

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Information Technology Law
Semester-X (Batch: 2011-16)

End Semester Examination: April-May 2016

Date: 30th April, 2016

Duration: 3 hours

Max. Marks: 50

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.
- **Where ever not provided, ITA is Information Technology Act 2000.**
- **Quote relevant case laws & sections of ITA while answering all question, even where it is not mentioned.**
- **Bare Act is not allowed.**

Attempt **any four** from Q.1 to Q.7.

Marks

- Q.1 An application is made by Government of India to, ISP Google in India, to disclose the details about an account that is operated by latter in Ireland. The said account is related to the anti-social activities as per the intelligence reports in India. The ISP which is basically incorporated in US denies to do so. An appropriate court having jurisdiction in India passed an order for the ISP to release this information. The notices were served in US. Rather than accepting the application the ISP challenged it on grounds of jurisdiction. Based on the above fact, answer the following questions applying appropriate provision/s of law. (10)
- (a) Whose contention is correct? That of GOI or ISP? Give reasons. What are the provisions of CPC, CrPC, Consumer Protection Act, 1986 to decide the jurisdiction in court cases?
- (b) What are the rules explaining guidelines for ISP to follow in ITA, 2000? Explain in detail.

OR

The petitioner no. 2 (P-2) is accused of offences punishable under Sections 120-B, 500, 501/34 I.P.C in C.C. No.679 of 2009 on the file of XI Additional Chief Metropolitan Magistrate, Secunderabad along with another. The petitioner no. 1 (P-1) is Google India Private Limited Co. represented by its Managing Director (Sales and Operations). The 1st respondent/complainant is Alsaka Industries Limited, Secunderabad represented by its authorized signatory who is its Deputy Manager- Legal. The complainant is engaged in business of manufacturing and selling of Asbestos cement sheets and allied products. It is alleged that petitioner no.1,viz., Gopala Krishna is a Co-ordinator "Ban Asbestos India" a group which is hosted by P-2 and publishes regular articles in the said group. On 21.11.2008 an article was published in the said group and it was captioned as "poisoning the system; Hindustan Times" aiming at a single manufacturer of Asbestos cement products viz., the complainant and names of renowned politicians of the country X and Y who have nothing to do with the ownership or management of the complainant-company were named in that article. It is further alleged that on 31.07.2008 another article captioned as "Visaka Asbestos Industries making gains" and both the above articles contained defamatory statements against the complainant and they are available in Cyber

space in the form of articles for worldwide audience. In the complaint, detailed defamatory remarks made in several other articles published by A-1 in A-2 group are also given.

It is contended by the senior counsel appearing for the petitioner/A-2 that actions of intermediaries such as Google Inc., which is a service provider providing platform for end users to upload content, does not amount to publication in law and consequently the question of holding such intermediaries liable for defamation does not arise. Senior Counsel appearing for the petitioner placed reliance on Section 79 of the ITA, 2000 in support of this contention.

Based on above fact, discuss the following issues citing suitable provisions of law & cases:

- (a) Whose contention is correct and why?
- (b) What are the rules explaining guidelines for ISP to follow in the ITA, 2000? Explain in detail.

