

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Intellectual Property Rights
Semester-VIII (Batch: 2012-17)

Mid Semester Test: Feb-Mar. 2016



Date: 2nd March, 2016

Duration: 2 hours

Max. Marks: 30

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.

Q.1 Answer **any three** from the following:

Marks
(3x5=
15)

- (a) A is a very famous scientist, who is an employee of Safe Food Ltd., a company engaged in the research relating to food processing and preservation. Every day, A prepares his food himself. One, when he visits his friend's place, he is requested by his friend to prepare his favorite meat dish. During cooking, he does not find all the required ingredients therefore he is trying to use all of them which are available. Meanwhile, in the kitchen, he finds a chemical, Acetic Acid, which is commonly known as Vinegar and he thinks to use the same for preparing the dish. During the process, he finds that when he puts vinegar in the meat, the meat becomes very tender and it can be cooked more easily. He becomes surprised to find a unique solution of very common problem of cooking meat. Finding such unknown result, he becomes very happy and next day he files patent application for **'Use of vinegar (Acetic Acid) for the process of tendering meat'** before the patent office. Meanwhile, Safe Food Ltd objects his application as he was employee of the company and only company can claim patent on his all inventions by virtue of his employment conditions. Discuss in light of applicable legal provisions who will succeed for obtaining patent? Can patent be granted? Explain the inventions for which patent cannot be granted in detail.
- (b) X University is a very well-known for imparting legal education amongst the students. For the examination purpose, the university appoints various examiners who are not staff members of the University for setting question papers. In 2014, the University appointed 15 examiners for setting question papers for LL.B examinations and each of them were paid Rs. 10000/- for setting various question papers. The university has entered into an agreement with Y Ltd, a printing press by which the University gets all the question papers printed for the examinations. After completion of examination in April 2014, Z Ltd, a famous publishing house came with a student friendly publication in form of 'Sure Suggestions' for LL.B examination in which more than 50 question papers of different Universities were published along with their answers. Finding the question papers published in 'Sure Suggestions', Y Ltd. files a suit of copyright infringement against Z Ltd. The contention of Z Ltd is that they are not liable for copyright infringement for various reasons. First, they have published it for academic purpose. Second, Y Ltd. does not possess copyright for the question papers as they are

mere printers, therefore, the necessary party in the suit for infringement is the University. Thirdly, the 'Sure Suggestion' contains more than 50 question papers while there are only 10 question papers are printed which were asked in the examination by X University therefore there is no case of grave infringement. Based on the facts, answer the following questions

1. Who may claim copyright in respect of question papers? (1 Mark)
2. Whether the contentions of Z ltd. are correct? (1 Mark)
3. What would be the situation if Z ltd. would have obtained the permission of X University before publishing 'Sure Suggestions'? (1 Mark)
4. Explain infringement of Copyright as provided by the Copyright Act 1957 (2 Marks)

- (c) *"The exclusive rights granted by the Copyright Act are limited by several statutory and Constitutional limitations on copyright law. The most well-known of these limitations is "fair use". The doctrine of fair use developed over the years as courts tried to balance the rights of copyright owners with society's interest in allowing copying in certain, limited circumstances. This doctrine has at its core a fundamental belief that not all copying should be banned, particularly in socially important endeavors such as criticism, news reporting, teaching, and research"* – Critically discuss the statement in the light of acts which does not constitute infringement of copyrights.
- (d) Opposition of patent is one of the most important step in the procedure for obtaining patents. Contrary to other Intellectual properties, Patents Act provides for multiple oppositions. Discuss how the patents may be opposed? Can you oppose the patent after its grant? Explain the grounds and conditions for the same.

Q.2 Answer **any five** of the following:

(5x2=10)

- (a) Give justification for the protection of Intellectual Property Rights.
- (b) What is the purpose of patent examination? When the examination of patent will take place?
- (c) An exclusive license of the patent can be compared with temporary assignment of patents. Do you agree? State reasons for the same.
- (d) Discuss: *R. G. Anand v. Delux Films*.
- (e) Explain in detail author of copyright for various works.
- (f) Give the conditions for grant of compulsory license of patents. What is the purpose to grant compulsory license?

Q.3 Answer the following in brief. (Word limit 30 to 50 words)

(5x1=05)

- (a) Give the meaning of inventive step.
- (b) If Patents are compared with a contract between an inventor and the Government, give the consideration aspects form both the parties.
- (c) What was the patent claim in the case of *Diamond v. Chakrabarty*? How many claims were accepted?
- (d) Give the meaning of Copyright Society.
- (e) What do you understand by performers' rights?
