

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Law relating to Trademark and Geographical Indication  
Semester-II (Batch: 2018-19)

LL.M. End Semester Examination: May-2019

Date: 8<sup>th</sup> May, 2019

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 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.

**Part-A**

**Marks**

- Q.1 Mr. Shyam is doing business under the name "MATHURA GHEE" He is selling his product under this name since last seven to eight years. He has popularized his mark by investing huge amounts on advertisement. Mr. Kishan has entered the market last year with the name "MATHURAG GHEE". Shyam came to know about introduction of same products with the similar name in the market. In order to obtain legal right, he applied for registration. The registrar denied registration to Shyam as the same was opposed on reasonable grounds by Kishan. (07)
- In absence of registration, Shyam sued Kishan seeking grant of injunction against use of the trade mark "MATHURAG GHEE". Is he legally entitled to take such an action? Will he succeed? Answer by referring to the relevant provisions and case laws.
- Q.2 Examine the correctness of the following statements and substantiate your answer by referring to relevant provisions and case laws: (4x2.5 =10)
- (a) The word 'Best' can be registered for Coffee.
  - (b) A registered trademark is assignable without goodwill in India.
  - (c) Life of trademark depends on its actual use.
  - (d) Rights conferred under the Trademarks Act, 1999 are not absolute.
- Q.3 Answer **any two** of the following: (2x8= 16)
- (a) Trace historical evolution of law of trademarks in India and analyze the salient features of Trademarks Act 1999.
  - (b) Discuss and distinguish infringement as statutory remedy and passing off as common law remedy for protection of trademarks in India.
  - (c) Define well known marks and critically examine the statutory provisions prescribed under the Trademarks Act, 1999 along with relevant case laws.
- Q.4 Explain the following terms and discuss their significance in the law of trademarks in India: (4x3= 12)
- (a) False trade description
  - (b) Honest concurrent use
  - (c) Service marks
  - (d) IPAB

**Part-B**

- Q.5 On the question concerning terminology, the existing approach to the protection of geographical indication in the national and international legal framework witnesses a different approach. "Geographical Indications" is sometimes termed as "Indications of Source" or "Appellations of Origin" in different regional and international instruments. Explain the undercurrents for such practice in the light of the Paris Convention 1883, the Madrid Agreement on Indications of Source 1891 and the Lisbon Agreement 1958. (08)
- Q.6 The object clause of the Geographical Indications of Goods (Registration and Protection) Act, 1999 describes the Act, as an Act for the registration and better protection of geographical indications relating to goods. Explain the legal framework in the Act concerning the following: (4+3=07)
- (a) The procedure and effect for registration of geographical indication under Geographical Indication Act 1999.
  - (b) Documents required to be attached supporting the geographical indication application form.
- Q.7 Write short notes on **any two** of the following: (5+5=10)
- (a) Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks 1973.
  - (b) The Paris Convention 1883.
  - (c) Infringement of registered geographical indications.

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