

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Intellectual Property Law  
Semester- VI (Batch: 2019-24)

**End Semester Online Examination: May 2022**

**Date: 12<sup>th</sup> May, 2022**

**Duration: 8 hours**

**Max. Marks: 50**

**Instructions:**

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 05 Marks: 500 words.

**Marks**

- Q.1    a) “XX” is a renowned company involved in the business of fast-moving consumer goods (FMCG) having different biscuits like “100-100” and “Kracker” in a separate and distinct packaging which have trademark registration under the Trade Marks Act, 1999. “XX” came across another company “AB” marketing their biscuits by names of “200-200” and “Kracker-K” in a packaging remarkably similar to that of their products. “XX” wants to approach the High Court for seeking injunction against AB from copying the biscuit packaging on the ground that AB replicated every detail of their packaging in terms of colour scheme, layout, fonts and other distinguishing features and was marketing their products in similar names making AB’s product overall deceptively similar to that of “XX”. (5x2=10)

In light of the above facts, advise XX by referring to relevant statutory provisions and latest case laws.

- b) Examine the correctness of the following statement and substantiate your answer by referring to relevant sections and case laws.

*‘Dilution law is Proprietor oriented in nature which seeks to prevent lessening of the value of well-known or famous marks arising from the use of the mark by the third parties.’*

- Q.2    a) Attab Corporation is a multinational pharmaceutical company which came up with a drug “Peritenib Sistolate” formulated for treatment of advanced stage of liver cancer. The formulation was marketed in India by name of “PERTIVAR”. Being expensive it was difficult for general patients to purchase the same. Attab had initially applied for patent of the drug in the USA and then applied for patent in various other countries including India. It secured patent protection in India. Citco Pharma Ltd., an Indian pharmaceutical company approached Attab for a voluntary license of the drug. However, the request was declined by Attab. Citco then approached the Controller of Patents for grant of compulsory license for production of generic version of “PERTIVAR” which will facilitate it to be (5x2=10)



affordable for everyone. Further it was contended that Attab did not comply with the provisions of Section 84 (1) of the Patent Act, 1970.

Is Citco eligible for grant of compulsory license under the Patents Act 1970? Substantiate your answer by referring to the relevant statutory provisions and case laws.

- b) Palgot Limited developed BTT-z technology having use of twin spark plugs for efficient combustion of the lean air-fuel. It applied for patent which was granted as it qualified under the trinity of requirements as prescribed under the Patents Act, 1970. Another company, GTA Motors came up with 125 CC Spacez after three years of launch of BTT-z technology, which had a lean-burn internal combustion engine having a twin spark plug configuration. Palgot claimed that the technology of GTA was infringing its patented technology. Hence, Palgot wants to file a suit for patent infringement against GTA Motors to prohibit GTA from production, marketing, selling or export of the impugned technology including Spacez.

In light of the above stated factual matrix, decide on the infringement of this patent by referring to the relevant statutory provisions and case laws.

Q.3 Answer the following questions by referring to relevant statutory provisions and case laws. (2.5x4 =10)

- a) Can fonts be copyrighted?
- b) Can title of books and films be copyrighted?
- c) Can mobile accessories be protected under the law of copyright?
- d) Rahul is an employee of the "EduYouth" a non-profit organization which works in the domain of providing education to the orphan children. He wrote a story "Monkey and Two Cats" to explain a moral to the students as part of his duty. "EduYouth" published a book containing different stories written by different employees. Rahul wants to claim copyright in the story. Explain how the ownership of this work will be decided by referring to relevant statutory provisions and case laws.

- Q.4 a) Bobby India Ltd. is producing and marketing hair oil in name of "Bobby Coconut Hair Oil". The bottle has a unique shape where it has a semi-circular shoulder with curvaceous back and front panel tapering into each other. The cap has a deep blue colour and a triangular opening. The design of the bottle and cap is registered under the Designs Act, 2000 in the name of Bobby India Ltd.. The design of the bottle over time became synonymous with the Coconut Hair Oil sold by Bobby India. Another company, Novel Cosmetics Ltd. started selling their hair oil in bottles with similar design and label as that of Bobby India. Is this a case of obvious and fraudulent imitation under the Designs Act, 2000? Substantiate your answer by referring to the relevant statutory provisions and case laws. (5x2= 10)



- b) The Designs Act, 2000 extends protection to only new and original designs. In order to ensure the same, Section 19 of the 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 Indian Courts through judicial pronouncements.

Q.5 Answer the following

(5x2=  
10)

- a) Mr. Raj Kumar is a full-time director of ABC Ltd. Company. He was appointed by following a due process. As per the policy of the company, he being a full-time director 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. Raj Kumar were of a firm belief that such information is considered to be the property of the company. During the course of employment, Mr. Raj Kumar happened to have shared such 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. Raj Kumar for divulgence and disclosure of confidential information. Decide in the light of facts stated above, legal provisions and relevant case laws.
- b) *India's Geographical Indication battle for protection and registration of the distinctive identity of Basmati Rice, not only had international barriers but also national barriers.*

Discuss the unique case and nature of Geographical Indication protection with reference to Basmati Rice in light of this statement

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