

Name:
Enrolment No:



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, December 2022

Course: IPR in Cyberspace
Program: Btech LLB CSE CL
Course Code: CLCB4001

Semester: VII
Time : 03 hrs.
Max. Marks: 100

Instructions:

SECTION A
(5Qx2M=10Marks)

S. No.		Marks	CO
Q 1	What is cyberspace?	2	CO1
Q 2	Essentials of a copyright	2	CO1
Q 3	Meaning of Industrial Design	2	CO2
Q 4	Rights of Trademark holders	2	CO2
Q 5	Types of copyrighted works	2	CO3

SECTION B
(4Qx5M= 20 Marks)

Q 6	Discuss the role of Trademark as an intellectual property.	5	CO4
Q 7	The protection of the interests of the copyright holders is an important necessity in the cyberspace. Elucidate.	5	CO3
Q 8	Cyberspace has become a big threat to the holders of geographical indications. Discuss with suitable examples.	5	CO5
Q 9	Analyse how the fair use principle is applied to the benefit of the defendants in some of the cases of copyright infringement.	5	CO2

SECTION-C
(2Qx10M=20 Marks)

Q 10	Which are the two most infringed categories of intellectual properties in cyberspace? How has the courts responded to the infringement of these two types of IPs? Cite suitable case laws.	10	CO5
Q 11	Analyse the principles applied by the court in deciding the case of M/S. Nandhini Deluxe vs M/S. Karnataka Cooperative Milk (Nandini vs Nandhini)	10	CO4

SECTION-D
(2Qx25M=50 Marks)

	It is the case of the plaintiff that the plaintiff-company was founded in April 1970 as „General Digital“, and in July 1971, it adopted its current name and trade mark "WESTERN DIGITAL" as part of its corporate		CO5
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name. The plaintiff, a wholly-owned subsidiary of Western Digital Corporation, is one of the largest computer hard-disk drive manufacturers in the world.

The plaintiff is a world-renowned manufacturer and marketer of inter alia storage devices, media players, routers/switches/bridges, comprising of Original Equipment Manufacturer (in short, „OEM“)/ system manufacturer, desktop, and enterprise, solid state drives (in short „SSDs“), software and mobile applications which are marketed and sold under the plaintiff’s “Western Digital trade marks”.

“WESTERN DIGITAL” is the most essential feature of the plaintiff’s corporate name, and is also used as a trade mark by the plaintiff-company, either as a standalone or as a conjunctive mark. The plaintiff’s “WD” logo, which is its corporate logo, is present on all the labels and packaging of their goods.

The plaintiff has applied for and is the registered proprietor of the “Western Digital trade marks” in India. The details of trade mark registrations granted in favour of the plaintiff in Class 5 under the provisions of the [Trade Marks Act, 1999](#) (hereinafter referred to as “the Act”) are as follows:

The plaintiff also owns and maintains several websites whose domain names contain “WESTERN DIGITAL” or “WD” and are used for marketing and selling goods bearing the “Western Digital trade marks”, the details whereof are given in paragraph 12 of the plaint.

The plaintiff submits that the Western Digital trade marks have been registered in many countries such as Australia, China, Singapore, Canada, the European Union, France, Hong Kong, New Zealand, Russia, Singapore, Switzerland, and the United States of America and the United Arab Emirates, to name a few. The plaintiff has provided details of the revenue earned by the plaintiff-company, up until the filing of the present suit, in paragraph 15 of the plaint.

The plaintiff further states that it has invested large sums of money in advertising and promoting the goods bearing the “Western Digital trade marks” world-wide as well as in India. Since the year 2005, the plaintiff has spent more than Rs. 20 Crore to build the “WESTERN DIGITAL” and “WD” brands in India.

The plaintiff further asserts that they have been extensively advertised in all major international magazines including „Wired“, „Rolling Stone“, „Fast Company“, „PC Adviser“, „PC Pro“, „Computer Shopper“, and „The Gadget Show Magazine“, to name only a few. All these magazines are widely circulated and read in India as well. The “Western Digital trade marks” are also regularly advertised in Indian publications as also on various television and satellite channels around the world.

	<p>The plaintiff claims that the goods manufactured and sold by them bearing the "Western Digital trade marks" have been the recipient of numerous awards around the world from leading trade publications such as „PC World“ and „PC Magazine“, the details whereof are given in paragraph 18 of the plaint. The plaintiff has received awards in countries such as the United Kingdom, Italy, Spain, and Russia.</p> <p>Apart from its retail consumer business elaborated above, the plaintiff also has a highly successful business of manufacturing and selling hard-disk drives to system manufacturers such as Dell, HCL and Wipro for integration into their systems/products/ hardware. For example, a laptop manufacturer may buy the plaintiff’s internal hard-disk drive and integrate it into their laptop. These OEM products are n It is the case of the plaintiff that in early-November 2019, it was brought to the knowledge of the plaintiff that the sale of counterfeit and refurbished hard-disk drives bearing the "Western Digital trade marks" drives is taking place in Nehru Place market in New Delhi. The plaintiff, thereafter, appointed an investigator, Mr. Pawan Kumar, to conduct a survey at the Nehru Place market.</p> <p>Upon a visit to the premises of the defendant, a retail shop located in the Nehru Place Market, New Delhi, the investigator learnt that the defendant has been selling the hard-disk drives bearing the plaintiff’s "Western Digital trade marks". The investigator, in an affidavit, stated that on entering the premises of the defendant, he noticed several hard-disk drives bearing the plaintiff’s "Western Digital trade marks" in several generic Electrostatic Discharge (in short, „ESD“) bags, which did not bear the "Western Digital trade marks" of the plaintiff. Two hard drives of 500GB, at Rs. 750/- each, were purchased by the investigator.</p> <p>The plaintiff asserts that for the drive having Sl. number WCAV9DX61577, the plaintiff ran a search of the same in their internal database and discovered that serial numbers corresponded with hard-disk drives that had been sold to OEM/System Manufacturers in the year 2013 and had been purchased for the purposes of integrating it into their finished products.</p>		
Q 12	Discuss in the light of the facts whether the defendants are guilty of passing of old hard-disk drives and used hard- disk drives of the plaintiff as new products of the defendant?	25+25	
Q 13	What are the established principles which the court applies in deciding the cases of trademark infringement?		

