

# Printout

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**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: **Law of Biotechnology and Challenges of Traditional Knowledge**  
Semester-II (Batch: 2013-14)

**End Term LL.M. Examination: May-June 2014**

**Date: 4<sup>th</sup> June, 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.
- **Bare Act is not allowed.**

**All Questions are Compulsory**

**Marks**

- Q.1 Myriad was granted patents by the United States Patent and Trademark Office (USPTO) on certain diagnostic techniques for detecting Breast and Ovarian cancer. Like any other patentee, it started asserting its patent rights against anyone found violating the same. However, such vigorous assertion created a situation where cost of treatment was exorbitantly high—defeating the very purpose for which patents are granted. Patients knocked on the door of the courts and challenged the very grant of patent itself. Dispute went all the way to the Supreme Court of USA. Critically analyse the judgment of the Circuit Court and that of the Supreme Court of America. Do you think the judgment has succeeded in addressing the concerns of the patients in particular? (20)
- Q.2 “The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world’s trading nations and ratified in their Parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business. The WTO’s procedure for resolving trade quarrels under the Dispute Settlement Understanding (DSU) is vital for enforcing the rules and therefore for ensuring that trade flows smoothly. Countries bring disputes to the WTO if they think their rights under the agreements are being infringed. Judgments by specially appointed independent experts are based on interpretations of the agreements and individual countries’ commitments.” (20)
- International trade in Living Modified Organisms (LMOs) and their products has presented DSU a persistent challenge which seems to be far from over. Critically evaluate the decisions rendered and explain their implications.
- Q.3 Mr. M Veerappa Moily (Former Minister of Environment and Forests, Government of India) had given his go-ahead for field trials of over 200 transgenic varieties of GM crops which got the clearance from the Genetic Engineering Approval Committee (GEAC) in its meeting in March last year. Subsequently, the government’s regulator on March 21 had re-validated 10 varieties of transgenic crops including wheat, rice, maize and cotton and allowed multi-national seed companies to go for “confined field trials” of these varieties. This decision came under severe attack of Parliamentary Committee on Agriculture. (20)

How far do you agree with the Minister’s decision? How far in your opinion this

decision is in consonance with the stand of Government of India in the last two decades and the consequential regulatory framework for this purpose? Substantiate your views.

- Q.4 Breeders have filed suits on their patent infringements against farmers in various countries. This indicates that there is a need for protection of their interests through laws. Farmers in India too have traditionally rendered singular service in developing newer varieties of plants. However, there is hardly any need to protect their interests in their pioneering innovations through enacting Protection of Plant Varieties and Farmers' Rights Act of 2001. They are smart enough and can adequately protect their rights without this law. (10)

Critically evaluate this statement in the light of relevant provisions of the Act.

or

East is known for the manner it has valued its traditions for centuries. The wisdom of the East is to be found in her traditional knowledge. However, traditional knowledge has time and again being victimized by piracy and consequent patent protection given to it in the West. It's time that developing nations become vigilant and taken express measures to protect their traditional knowledge. (10)

How far do you agree with the above-mentioned statement? Discuss this particularly in the light of Indian experiences.

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