

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Intellectual Property Rights
Semester-VIII (Batch: 2013-18)

Mid Semester Test: Feb-Mar. 2017

Date: 1st March, 2017

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.

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| | | Marks |
| Q.1 | Answer any two of the following: | (2x5=10) |
| | (a) A Trade Mark possesses distinctive character for registration. The distinctive character can be either inherent or acquired. What is the meaning of inherent or acquired distinctiveness? Explain with relevant provisions of the Trade Marks Act, 1999 and case law. | |
| | (b) Explain the idea-expression dichotomy in Copyright law as interpreted by the Supreme Court in <i>R.G. Anand v. Delux Films</i> . | |
| | (c) Explain the theoretical framework of Intellectual Property referring to the underlying premise on which the Intellectual Property Rights are based and granted. | |
| Q.2 | (A) Answer any two of the following. Examine the correctness of the following statements and substantiate your answer by referring to relevant provisions. | (2x2=04) |
| | (a) It is not necessary to register a trade mark since the kind and scope of protection available to an unregistered trade mark under common law is satisfactory. | |
| | (b) Both the collective marks and certification marks can be used by individuals. | |
| | (c) Though trademark can be protected in perpetuity, life of a trademark depends on its actual use | |
| | (B) Answer the following by referring to relevant provisions and cases | (06) |
| | Searle is the registered proprietor of the famous anti diarrhoea drug LOMOTIL. The trademark LOMOTIL is an 'inventive word' derived from the term 'Low Motility'. The drug is sold in the distinctive trade dress that consists of blue colour strip using a particular red colored font and design. Searle also claims copyright protection for the layout, get up, packaging, colour scheme, lettering and all other artistic work in its product LOMOTIL. Maiden Pharmaceuticals starting manufacturing the same pharmaceutical preparation and sold it using the same trade dress under the trademarks 'MICROTIL' and 'MONOTIL'. Searle instituted infringement action against Maiden for dishonestly adopting a deceptively similar mark to pass off its goods as that of Searle. | |