

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Introduction to Laws of IPR and International IP Organizations  
Semester-I (Batch: 2015-16)

**LL.M. End Semester Examination: Oct-Nov. 2015**

**Date: 6<sup>th</sup> November, 2015**

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

**Marks**

**Part-A**

Attempt **all** the questions.

- Q.1 Write the definitions of the following terms as defined in the GI Act citing correct sections: (06)
- (a) Deceptively similar
- (b) Geographical Indication
- Q.2 What is the need to have Biodiversity Act 2002? Do you think that it has fulfilled the objectives for which it was enacted? Give reasons to support your arguments. (03)
- Q.3 Discuss in brief the role of WTO in protection of IPR. (04)
- Q.4 Discuss in short the grounds of invoking passing off as remedy in case of IPR infringement. (04)
- Q.5 The case in appeal before the court was that appellant had infringed the GI of the respondent. The former was manufacturer of 'Kehwa' in state of Himachal Pradesh. They are marketing their product with the name of 'Himan Thai Kehwa'. The label on the product shows a grass plant in the backdrop of the Himalayan hills from which the Kehwa is being prepared. The respondent is manufacturer of Thai Kehwa from Thailand doing business in India. They are marketing their product as exclusive Thai Kehwa which is worldwide famous & prepared from grass only grown in Thailand. They had earlier objected at the registrar's office for the use of word 'Thai' in the product of appellant, which represents the Thailand. This objection was sustained by the registrar & accordingly order was passed. (08)
- It was argued by appellant that they are not infringing any right of any one concerned as they are not claiming their 'Kehwa' to be of Thailand origin. Secondly they are also not using any GI mark in their product. Thirdly they have given an affidavit in court by their employee, Mr. Yen Thai, who is the actual brain behind manufacture of 'Kehwa' for appellants. In order to honor his contribution to the company, the product launched was named as per his last name.



Advice citing suitable provision of law & authorities to both the parties for an amicable solution of the problem.

### Part-B

- Q.6 Industrial design plays an important role in the trading of consumer goods or products as well as helps economic development by encouraging creativity in the industrial and manufacturing sector. Discuss briefly the legal protection available to a registered design and state the consequences for the piracy of a registered Design? (07)
- Q.7 What is the distinction between infringement and 'passing off'? How both these concepts are covered in the Trademarks Act, 1999? Explain. (08)
- Q.8 Write a brief note on any two of the following: (10)
- (a) Tarnishment of trademark by comparative advertisements
  - (b) Various types of Intellectual Property
  - (c) Overlap between design and copyright

### Part-C

- Q.9 Mr. Patel, who is a famous legal expert, publishes an educational book for law students with the title "Legal General Knowledge" and claimed copyright over the book. The book was first published in 2012 and he came with 3<sup>rd</sup> edition in 2015. Mr. Nair, also publishes a book titled "General Knowledge today and Law" for the elementary law students. After the publication, Mr. Patel came to know that the substantive portion in the later book is already available in his book and immediately, he has sent a legal notice for infringement of copyright to Mr. Nair by stating that his publication is copied from his book. Mr. Nair contended that there is no registration of copyright in the book. Moreover, his book deals with general aspects of law which falls within the domain of public knowledge, hence there is nothing original in the book published by Mr. Patel therefore he is not liable for any copyright infringement. (10)

Based on these facts, decide whether Mr. Patel will succeed in the action for copyright infringement? How will you justify the contentions of Mr. Nair? Discuss with reference to applicable legal provisions and decided cases.

### OR

'The provisions relating to compulsory licensing are encroachment on the basic rights of the inventor' Justify the statement along with your observation with reference to the provisions of compulsory license.

- Q.10 Write short notes on **any two** of the following: (2x5=10)
- (a) John Doe Order
  - (b) Assignment of Patents
  - (c) Copyright Societies

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