

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Law of Patent  
Semester-I (Batch: 2017-18)

LL.M. End Semester Examination: November-2017

Date: 10<sup>th</sup> November, 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.

**Part-A**

**Marks**

- Q.1 Explain the 'Right to Priority'. With the help of the decided case, trace the evolution of the said right from the Paris Convention to the present day situation. (08)
- Q.2 'Patents serve to bring the private benefits of inventions in line with their social value by allowing inventors to use their monopoly position to extract a price.' Explain the above statement in the light of the relevant theories for the grant of patent. (10)
- Q.3 Company ABZ has a patented drug. The patent expires in February 2018. Mr Ajay owns a pharma company by the name PRS Pvt Ltd. He is interested in researching and manufacturing a generic drug of the patented drug. Advise Mr Ajay as to when he can begin the process, and explain the relevant legal provisions. Also explain the situations in the USA and EU. (08)
- Q.4 Mr Ashish has a technical invention and has an intention to patent the same in different jurisdictions simultaneously. Advise Mr Ashish the process that would benefit him explaining him the advantages of the same. (09)

**Part-B**

- Q.5 Answer **any three** of the following questions: (3x9=27)
- (a) The Glanite Company obtains a process patent no. 5060879 in the year 2015 for the manufacture of a drug LISIKLICS to cure liver cirrhosis in India. Thereafter, the company does not exploit this process for manufacturing the drug but manufactures the drug by another process which is commonly used by the pharmaceutical industry. The present process to manufacture the said drug is quite complex and costly, whereas the patented process is quite simple and cost effective. Discuss the possible options available for the other drug manufacturers for the use of patented process. Quote the applicable provisions from the Indian Patents Act 1970.
- (b) "No matter how good an invention may be, patent rights cannot be obtained unless it is applied for." Do you agree with the statement? Explain critically the procedural



aspects for the grant of a patent. Give your comments in respect of the demerits of the present procedure.

- (c) Explain, in detail, the meaning and types of infringement of patents. Discuss the patent infringement in the light of applicable legal provisions and decided cases. Whether India has complied with the provisions of TRIPS agreement in respect of patent infringement?
- (d) Tradelink Ltd. is an Indian company which is involved in the business of power generation and transformation. One of the employees of the company Mr. Vasu along with his research and development team, invents a process to generate electricity using a radioactive element called Plutonium. The process is extremely efficient compared to the existing power generation techniques and prior art. The company wants to file patent in India and thereafter in several other countries. Advise them with regard to the availability of patent for their invention. Critically discuss the provisions of the Patents Act 1970 wherein patents are not granted to several inventions. Whether India is losing opportunity to grant patent to the inventors by incorporation of such provisions?

Q.6 Answer **any two** of the following:

(2x4=  
08)

- (a) Critically discuss the doctrine of patent exhaustion.
- (b) Requirements and grounds for the grant of compulsory licensing.
- (c) Critically discuss the *Diamond v Chakrabarty* judgement.

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