



<b><u>FACULTY</u></b>	: LAW
<b><u>DEPARTMENT</u></b>	: MERCANTILE LAW
<b><u>CAMPUS</u></b>	: APK
<b><u>MODULE</u></b>	: LLM TRADE MARK LAW (TML9X0C)
<b><u>SEMESTER</u></b>	: FIRST
<b><u>EXAM</u></b>	: SUPPLEMENTAL

<b><u>DATE</u></b>	13 JULY 2020	<b><u>SESSION</u></b>	: 10:00-16:00
<b><u>ASSESSOR</u></b>	PROF RW ALBERTS		
<b><u>EXTERNAL MODERATOR</u></b>	PROF E HURTER		
<b><u>DURATION</u></b>	6 HOURS	<b><u>MARKS</u></b>	: 100

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NUMBER OF PAGES: 2

**INSTRUCTIONS:**

- 1 Your answers must be substantiated in detail.
- 2 Submit the answers on Blackboard and email to [walberts@uj.ac.za](mailto:walberts@uj.ac.za)
- 3 This is an open-book examination. You may use any materials but are not allowed to share information with other students.
- 4 You are not allowed to be in contact with other students.
- 5 Your answers will be tested for plagiarism in general and in respect of the answers of other students.

- 6 Do not copy and paste from any sources. Answers must be provided in your own words.
  - 7 Use quotation marks where literally quoting from sources.
  - 8 You are welcome to contact the lecturer by WhatsApp (0823769275) during the examination.
  - 9 Save your work frequently.
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### **QUESTION 1**

Analyse section 5(4)(a) of the British Trade Marks Act of 1994 with reference to case law and compare it with the position in South Africa.

Discuss the Caspian Pizza case.

**[20]**

### **QUESTION 2**

A has trade mark applications in classes 25 and 28, for clothing and games respectively. B has a registration in class 35 for retail services. Can B oppose A's applications? Also point out the reach of a retail registration.

Discuss the Foschini case, and the article by Alberts,

**[20]**

### **QUESTION 3**

X has a registration for a shopping centre called MELVILLE CITY. Analyse the validity of this registration having regard to British and South African case law.

Discuss the Century City case.

**[20]**

### **QUESTION 4**

Give a critical review of the decision in Yuppiechef Holdings (Pty) Ltd v Yuppie Gadgets Holdings (Pty) Ltd [2016] ZASCA 118.

Discuss the case.

**[20]**

**QUESTION 5**

Some case law is to the effect that a small degree of resemblance between marks can be offset by a large degree of similarity between the goods concerned. Do you agree? Motivate your answer by referring to academic writers.

Refer to the article by Kelbrick.

**[20]**

**TOTAL: 100**