

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Law relating to Trademark and Geographical Indication
Semester-II (Batch: 2016-17)

LL.M. End Semester Examination: May-2017

Date: 8th May, 2017

Duration: 3 hours

Max. Marks: 70

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

- | | Marks |
|--|----------------|
| Q.1 Discuss briefly stating reasons whether the following trademarks are registrable for the products as specified? (a) Nilgiri : Coffee (b) Coldmaster : Refrigerator (c) Perfection : Milk Powder (d) Parivar: Soap | (4x2.5 =10) |
| Q.2 Define the term "Deceptive Similarity" in accordance with the Law of Trademarks in India. Critically examine its applicability in light of case laws. | (08) |
| Q.3 Kinoto and Co. has launched a new car under the name 'kinocom', a small economy car. The company registered the name 'kinocom' and the logo of kite with strings tied as trademark. Minosota automobiles, a leading automobile company launches its car namely 'Minsocom' and in its advertisement it states that 'Minsocom' provides better facilities and features than 'kinocom'. Minosota automobiles also quoted a report of the survey of "Automobile Survey" which is a non profit organization in support of the statement. After few months Minosota Automobile came out with another advertisement showing the logo of kite without strings and a punch line " <i>You will get in 'Minsocom' all that you get in 'Kinocom' but without the string of restricted cost</i> ". The cost of 'Minsocom' is Rs. 20,000/- less than that of 'Kinocom'. Kinoto and Co. decided to sue Minosota Automobiles for trademark infringement. Discuss the issue of infringement of trademark, if any, in the light of relevant legal provisions and case laws. | (08) |
| Q.4 Answer any two of the following: (a) Registration of Non-Conventional trademarks is a desirable phenomenon because it serves a vital economic, commercial and legal purpose. Do you agree? Answer by referring to the provisions for registration of Non-Conventional trademarks as prescribed under the Trademark Act, 1999 with specific reference to such marks already registered in India. (b) What is a "well-known" trade mark under the Trade Marks Act, 1999? Discuss the relevant factors for determining a mark to be a "well-known" trade mark under the said Act. | (14) |

- (c) An infringement action is a statutory remedy while passing off action is a common law remedy. Discuss the distinction between an action of Infringement and passing off with the help of decided cases.

Q.5 Write brief note on **any three** of the following:

(3x6=18)

- (a) Honest Concurrent Use
- (b) Trademark infringement through Dilution
- (c) Geographical Indications and Trademarks
- (d) Registration of Geographical Indication under 1999 Act

Q.6 Define Geographical Indication. Discuss the remedial structure in case of violations of rights of the GI proprietors by referring to the following case laws. (12)

- (a) Tea Board v. ITC Ltd
- (b) Payyannur Pavithra Ring Artisan and Developers v. K. Balakrishnan
