



ASSIGNMENT 2ND SEMESTER : INTERNATIONAL TRADE LAW II (ITL2)

STUDY UNITS COVERED : STUDY UNITS 6 and 7

DUE DATE : 3.00 p.m. 17 AUGUST 2010

TOTAL MARKS : 100

INSTRUCTIONS TO CANDIDATES FOR COMPLETING AND SUBMITTING ASSIGNMENTS

The complete 'Instructions to Students for Completing and Submitting Assignments' must be collected from any IEX office, or the relevant Student Support Centre, or can be downloaded from the IEX website. It is essential that you study the complete instructions prior to beginning your assignment. The following points highlight only a few important notes:

- 1) You are required to submit ONE assignment per subject.
- 2) The assignment will contribute 20% towards the final examination mark, and the other 80% will be made up from the examination., However, the examination papers will count out of 100%.
- 3) Although your assignment will contribute towards your final examination mark, you do not have to earn credits for admission to the examinations; you are automatically accepted on registering for the exam.
- 4) Number all the pages of your assignment (e.g. page 1 of 4) and write your name and surname, student number and subject at the top of **each** page.
- 5) The IEX requires assignments to be presented in a typed format and on plain A4 paper. This assignment must be completed within a limit of 1500 words, excluding the bibliography.
- 6) A separate assignment cover, which is provided by the IEX, must be attached to the front of each assignment.
- 7) Retain a copy of each assignment before submitting, in case the original does not reach the IEX.
- 8) The assignment due date refers to the day up to which assignments will be accepted for marking purposes. The deadline is 3:00 p.m. on 17 August 2010. Late assignments will be accepted, but **25 marks** will be deducted from the maximum mark, if received after 3:00 p.m. on 17 August 2010 and up to 5:00 p.m. the following day, after which no assignments will be accepted.
- 9) If you fail to follow these instructions carefully, the IEX cannot accept responsibility for the return of the assignment. It may even result in your assignment not being marked.

Results will be available on the IEX website, www.iex.co.za on Friday, 8 October 2010.

SPECIFIC INSTRUCTIONS

This is an exercise in exploring and thinking about product liability and what a South African exporter needs to take into account when venturing into the USA market. This assignment is not intended to be a 20-page essay. The areas mentioned in the first sentence above can comfortably be explained and argued in a concise 5 to 6 page report.

Remember to acknowledge all sources of information at the end of your report. A simple listing is all that is required.

Hint – Sources of relevant information:

1. The International Intellectual Property Alliance's latest report.
2. Department of Trade and Industry statistics with regards to counterfeiters.
3. South African Federation Against Copyright Theft.
4. Various Press Releases – Example:
"South Africa becomes fertile ground for counterfeiters". *The Weekender*.
May 12 -13, 2007, p. 10.
5. National and international counterfeiting legislation.
6. <http://www.screendaily.com/south-africa-cracks-down-on-dvd-piracy/409812.article>
7. <http://www.havocscope.com/tag/movie-piracy/>

QUESTION 1

[90]

NEW YORK/LONDON, March 18 (Reuters) - AstraZeneca Plc won a U.S. court battle on Thursday over product liability claims for its blockbuster Seroquel schizophrenia treatment, the first such case to go to trial. Thousands of plaintiffs have filed lawsuits claiming that Seroquel caused their diabetes and that the drugmaker failed to adequately warn patients.

AstraZeneca has denied the allegations and said on Thursday that it believed all the patients still pursuing cases either had already had diabetes or had been at high risk of developing it before they started taking the Astra drug.

The drug firm said nine previous cases prepared for trial had been dismissed and some 2,600 more had been abandoned by the plaintiffs' lawyers. Astra shares were up 0.85 percent at 1529 GMT in London.

[<http://www.reuters.com/article/idUSN1821928520100318>]

Your company is considering selling its products in the USA.

In a well structured essay discuss the critical aspects of product liability in the USA and how this differs from product liability in South Africa. Where possible refer to the scenario above to explain the theory in your essay.

Students are expected to do desk research in order to increase their understanding of product liability and the risks involved with regards to product malfunction in the USA. It is suggested that the following content be covered in the report.

1. A definition of product liability.
2. A brief overview of product liability law in the USA and SA. Mention the laws that govern this area in each country.
3. Who is potentially liable under product liability law in the USA and SA.
4. The main differences between the USA and SA with regards to product liability law.
5. The defences available to a manufacturer in the USA in the event of a class action lawsuit. Why did the plaintiffs fail in the AstraZeneca case?
6. Why you think it is important for the company to give serious attention to product liability. Suggest ways in which the company can reduce its risk exposure in the USA market in the event of a class action lawsuit.

Hint - Sources of Relevant Information

- Study Unit 6: Pg 177 to 187
- Course Textbook. Van Niekerk & Schulze. The South African Law of International Trade.
- www.legal-definitions.com
- Department of Trade and Industry (DTI)

PRESENTATION [10]

ASSIGNMENT TOTAL: 100