



The
University
Of
Sheffield.

LAW6098

SCHOOL OF LAW

AUTUMN SEMESTER 2020/21

Foundations of Intellectual Property Law

Submission Date: Wednesday 27 January 2021 by 4pm

You must submit via Turnitin on Blackboard

This assignment is worth 80% of your marks for this module

Word Limit: 2000 words

Your assignment will need to be uploaded onto Blackboard via Turnitin in the assessment folder of the module **LAW6098** by **Wednesday 27 January 2021**.

The standard penalties will be applied to assignments which are submitted late or exceed the permitted word length. Appendices, end or footnotes, graphs/tables, diagrams, references, bibliographies, tables of statutes and/or tables of cases are not included in the word count but marks may be deducted if these are inaccurate or inappropriate. Your attention is also drawn to the rules forbidding plagiarism and collusion.

All the relevant rules and penalties are set out in the Assessments area of the [Law Student Community](#). Failure to read the guidance will not be accepted as a reason for infringing the rules on the maximum word length, late submission, plagiarism or collusion.

This assessment has been adapted from the original, in line with guidelines developed by the University's Covid-19 Learning and Teaching Sub-Group.

QUESTIONS ON NEXT PAGE

Answer ONE of the following questions:

1. Provide an outline of the issue of 'subject matter excluded from patentability'. Then, on the basis of the relevant case law and sources, critically discuss the following statement and provide your personal opinion on the different approaches to the identification of the excluded subject matter adopted by the UK Courts and the EPO:

'according to the EPO any program on a carrier has a technical character and, so, escapes the prohibition in art 52 European Patent Convention'

Kitchin J, *Astron Clinica v Comptroller General* [2008] EWHC 85 (Pat)

2. 'The inclusion in the human rights debate of a relatively trivial item like intellectual property protection would undermine the claim that human rights are of fundamental importance to humanity.'

P.K. Yu, *Ten Common Questions about Intellectual Property Rights*' (2006-7) 23 Georgia State University Law Review 709, pp 713-714.

Critically discuss this statement and provide your personal opinion on whether and to what extent Intellectual Property Law should or should not be considered a Human Right and on the consequences of adopting a view instead of another. Support your argument by making reference to the relevant sources.

3. "'Free riding" is subtly and dangerously emotive: it carries the unwritten message. That, it ought to be stopped. That is far from being necessarily so (...). The problem for trade mark law is where to draw the line between permissible and impermissible free riding.'

Jacob LJ, *L'Oréal v Bellure* [2010] EWCA Civ 535

Provide an outline of the EU approach to the protection of Trade Marks with a reputation (well-known brands). Then, on the basis of the relevant case law and sources, critically discuss this statement by presenting your personal opinion on the issues raised therein.

END OF QUESTIONS