

GUJARAT NATIONAL LAW UNIVERSITY GANDHINAGAR

Course: Introduction to Laws of IPR and International IP Organisations
LL.M. Semester-I (Batch: 2014-15)



LL.M. End Term Examination: November-2014

Date: 17th November, 2014

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 | Justify the validity of following statements with appropriate reasons:
(a) IPR are protected only through application of legal provisions in various Acts.
(b) One can't have the trademarks as to any geographical places.
(c) Moral rights of any author are inalienable rights.
(d) Domain names for two different online products can be same.
(e) Face paintings can also be saved under copyright. | (05) |
| Q.2 | Discuss that, the concept of copyleft is useful in open source software. | (04) |
| Q.3 | Explain the following terms citing suitable sections of the respective Act:
(a) Original work
(b) Deceptively similar
(c) Performer
(d) Certification Trademark | (04) |
| Q.4 | Examine the following situations in the Copyrights Act & answer citing suitable case laws:
(a) Central idea of X's drama has been taken by Y in his film without the consent of X.
(b) A has seen a feature film in 1990 and produced a novel with copyright of its own having similar sequences in 2014.
(c) K bought in India a work of G from Nepal, which is a unauthorized copy work of H from China. | (06) |
| Q.5 | Discuss the concept of Fair dealing in the Copyright Act citing suitable case law/s.
<div style="text-align: center;">OR</div> What are neighboring rights? What remedies are available for the infringement of these rights? | (05) |
| Q.6 | Examine the following situations in the Trademarks Act & answer citing suitable case laws:
(a) Two or more than two persons are using similar type of trademarks for their product at the same time. | (06) |

- (b) Two similar words are used in two different parts of India as trademark for similar product having different meaning at respective places
- (c) A name which has been coined as generic word by a yoga ashram is registered as trademark for different categories of products by X.

Q.7 What is absolute grounds of refusal for the registration of trademarks? Cite suitable case law/s. (05)

OR

What are the remedies for infringement of Trademarks?

Part-B

Q.8 Write a critical note on **any two** from the following: (2x10=20)

- a. 'The patent law recognizes the exclusive right of a patentee to gain commercial advantage out of his invention. And on the grant of patent, the patentee is conferred exclusive rights to make, sell, distribute the invention and the Government cannot under any circumstances interfere in the exercise of such exclusive rights or use the invention for its own purpose.' – Critically discuss the statement referring to the provisions regarding the compulsory license of patents. Justify compulsory license in the light of procedure and international provisions.
- b. Mr. Desai is a farmer in Rampur village in Gujarat who gets crop of best quality wheat. He has developed a new variety of seeds based on the knowledge he has gathered from his ancestors. Every year, he gets comparatively better crop than the other farmers in his village. He gave some seeds to his friend Mr. Patel who stays in the nearby village, Khanpur and he also got very good crop. Due to economic crisis, Mr. Patel sold some of the seeds to Agro Ltd, a public company established for research and development in agriculture. The company carried out some further research on the seeds and successfully launched the new variety of seeds in the local markets of Gujarat. Within two years, the seeds became very successful in the market and Agro Ltd. made huge amount of profit. Mr. Desai came to know that the company is selling the same variety which he has developed. He had sent a legal notice to the company about his claim which is rejected by the company by stating that there cannot be any claim or monopoly over the seeds and plants as it is a matter of common knowledge of the farmers. Can Mr. Desai get protection under any Intellectual Property Law? If yes, identify the law by stating the main provisions of that law. What is the justification for enactment of such law?
- c. In respect of agricultural goods, natural goods, handicraft or food stuffs, there was no specific law governing the geographical indications of such goods which could adequately protect the interests of the producers of such goods. Also under the TRIPs, other countries are under no obligation to extend the protection unless such indication is protected in the country of its origin. To find the solution of such conflicts, India has enacted the law for protection of Geographical Indication. Discuss the meaning and registration procedure of Geographical Indication under the Act. Do you feel that the Geographical Indication of Goods is an Intellectual Property in its true sense?

Q.9 Write short notes on **any two** of the following: (10)

- a. Revocation of Patents
- b. Doha Declaration
- c. UPOV
- d. Piracy of Registered Design.

Q.10 Answer in brief:

(05)

- a. What are the criteria for registration of Design?
- b. What is the object of Budapest Treaty?
- c. What do you mean by Exclusive License?
- d. What are the kinds of assignments?
- e. What is Most Favoured Nation treatment?



