

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Law of Patent
Semester-I (Batch: 2018-19)

LL.M. End Semester Examination: Oct-Nov. 2018

Date: 5th November, 2018

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.

Part-A

Marks

- Q.1 Define the evolution of the European Patent Law from 1947 to the passing of the EPC. Explain the salient features of the European Patent Convention. (10)
- Q.2 Elucidate the 'Inventive theory' – the Classic treatment of Patent Law. (08)
- Q.3 The provisions of Paris Convention fall into four broad categories: National Treatment, Right of Priority, etc. (09)
With the help of the decided case, substantiate the Right of Priority under Paris Convention and the TRIPs Agreement.
- Q.4 Answer **any one**. (08)
(a) Give a comparative understanding of the Bolar Clause
(b) Important provisions of the PCT and the advantages of PCT.

Part-B

- Q.5 Answer the following questions: (3x10=30)
- (a) 'As per the interpretation of section 3(d) of the Patents Act 1970 by the Supreme Court of India in Novartis case, it is very difficult to acquire a patent for a drug with incremental improvements because it will likely to fail to meet the enhanced therapeutic efficacy threshold. Although many affordable drug advocates view this interpretation as an effective means of ensuring affordable drugs and preventing the practice of evergreening by the large MNCs, it ultimately harms domestic drug companies that have just recently begun to invest in their own research and development.' Do you agree with this observation? Critically discuss the present pharmaceutical patent scenario in India in the light of the applicable legal provisions and decided cases.
- (b) Mr. George has developed a complex electro-mechanical device for fishing in lakes. His device is able to sense the movement of fishes in the water and then adjust the angle of the bait to effectively attract the fishes. He obtains patent for the same in India and finding the huge market for his product, he is willing to enter into legal

agreements with interested persons for the manufacturing of his device. State the legal provisions available to him under the Patents Act 1970.

- (c) 'Event though a patent is an exclusive right of making, using or selling the invention, the validity of patent is not guaranteed in the form of grant of patent. Public should be given an opportunity to challenge the validity of grant of patents if it does not fulfil any of the conditions laid down under the act for grant of monopoly' Explain the statement in the light of the case of *Dr. Aloys Wobben v. Yogesh Mehra*.

Q.6 State whether following statements are true or false with reasons: (05)

- (a) A patent acquired by the Government for public purpose is not entitled for any compensation for the owner of the patent.
- (b) The British patent system in form of 'Letters Patents' and the current patent system in India are one and same.
- (c) The Patents Act 1970 does not discriminate between aggregation of features and combination invention.
- (d) Any person is entitled to file pre grant and post grant opposition.
- (e) Exclusive license means a license which excludes all the other persons except the inventor from exploiting their rights over the invention.
