



**UNIVERSITY OF JOHANNESBURG**

**KINGSWAY CAMPUS**

**FACULTY OF LAW**

**10 JANUARY 2018**

**COURSE NAME:** CAPITA SELECTA: **DURATION:** 2 HOURS  
MERCANTILE LAW

**COURSE CODE:** HRA0021 **MARKS:** 60

**EXAMINER:** PROF WIM ALBERTS

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THIS PAPER RUNS TO 2 PAGES.

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**QUESTION 1**

A draws a number of cartoon characters. B converts these characters to an animated form, and uses them in an advertisement. Discuss A's legal position with reference to the case of Rapid Phase Entertainment CC v SABC [1997] JOL 393 (W) and the various grounds of relief relied on there.

[10]

**QUESTION 2**

X writes a book with many photos about the Comrades marathon. A photo of the last winner of the men's event is on the front page. B also writes a book with many photos about the marathon. He also puts a photo of the winner of the last men's event on the front. When will X or Y's books amount to infringement? Discuss with reference to Galago Publishers (Pty) Ltd. v Erasmus [1989] 1 All SA 431 (A).

[10]

**QUESTION 3**

M-Net broadcast a cricket match. The camera shows a very attractive lady. She is on the big screen only for 5 seconds a time, but during the course of the day she is shown a total of 15 times. Does this amount to an infringement of her personality rights? Analyse her legal position with reference to case law and writers.

[20]

#### **QUESTION 4**

Cadbury wants to register the mark TURBO CHOC, and Beacon wants to register the mark CHOC BOOST, both for sweets. Is this problematic? Discuss by referring to the various tests that the courts adopt when comparing marks.

**[10]**

#### **QUESTION 5**

Mr Jones uses the trade mark TELKOM in relation to brandy. Is this lawful? Discuss, in the light thereof, "unfair advantage" as envisaged in section 34(1)(c) of the Trade Marks Act 194 of 1993, also with reference to overseas decisions.

**[10]**

**TOTAL: [60]**