



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>	: HRA0021/CML41B0 CAPITA SELECTA MERCANTILE LAW
<b><u>SEMESTER</u></b>	: SECOND SEMESTER
<b><u>EXAM</u></b>	: NORMAL (FIRST) EXAMINATION

**DATE** : 16 NOVEMBER 2019      **SESSION** : 12h30:-14h30  
**ASSESSOR(S)** : PROF RW ALBERTS  
**MODERATOR** : PROF E HURTER  
**DURATION** : 2 HOURS      **MARKS** : 80

---

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

**INSTRUCTIONS:**

1. Answer ALL THE QUESTIONS.
  2. Number your answers clearly.
  3. Refer to relevant case law.
-

**QUESTION 1**

X copies the ear rings made by Y. Assess the legal position regarding the copying of shapes in terms of the law of unlawful competition.

**[20]**

**QUESTION 2**

A, a competitor of B, gets hold of a secret cola drink recipe of B. Analyse B's legal position in the context of the unlawful use of trade secrets.

**[15]**

**QUESTION 3**

AA commences use of the trade mark FORD in relation to wheelbarrows. Ford Motor Company, the owner of the FORD trade mark, wishes to interdict this use. Consider and evaluate the protection that might be available under the "unfair advantage" rubric in section 34(1)(c) of the Trade Marks Act 194 of 1993, with reference to overseas case law. The decision in Laugh It Off Promotions CC v South African Breweries International (Finance) BV t/a Sabmark International and Another [2005] ZACC 7 is NOT applicable.

**[15]**

**QUESTION 4**

X wishes to register the shape of an object. Analyse the possible exclusions from registrability as a design with reference to case law.

**[15]**

**QUESTION 5**

Describe each of the three main pillars of competition law - restrictive agreements, abuse of dominance and merger control.

**[15]**

**TOTAL: 80**

---