- Q.2 'Aadhar is now a reality & it could be observed that on one hand it makes things easy for government, while on other it is cumbersome for residents'. Discuss the positive & negative aspects of Aadhar Act 2016 in the light of the above statement. (10)
- Q.3 Discuss in detail the different types of cybercrimes mentioned in the ITA, 2000. Give a short note on the cyber torts & differentiate the two as per the ITA. (10)
- Q.4 The plaintiff in this case was the National Association of Software and Service Companies (Nasscom), India's premier software association. The defendants were operating a placement agency involved in head-hunting and recruitment. In order to obtain personal data, which they could use for the purposes of head-hunting, the defendants composed and sent e-mails to third parties in the name of Nasscom. Plaintiff demanded that this act is violation of their legal rights, and should be strictly punished. The defendant denied any such thing to be legally invalid as the said act was not mentioned in any statute so far & thing which is not punishable can be committed as legal. (10)
Advice plaintiff in this case, citing proper case law & provisions of the ITA, 2000 & identify the appropriate wrong/crime in this case against the defendant. Whether the contention of defendant is correct? Justify your answer.
- Q.5 Assistant Commissioner of Police, Cyber Crime Cell, C.C.B.Egmore, Chennai has filed final report against the accused, that on the evening 7.2.04, at Cyber Café Hello World Centre, Sion, Mumbai having an I.P.61.11.10.99, the accused with the intention of harming the reputation of the Complainant Ms. R, created user id in the name of her and composed an obscene message intending that such document shall be used for posting in different obscene Yahoo Group. The intention was to make others to believe that the document was made by Ms. R and the persons seeing the obscene message would send offending calls to her, harm her reputation, insult her modesty by the words exhibited in the email. In the course of same transaction, in the evening of 7.2.04, at Cyber Café Hello World Centre, Sion, Mumbai, accused used a computer having an IP 61.11.10.99 posted obscene message which were lascivious and also have the effect to corrupt persons who are likely to read and see such obscene messages. In the morning of 9.2.04, at Cyber Café Heighten Advertising, Mahim, Mumbai, the accused used a computer having an IP 202.88.165.53 and entered user id. of Ms R. which was created by him, and composed an obscene message intending that such document shall be used for posting in different obscene Yahoo groups. On 10.2.04, a friend of Ms. R informed her about the said mail, id created in her name on phone. Ms. R when came to know about it, could not understand that how her inbox was full of obscene mails in response to the fake mail sent from her fake mail id. When she visited the mail she realized that her contact details are correct in (6+4= 10)

fake id. She immediately lodged FIR to nearby cyber cell & mentioned in FIR that the unknown accused have committed offences u/s 469 & 509 IPC, and 67 of I.T. Act.

(S.509 IPC: Word, gesture or act intended to insult the modesty of a woman, S. 469 IPC: Forgery for purpose of harming reputation)

Based on the above fact of the case, discuss

- (a) Whether the case is maintainable or not? What crime is committed against Ms. R in this case? What remedies are available to her?
- (b) What is the responsibility of person managing cyber café in this regard? Discuss with the help of appropriate rules made by GOI.

- Q.6 Autodesk, Inc. (hereinafter "Plaintiff 1") is a renowned U.S.-based design software and digital content company, providing design software to professionals, has several authorized resellers in India and also claims to be the owner of various trademarks in India, including AUTODESK and AutoCAD. Microsoft Corporation, (hereinafter "Plaintiff 2") owns software such as Microsoft Windows and Microsoft Office and is almost a household name regarding computer peripherals. It also has a subsidiary company in New Delhi. The plaintiffs claim that the software developed and marketed by them are computer programs as per Section 2(ffc) of the Copyright Act, 1957 and also covered as 'literary work' as per Section 2(o) of the Copyright Act, 1957. Moreover, the rights of authors of member countries of the Berne and Universal Copyright Conventions are protected under Indian Copyright laws since both India as well as U.S.A. are signatory to both these conventions. Based on the information regarding large-scale use of unlicensed/pirated software by the defendants, plaintiffs have alleged infringement of their copyright and trademark rights by the defendants. (10)

Issues raised in the case:

Whether the defendants are guilty of having infringed the copyright and trademark right associated with the software that belong to the plaintiffs?

Remedies sought by plaintiffs:

Injunction restraining the defendants from infringing the plaintiffs' copyright and registered trademarks, damages of Rs.20 lakhs and rendition of accounts and delivery up of the unlicensed/pirated software contained in hard disks, compact disks, floppies etc.

- (a) Discuss whether the issues raised in case are maintainable?
- (b) Cite appropriate cases and provision of law/s to suggest remedies to affected party.

- Q.7 Write the summary of, 'The Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009'. (10)

OR

Write the summary of, 'The Information Technology (Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information) Rules, 2009'.

- Q.8 **Compulsory Question** (2x5=10)
Write short notes on (word limit: 500 words):
(a) Net neutrality & free basics controversy
(b) Banks & IT
