



SCHOOL OF LAW

ADVANCED COURSE ON PATENTS: NPIP521

END OF SEMESTER EXAMINATIONS

August/December 2024

LECTURER: (Mr S. Ramadhan & Mr W. Mushayi)

DURATION: (3 HRS)

INSTRUCTIONS

The paper contains 7 questions.

Answer **two (2)** questions from **Section A** and any other **(two) 2** Questions from **Section B**. Questions for Section A and B are answered in separate answer booklets.

Write your answer clearly. Use numbered headings or subheadings to show which part of your answer refers to which question.

Example: Question 2 (a).

SECTION A

Question 1

The main objective of the patent system is to encourage the development of new technologies and innovations by providing an incentive by granting inventors the exclusive right to use their inventions for commercial purposes in exchange for full disclosure of their inventions to the public.

Describe parts of a patent application that (a) provide exclusive rights to the inventor and (b) provide disclosure of the invention to the public.

QUESTION 2 (25 marks)

Mr. John invented a method for cleaning window glass. He approached you as a patent drafter to draft a patent specification for his invention. You are provided with a description of the invention, as described below.

You are required to draft at least one (1) independent claim and one (1) dependent claim which are directed to features which are material to the invention.

Description of the Invention

[0001] This invention relates to an improved method of cleaning glass windows and the like. Cleaning glass windows is frequently necessary, such as in automobile windows and in large factories, powerhouses, and other industrial works; the question of rapidly and easily cleaning windows that have become heavily coated with soot and dirt is of considerable importance.

[0002] It has been found that mineral oils do not achieve the desired result, and accordingly, it is essential that vegetable oil be used, preferably peanut oil, although olive oil will also give satisfactory results.

[0003] The best method of performing the invention is to use a mixture of peanut oil and powdered chalk in the proportion of one ounce of powdered chalk to one pint of peanut oil, this mixture is applied to the surface to be cleaned at the rate of between 1 and 2 cubic centimeter per square foot of glass to be cleaned.

[0004] The method, according to the invention, preferably comprises either spraying under high pressure or thoroughly rubbing on by hand, a liquid cleaning agent consisting of vegetable oil with which has been mixed a mildly abrasive powder, and subsequently washing off the cleaning agent.

[0005] The cleaning agent may then conveniently be washed off by means of a high-pressure spray of water, the pressure being such that it causes the oil to emulsify and come away with the water.

End of description.

QUESTION 3 (25 marks)

Ms Anna invented a method of making a traditional African beer comprising the following steps: fermentation of fermentable wort selected from maize, sorghum, and millet; flash pasteurization at a temperature between 74°C and 76°C; adding carbon dioxide (CO₂); and filling the bottle.

She approaches you as a patent expert to advise if she can file a patent or utility model application for her invention.

You conducted a prior art search as an expert to determine whether his invention is patentable. During your search, you retrieved the prior document “D1”, which discloses a method of making a beer comprising the following steps: fermentation of fermentable wort selected from maize, sorghum, and millet; filtration to remove undissolved residues; flash pasteurization at a temperature between 74°C to 76°C; adding carbon dioxide (CO₂); and filling the bottle.

- a) Explain three reasons why it is important to carry out a patent/prior art search **(5 Marks)**
- b) What would your advice be to Ms Anna regarding her invention, i.e., does the invention qualify for a patent or utility model? Explain your reasons. **(20 marks)**

QUESTION 4 (25 marks)

There is a valid patent for an invention of house paint that has a great appearance and kills carpenter ants. The patent claims both properties.

Mr Ali discovers a new use for the same house paint as an insecticide to kill hornets and applies for patent protection on the new use.

On applying the house paint, Mr Omar accidentally discovers that hair grows wherever the paint contacts human skin and wants to patent a new use as a treatment for baldness.

- a) Will Mr Ali and Mr Omar get patents for their inventions? Explain. **(15marks)**
- b) Assume Mr Omar gets a patent. Can he manufacture and sell house paint as a treatment for baldness? Explain **(10marks)**

SECTION B

Answer any two questions in this section.

Question 5

In not more than one page:-

- a. What is IPR Infringement? Explain Primary Infringement and secondary infringement in a design right? **(15marks)**
- b. Explain Individual Character and how it is determined. **(10marks)**

Question 6

What are the:-

- a) Provisions of the Hague Agreement Concerning the International Registration of Industrial Designs and state the advantages of the system? **(15marks)**
- b) Unity of Art? Explain. **(10marks)**

Question 7

SAFEPAK LIMITED v POWER PLAST INDUSTRIES LIMITED

Country: Republic of Kenya

Case Name and (Neutral Citation)

Citation: SAFEPAK LIMITED v POWER PLAST INDUSTRIES LIMITED

Venue: High Court at Nairobi (Milimani Commercial & Admiralty Division)

Case ID: No. 206 of 2013

Date of Decision: 24 MARCH 2014

Appellant: SAFEPAK LIMITED Plaintiff

Respondent: POWER PLAST INDUSTRIES LIMITED Respondent

Summary of issue: Registered design – Infringement – injunction

Nature of Case:

The plaintiff sought Orders, that pending the hearing and determination of the suit, an injunction be issued restraining the Defendant whether by itself, its directors, officers, employees, servants or agents or otherwise from infringing the Plaintiff's Industrial Design registered as number 646 by the Kenya Industrial Property Institute (hereinafter "KIPI"). The plaintiff noted that the Defendant was manufacturing and stocking/selling bottles which were a reproduction of the Plaintiff's protected Industrial Design. The Plaintiff had expended significant intellectual and monetary effort to come up with the unique features of its Industrial Design. The Plaintiff ascertained that the Defendant's infringing bottle embodied substantially similar features as regards the twisting of the vertical ribs as above. It also maintained that the Defendant's infringing bottle was not substantially different in overall shape to the Plaintiff's registered design

- a. In your opinion should the appeal be granted and why? **(25marks)**

END OF EXAM PAPER

