



KISII UNIVERSITY

UNIVERSITY EXAMINATIONS

**FOURTH YEAR EXAMINATION FOR THE AWARD OF THE
DEGREE OF BACHELOR OF LAWS
SECOND SEMESTER, 2021/2022
(FEBRUARY - JUNE, 2022)**

LLBK 429: INTELLECTUAL PROPERTY LAW

STREAM: LLBK 4 S2

TIME: 2 HOURS

DAY: THURSDAY, 9:00 – 11:00 A.M.

DATE: 02/06/2022

INSTRUCTIONS

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE [Compulsory] and any other TWO Questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

QUESTION ONE

Kisii University is interested in promoting innovation, creativity, business incubation, technology transfer and intellectual property that belongs to its key stakeholders. These include lecturers and professors, all relevant staff members, students, research sponsors or funders and other collaborating individuals and institutions

Advise Kisii University along the following lines

- a) Critically discuss the three main forms of intellectual property and technology transfer and why they are significant to Kisii University.
(10 marks)
- b) Advise Kisii University on how to best promote and protect its interests with respect to any two types of intellectual property or forms of technology transfer
(10 marks)

- c) Advise Kisii University on the role of intellectual property in innovation and technology transfer in Kenya. **(10 marks)**

QUESTION TWO

Copyright focuses on the expression of ideas. Not ideas *per se* (as such). It is the law of form; not content; not quality, morality or aesthetics.”

Discuss with reference to originality and tangibility or materiality or fixation.

(20 marks)

QUESTION THREE

“Our drums do not speak a language other than our language. Our talk should not be protected only by a system from the outside. It should be also connected with the ways in which our nations have protected and respected our traditions.

We have had songs, traditional knowledge and so on for hundreds of years. There were clear customary laws regarding the right to use songs and knowledge. There were no problems in the past. Why are there problems now?” Prof Wambeh, NIPKD, Abuja Nigeria, 1999

Article 11 of the Constitution of Kenya 2010, as read with Article 40(5) and Article 69(1)(c) provide that the State shall promote all forms of cultural expressions, arts, traditional celebrations , etc. The State is to recognize the role of science and indigenous technologies and promote the IP rights of the people of Kenya, and enact legislation to ensure the communities receive compensation or royalties for the use of their culture and cultural heritage.

As an intellectual Property Law expert briefly discuss the issues and areas a traditional knowledge protection legislation ought to cover? **(20 marks)**

QUESTION FOUR

Critically discuss and advise on the meaning, significance and core legal issues regarding any two (2) of the following in Kenya

- a) Passing off **(10 marks)**
- b) Trademark infringement **(10 marks)**
- c) Geographical indication **(10 marks)**
- d) Patent procedure **(10 marks)**
- e) Trade in counterfeit goods **(10 marks)**