

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Intellectual Property Rights  
Semester-VIII (Batch: 2013-18)

**End Semester Examination: April-May 2017**

**Date: 3<sup>rd</sup> May, 2017**

**Duration: 3 hours**

**Max. Marks: 50**

**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 anything 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.
- **Bare Act is not allowed.**

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| Q.1 Answer <b>any two</b> of the following:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | (12)         |
| <ul style="list-style-type: none"><li>(a) How is the concept of novelty and originality under The Designs Act, 2000 different from the same under the Copyright Act, 1957 and Patent Act, 1970?</li><li>(b) Discuss the rationale behind maintaining different standards of infringement for different forms of Intellectual Property Rights.</li><li>(c) Discuss the scope and possibility of protecting Traditional Knowledge as a form of Intellectual Property.</li></ul>                                                                                                                                                                                                                           |              |
| Q.2 "The issue of protection of GI gained particular interest and attention in India only when a patent was obtained for Basmati Rice in the United States of America by the Rice Tec Inc. and the widespread report on tea from many countries being passed off as Darjeeling Tea. India realized that if it needed to protect its own GI globally, it needed to protect it at the national level to begin with." In this background, discuss the following case studies:                                                                                                                                                                                                                              | (10)         |
| <ul style="list-style-type: none"><li>(a) Darjeeling Tea</li><li>(b) Tirupati Laddus</li><li>(c) Pochampalli Ikat</li></ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |              |
| Q.3 The Designs Act, 2000 extends protection to only new and original designs. In order to ensure the same, Section 19 of the said Act, prescribes that a registered design can be cancelled on the ground of prior publication in India or any other Convention countries. Discuss the concept of "Prior Publication" as interpreted by the Delhi High Court through the following questions:                                                                                                                                                                                                                                                                                                          | (10)         |
| <ul style="list-style-type: none"><li>(a) Whether a design registered abroad can be a ground for cancellation of a design registered in India under Section 19(1)(a) of the Act? What is the implication of Section 44 on Section 19(1)(a)?</li><li>(b) What are the consequences of failure to apply for registration in India within six months of making an application in the Convention country?</li><li>(c) What is the meaning of "Prior Publication" according to the provisions of Designs Act, 2000?</li><li>(d) Whether documents existing as part of the record of Registrar of Designs in a Convention country abroad open for public inspection results in "Prior Publication"?</li></ul> |              |

- Q.4 Mr. Pradeep Kumar is a full time director of ABC Ltd. Company. He was appointed by following the due process of procedures. As per the policy of the company, a full time director, he was made to sign an agreement of employment according to which he agreed not to divulge or disclose any information of confidential nature to any person. The company as well as Mr. Pradeep Kumar were of a firm belief that such information is considered to be the property of the company. During the course of employment, Mr. Pradeep Kumar happened to have shared such an information to a competitor while sharing a manual of a customized software on real estate business. ABC Ltd. Company wants to bring an action against Mr. Pradeep Kumar for divulgence and disclosure of confidential information. Discuss in the light of facts, legal provisions and relevant case laws. (08)
- Q.5 Answer **any two** of the following: (10)
- (a) The National IPR Policy is a vision document that aims to create and exploit synergies between all forms of Intellectual Property, concerned Statutes and agencies by way of setting in place an institutional mechanism for implementation, monitoring and review. Analyse the National IPR Policy in the background of this statement.
  - (b) Discuss the scheme of The Semiconductor Integrated Circuit Layout Design Act 2000 (SICLDA) in India which was passed in compliance with the TRIPS Agreement.
  - (c) TRIPS is one of the most important and comprehensive international instruments relating to protection of intellectual property rights. Elucidate the provisions prescribed under TRIPS for the protection of Patent and Trademark.

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