

COMMERCIAL LAW 201: PAPER 2

Intellectual property, franchising, credit agreements, consumer protection and commercial crimes

2019



Lecturer: Miss TN Mashinini (Office Number: F6A)

E-mail address: n.mashinini@ru.ac.za

SECTION A: COMMERCIAL LAW 2 GENERAL INFORMATION

Welcome to Commercial Law 2! The information in this hand-out has been compiled to assist you. Please read it carefully to ensure that you are familiar with the contents.

1. COL 201 and COL 202 are separate courses, each of which gives a student a one semester credit towards a degree. A credit in one course is not contingent upon passing or registering for the other course.
2. COL 201 is taught and examined in the first semester and COL 202 is taught and examined in the second semester.
3. A student will obtain a credit for Commercial Law 2 according to the following rules:
 - 3.1. A credit will be given if a student has passed both courses irrespective of the year or examination in which they were passed.
 - 3.2. An aggregated credit (ACR) will be given if a student has an aggregated mark of at least 50% for both courses (i.e. COL 201 and COL 202) and has obtained at least 45% in the course failed.
 - 3.3. Aggregation may only take place in respect of examinations written in the same academic year.**
4. COL 201 consists of two papers.
 - a. Paper 1 covers Labour Law, Real and Personal Security, Banking Law and Payment Instruments.
Paper 1 will be taught by Mr Nkosinathi Mzolo (n.mzolo@ru.ac.za) and Mrs Liz Davies (e.davies@ru.ac.za).
 - b. Paper 2 covers Intellectual Property, Franchising, Credit Agreements, Consumer Protection and Commercial Crimes.
Paper 2 will be taught by Ms Nomalanga Mashinini (n.mashinini@ru.ac.za).

The course co-ordinator for COL 201 and COL 202 is Ms Nomalanga Mashinini and she can be contacted at n.mashinini@ru.ac.za or in her office on the first floor of the Law Faculty building. Any problems of an administrative nature should be directed to her while queries regarding the content of the course should be directed to the relevant lecturer.

5. COL 202 consists of two papers. Paper 1 covers Special Contracts (sale, lease and carriage). Paper 2 covers Insurance, Competition Law, Business Ethics and Alternative Dispute Resolution.

The lecturers for COL 202 will be announced at the beginning of the second semester.

6. It is recommended that students join the RUConnected pages for this course (COL 201 Paper 1, COL 201 Paper 2 and COL 202 Paper 1, COL 202 Paper 2). These pages will be used as the primary mode of communication with the class. Students will be provided with course materials and they will be directed to any further reading during lectures. Additional sources of information will be posted on RUConnected.
7. Two two-hour exams will be written in June 2019 and two in November 2019 i.e. one examination each for Papers 1 and 2 in June and November.
8. The class mark component of COL 201 and COL 202 amount to 30% of the final mark. COL 201 will be examined in June 2019 and COL 202 will be examined in November 2019. The marks for Papers 1 and 2 will be added together and reduced to a mark out of 70. The remaining 30 marks will be calculated on the basis of the tests written during the relevant semester.
9. Students who fail COL 201 or COL 202 may be granted supplementary examinations provided that they obtain at least 40%.
10. There will be two **compulsory** class tests written for both COL 201 and COL 202 (i.e. two tests for Com Law 201 and two tests for Com Law 202).

IT IS A DP REQUIREMENT FOR STUDENTS TO WRITE THE TESTS AND YOU WILL ONLY BE EXCUSED IF YOU HAVE A VALID LEAVE OF ABSENCE.

STUDENTS ARE REQUIRED TO IDENTIFY THEMSELVES AT TESTS BY PRODUCING A VALID STUDENT CARD OR SOME FORM OF PHOTOGRAPHIC ID.

The marks obtained for the tests will count 30% towards the final mark for COL 201 and COL 202 and so it is in students' interests to take them seriously. The test dates, times and venues are reflected in the course outlines for each module.

11. The tests will last for 60 minutes and will count out of 30 marks. The tests will contain three questions which are all compulsory for a total of 30 marks for the whole test.

SECTION B: COMMERCIAL LAW 201 PAPER 2

COURSE OUTLINE

1. INTRODUCTION

1.1. Overview

Commercial Law 201 is offered at second year level to students registered in the Faculty of Commerce. Paper 2 focuses on intellectual property and franchising, credit agreements and consumer protection, and commercial crimes.

The purpose of the course is to familiarise students with aspects of South African commercial law that are not considered in Commercial Law 1.

2. OUTCOMES

2.1. Critical cross-field outcomes

It is intended that students will be able to:

- Identify and solve problems;
- Organise and manage themselves;
- Communicate effectively;
- Use technology; and
- Analyse and evaluate information.

