 6 Your answers will be tested for plagiarism in general and in respect of the answers of other students.
- 7 Do not copy and paste from any sources. Answers must be provided in your own words.

- 8      **Use quotation marks where literally quoting from sources.**  
9      **Save your work frequently.**
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**QUESTION 1**

A has a pub in London called THE COOL MONKEY. He conducts business there for three years. B, a Johannesburg entrepreneur, opens a pub called THE COOL MONKEY. Describe A's legal position in terms of preventing B's use of the name THE COOL MONKEY with reference to common and statutory law.

**[20]**

**QUESTION 2**

XX commences use of the trade mark PORSCHE in relation to televisions. Porsche Motor Company, the owner of the PORSCHE trade mark, wishes to interdict this use. Consider and evaluate the protection that might be available to Porsche Motor Company under the "unfair advantage" rubric in section 34(1)(c) of the Trade Marks Act 194 of 1993 with reference to case law.

**[20]**

**QUESTION 3**

Lionel Nessi is a famous member of the Bafana Bafana soccer team. A sports clothing manufacturer, Hadidas, brings out a soccer boot called Lionel Nessi. What is Mr Nessi's legal position in terms of preventing the use of his name according to South African law.

**[20]**

**TOTAL: 60**