

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

**Course: Introduction to Laws of IPR & International Intellectual Property
Organizations**

Semester- I (Batch: 2024-25)

End Semester Examination: October 2024 (LL.M)

Date: 25th Oct, 2024

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- 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.

- | | Marks |
|--|--------------|
| Q.1 Explain the theoretical framework of intellectual property by referring to the underlying premises on which the intellectual property rights are based and protected. | (5) |
| Q.2 Write a brief note on the following:
a) Pentel Kabushiki Kaisha & Anr. v. M/s Arora Stationers & Ors. 247 (2018) DLT 9
b) Microfibers Inc. v. Girdhar & Co. 2009 (40) PTC 519 | (8) |
| Q.3 The plaintiff is the registered proprietor of two of its designs, both of which are valid and subsisting. The plaintiff filed the suit for infringement of design claiming that the defendant's product for which the defendant has got design registration was on a visual look indistinguishable from the plaintiff's product. It claimed that the defendant's product had the same or similar design, features of shape, configuration colour scheme and pattern as the plaintiff's product and designs. Advise the plaintiff in this situation by way of referring to relevant statutory provisions and case laws. | (7) |
| OR | |
| 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 Court through judicial pronouncements. | |
| Q.4 Examine how the evolution of international intellectual property law has been impacted by the Paris Convention for the Protection of Industrial Property. Also discuss the following aspects in your response:
a) Historical context and significance of the Convention
b) Key provisions and their implications for member states
c) Recent challenges and adaptations faced by the Paris Convention in the context of globalization and technological advancements | (10) |
| Q.5 Misappropriation of traditional knowledge and bio-piracy of genetic resources are issues of great concern for all developing countries. These issues are being pursued at several multilateral forums. M/s Purimed Co. LTD., Korea, filed a patent application on 09-06-2005 for treating heart diseases using Indian Lotus. The Indian Lotus or the Lotus (Nelumbo nucifera) is a culturally significant plant in Asia that is often found growing | (3x2=6) |

out of the mud in freshwater ponds. Most parts of the Lotus are edible, including the flowers, leaves and seeds. The Koren Company claims to have traditional knowledge and is looking forward to filing for a patent on the medicinal utilities of the Lotus Plant.

In the light of the above-stated factual matrix, answer the following questions:

- What is Traditional Knowledge and why must it be protected?
- Make out a case for India arguing the various statutory and international legal safeguards made available to protect Traditional Knowledge in India.

- Q.6 The Protection of Plant Varieties and Farmers' Rights Act, 2001 is created to protect plant breeders' rights and stimulate investment for research and development in the public and private sectors to develop new plant varieties. Facilitate the growth of the seed industry in the country, which will ensure the availability of high-quality seeds and planting material to the farmers. (8)

The Mahatma Phule Krishi Vidyapeeth, Rahuri- 413722, District Ahmednagar, Maharashtra, has approached to register for an Extant (VCK) variety of Safflower (*Carthamus tinctorius* L.) having denomination PHULE CHANDRABHAGA (SSF-748).

The specifications of the application are as follows:

Passport data of the variety	PHULE CHANDRABHAGA (SSF-748)
Applicant	Mahatma Phule Krishi Vidyapeeth
Address of the applicant	Rahuri - 413722, District Ahmednagar, Maharashtra
Application details	-
Crop (taxonomical lineage)	Safflower (<i>Carthamus tinctorius</i> L.)
Denomination	PHULE CHANDRABHAGA (SSF-748)
Type of variety	Extant
Classification of variety	VCK
Denomination	-
Name of reference variety	A1 and Phule Kusuma

Advise the client on the steps to be taken for registration under the Act, with the help of the relevant statutory provisions of the Protection of Plant Varieties and Farmers' Rights Act, 2001, The Protection of Plant Varieties and Farmers' Rights Rules, 2003 and The International Plant Protection Convention (IPPC).

- Q.7 Write short Notes: (Any Two) (3x2=6)
- Need for a statutory framework to protect Trade Secrets in India
 - Conditions for the grant of the breeder's rights
 - Essentially derived variety
 - National Gene Fund