2.2. Intended specific outcomes

It is intended that students will be able to do the following on successful completion of the course:

- Distinguish between different categories of intellectual property;
- Describe and apply the basic legal principles of the various branches of intellectual property;
- Demonstrate an understanding of the legal rules that apply to franchising, as well as the relationship between intellectual property and franchising;
- Describe the main provisions of the National Credit Act and the Consumer Protection Act and apply them to a set of facts;

- Demonstrate an understanding of different types of commercial crimes, the role of and functions of the Specialised Commercial Crimes Court.
- Accurately use legal concepts and terminology related to the relevant area of law.

3. TEACHING METHODS

A fairly comprehensive module and bibliography are provided for the course. Students are expected to read ahead in the module for the next lecture in order to acquire a basic familiarity with the relevant topic. Lectures are conducted in a structured but discursive manner allowing for questions and discussion. The module is not designed to provide all the information required to pass this part of the course and various concepts will be dealt with in lectures that are not comprehensively dealt with in the module.

4. STUDENT ASSESSMENT

Two tests will be written and it is a DP requirement that both tests are written unless students have a valid leave of absence. The test marks amount to 30% of the final mark obtained for Commercial Law 201.

TEST DATES

Test 1: 4 March 2019 at 6.00pm in the Graham Room, Faculty of Law

Test 2: 29 April 2019 at 6.00pm in the Graham Room, Faculty of Law

(There are no make-up tests in COL 2. Please see general information for more on this.)

Specific outcomes	Assessment criteria	Assessment tasks
Distinguish between different categories of intellectual property	<ul style="list-style-type: none"> • Identify and distinguish between the subject matter of trade marks, copyright, patents and designs with reference to factual situations • Compare and contrast the legal protection that applies to each category of intellectual property 	<ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem and theory questions in tests and examination (summative)
Describe and apply the basic legal principles of the various branches of intellectual property	<ul style="list-style-type: none"> • Describe and explain the relevant legislation and case law • Apply the legislation and case law to problem questions/factual situations 	<ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem and theory questions in tests and examination (summative)

<p>Demonstrate an understanding of the legal aspects involved in franchising</p>	<ul style="list-style-type: none"> • Identify the legal principles that apply to franchising • Explain and evaluate the roles of the franchisor and the franchisee 	<ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem and theory questions in tests and examination (summative)
<p>Describe the main provisions of the National Credit Act and the Consumer Protection Act</p>	<ul style="list-style-type: none"> • Describe and explain the relevant legislation • Apply the legislation to problem questions/factual situations 	<ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem and theory questions in tests and examination (summative)
<p>Identify and demonstrate an understanding of</p>	<ul style="list-style-type: none"> • Identify and distinguish between different kinds of commercial crimes 	<ul style="list-style-type: none"> • Class discussion and questioning (formative)

different types of commercial crimes	<ul style="list-style-type: none"> • Discuss the legal principles that apply in a factual situation 	<ul style="list-style-type: none"> • Problem and theory questions in tests and examination (summative)
Accurately use legal concepts and terminology related to the relevant area of law	<ul style="list-style-type: none"> • Use of appropriate and accurate terminology in intellectual property, franchising, credit agreements, consumer protection and commercial crimes 	<ul style="list-style-type: none"> • Class discussion and questioning (formative) • Problem and theory questions in tests and examination (summative)

5. RESOURCES

Please note that there are **no** prescribed texts for this course. However, there are several general Commercial Law textbooks which are very useful, as well as the relevant volumes of LAWSA (the Law of South Africa) which you will be able to find in the reference section of the Law Library (see some examples listed below). You will also need to consult legislation from time to time. Legislation can be accessed through the Rhodes library webpage.

S Kopel	<i>Guide to Business Law (2017) OUP: Cape Town.</i> <i>This textbook is particularly recommended as it covers the topics in Com Law 201 as well as 202</i>
T Woker	<i>The franchise relationship under South African Law (2012) Juta: Claremont</i>
Scott <i>et al</i>	<i>The Law of Commerce in South Africa 2nd ed. (2015) Oxford University Press Southern Africa: Cape Town</i>

6. COURSE CONTENT

Theme 1: Introduction to Intellectual Property Law

Study Unit 1: Introduction to IP Protection

Study Unit 2: Copyright

Study Unit 3: Patents

Study Unit 4: Trade Marks

Study Unit 5: Designs

Theme 2: Franchise Agreements

Theme 3: Introduction to Consumer Protection Law

Study Unit 1: Credit agreements

Study Unit 2: Consumer protection

Theme 4: Selected Commercial Crimes

Study Unit 1: Elements of Crime and Specific Crimes

Study Unit 2: Counterfeit Goods

7. EVALUATION

Towards the end of the semester, students will be presented with a questionnaire form that they can fill in to provide feedback on the course. Students are encouraged to use this opportunity to provide constructive criticism and feedback for the lecturers of this course to engage with. Such feedback should be aimed at improving and transforming the course.

Last updated: January 2019