


Name: Enrolment No:			
<p style="text-align: center;">UPES End Semester Examination, May 2025</p> <p> Course: Law of Trade Mark and Practice Semester: II Program: LLM Time: 03 hrs. Course Code: CLLT7016 Max. Marks: 100 </p> <p>Instructions: All Questions are compulsory</p>			
SECTION A (5Qx2M=10Marks)			
S. No.		Marks	CO
Q 1	Distinguish between collective and certification marks with examples.	2	CO1
Q 2	What are non-conventional trademarks? Mention any two with relevant illustrations.	2	CO1
Q 3	State two key functions of a trademark in modern commercial markets.	2	CO1
Q 4	Briefly explain the concept of “distinctiveness” as per the spectrum of distinctiveness test.	2	CO1
Q 5	Distinguish between tarnishment and blurring under well-known trademark.	2	CO1
SECTION B (4Qx5M= 20 Marks)			
Q 6	Explain the procedure for registration of trademarks in India and identify key legal formalities.	5	CO2
Q 7	Explain the concept of absolute and relative grounds of refusal to assess the registrability of the mark “Fresh & Clean” for toiletries.	5	CO2
Q 8	Compare and contrast assignment and licensing of trademarks under Indian law.	5	CO2
Q 9	Explain the legal implications of non-distinctive trademarks with reference to case law.	5	CO2
SECTION-C			

(2Qx10M=20 Marks)			
Q 10	<p>A startup company “GlowBrite” has applied for registration of its new skincare product under the trademark “FreshGlow.” However, the registry issues an Examination Report citing objections under Section 9(1) and Section 11(1) of the Trade Marks Act, stating that “FreshGlow” is descriptive and similar to an existing mark “GlowFresh” registered in the same class.</p> <p>As a legal counsel, advise the company on how to respond to the objections. Analyze the grounds for refusal and suggest legal arguments or modifications that may help the mark qualify for registration</p>		CO5
Q 11	<p>A rival cosmetics brand starts marketing a product under the brand name “ROLX” with a similar crown logo and packaging reminiscent of the renowned watchmaker ROLEX. The rival brand claims that their products are unrelated to watches and hence no confusion can arise.</p> <p>Critically examine whether ROLEX can succeed in preventing this usage under Indian trademark law. Discuss the concept of well-known trademarks, dilution, and unfair advantage.</p>		
SECTION-D			
(2Qx25M=50 Marks)			
Q 12	<p>“LUXMODA” is a reputed fashion brand known for its premium handbags and accessories. Seeking to expand into new product categories, LUXMODA enters into a licensing agreement with a startup company, allowing it to use the “LUXMODA” brand name exclusively for launching a new line of luxury watches.</p>	25	CO4

	<p>However, within months of the product launch, LUXMODA discovers that the startup is also using the brand name “LUXMODA” for a range of eyewear and perfume products being sold online and in select retail chains. The original licensing agreement does not mention or authorize use of the mark for these additional product categories.</p> <p>LUXMODA now seeks legal advice on how to enforce its trademark rights and prevent unauthorized use beyond the agreed scope.</p>		
Q 13	<p>“<i>Botanix Naturals</i>” is a well-established Indian herbal skincare brand. For over 10 years, the company has used the trademark “EarthBloom”, featuring an iconic lotus-shaped green logo, across its range of organic face creams, oils, and hair care products. The brand enjoys widespread consumer recognition in India and has invested heavily in its visual identity, particularly the lotus logo which symbolizes purity and botanical wellness.</p> <p>Now, seeking to expand into global markets, <i>Botanix Naturals</i> plans to register “EarthBloom” internationally in jurisdictions such as France, Germany, and the United States, relying on the Madrid Protocol for international protection.</p> <p>However, before registration is completed in France, a French cosmetic company opposes the application, alleging that the <i>EarthBloom</i> lotus logo is visually and thematically similar to its registered mark “<i>FleurTerre</i>”, which also uses a stylized floral motif in green. The French company argues that such similarity is likely to confuse consumers and dilute the distinctiveness of its own mark in the cosmetic segment.</p>	25	CO4

	<p>You are the intellectual property legal consultant for <i>Botanix Naturals</i>, advising them on strategy.</p> <p>Prepare a comprehensive legal strategy memorandum addressing the following issues:</p> <p>(a) Explain the procedure for international trademark registration under the Madrid Protocol, with specific reference to:</p> <ul style="list-style-type: none"> • The role of the Indian Trade Marks Registry as the Office of Origin, • Steps involved in filing, designating countries, WIPO examination, and national phase examinations, • Statutory timeframes, and the effect of non-refusal within 12–18 months, and • Strategic advantages and limitations of using the Madrid system compared to individual national filings. <p>(b) Evaluate how <i>Botanix Naturals</i> can strengthen its claim under Indian trademark law by:</p> <ul style="list-style-type: none"> • Relying on Section 34 for prior use protection, • Establishing inherent distinctiveness or acquired secondary meaning of the mark “EarthBloom”, • Providing legal basis for defending the logo’s registration under Sections 9 and 11 of the Trade Marks Act, 1999, • Suggesting relevant evidentiary materials (e.g., advertising history, consumer recognition, market share) to prove brand reputation. • ents that the lotus logo is symbolically distinct from “FleurTerre,” based on cultural and aesthetic uniqueness. 		
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	<ul style="list-style-type: none">• Comment on the relevance of the Nice Classification system (likely under Class 3 for cosmetics), and whether both marks are operating in the same subclass or market segment.• Discuss whether Botanix can raise bad faith or lack of actual confusion as counterpoints.		
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