



RHODES UNIVERSITY
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THE LAW OF PATENTS, DESIGNS AND GEOGRAPHICAL INDICATIONS 2017



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1. INTRODUCTION

The Law of Patents, Designs and Geographical Indications is an elective LLB semester course. The major theme of the course is the statutory framework and selected case law applicable to patents and designs in South African law as well as a broad overview of the system of geographical indications.

The purpose of the course is to familiarise students with the scope and effect of the statutory rights created in the Patents Act 57 of 1978 and the Designs Act 195 of 1993 as well as the position of Geographical Indications in international trade. International conventions that relate to these branches of intellectual property law are also considered in this course.

Students would need to know and be able to do the following in order to benefit from this course:

- Be capable of communicating in written and spoken English;
- Be capable of critically analysing and extracting relevant legal information from case law, legislation and other source material;
- Be capable of problem solving; and
- Be capable of independent learning.

2. TEACHING METHODS

It is intended that successful participation in this course will assist students in developing the following competencies:

- Identifying and solving problems;
- Organising and managing themselves;
- Collecting, analysing and evaluating information;
- Communicating effectively; and
- Using technology.

A detailed course outline with a comprehensive reading list and bibliography are provided for this course. Students are expected to read ahead of the next lecture in

order to acquire a basic familiarity with the relevant topic and then take their own notes in lectures. Lectures are conducted in a structured but discursive manner allowing for questions and discussion. Practical examples are considered during lectures.

3. BIBLIOGRAPHY

3.1. Texts

The following book is **prescribed** for this course:

- O Dean and A Dyer *Introduction to Intellectual Property Law* (2014) Oxford University Press: Cape Town

The following recommended works are available in the Law Library:

- L Bently and B Sherman *Intellectual Property Law* 2 ed (2004) Oxford University Press: Oxford
- T D Burrell *Burrell's South African Patent and Design Law*, 3 ed, (1999) Butterworths: Durban (This is the leading practitioners work on the Law of Patents and Designs in South Africa. The full text is available on the My LexisNexis database which can be accessed through the RU Library webpage)
- W R Cornish *Intellectual property: Patents, Copyright, Trade Marks and Allied Rights* 5 ed (2003) Sweet and Maxwell: London
- C. Visser *The New Law of Trade Marks and Designs* (1995), Juta & Co, Ltd: Kenwyn

3.2. Websites

There is a wealth of information available on the internet and the following sites are useful:

<http://ipkitten.blogspot.com/> (an interesting UK IP blog that you can subscribe to)

<http://afro-ip.blogspot.com/> (an interesting African IP blog that you can subscribe to)

www.heinonline.org (Electronic access to a vast array of legal journals. This database can be accessed through the RU Library webpage.)

www.adamsadams.co.za (SA IP firm)

www.spoor.co.za (SA IP firm)

www.derebus.org.za (SA Attorneys Journal)

www.cipc.co.za (SA Companies and Intellectual Property Commission)

www.ipo.gov.uk (UK Intellectual Property Office)

www.espacenet.com (European Patent Office)

www.uspto.gov (USA Patents and Trademark Office)

www.wipo.int (World Intellectual Property Organisation)

www.wto.org/english/tratop_e/trips_e/trips_e.htm (TRIPS gateway on the WTO website)

www.pub.ac.za (Public understanding of biotechnology)

www.saiipl.org.za (SA Institute of IP Law)

www.delphion.com/gallery (a collection of weird and bizarre patents)

<http://listverse.com/bizarre/15-truly-bizarre-patents/> (another collection of weird and bizarre patents)

<http://www.daringibby.com/famous-patent-battles/> (famous patent battles)

<http://www.origin-gi.com/> (Organisation for an International Geographical Indications Network)

4. ASSESSMENT

The class work component for the course amounts to 30% of the final mark and the remaining 70% comprises a two-hour examination that will be written in November 2017.

Students are assessed for the class work component on the basis of two tests and each will count for 15% of the final mark for the course. If students do not write the test, for whatever reason, then they will be required to sit for an oral test in lieu thereof, on the understanding that there is a valid LOA for the test date.

The tests and examination will contain questions of the following types:

- problem questions which require the application of statute and common law to solve practical issues;
- theory type questions in which students are required to describe, explain and critically evaluate the current law; and
- essay type questions in which students fully canvass a particular area of the law.

5. COURSE OUTLINE

The topics covered in the course comprise the following:

1. Introduction to patents.
2. The nature and content of patents.
3. Patentable subject matter and exclusions.
4. Patent ownership and exploitation.
5. Patent application procedure.
6. Infringement of patents.
7. Introduction to designs.
8. Scope of design monopoly.
9. Design ownership, exploitation and procedure.
10. Design infringement.
11. Geographical indications.