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UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, May 2018

Program: B.Tech ET LLB IPR NU

Subject (Course): TRADEMARK AND DRAFTING

Course Code :LLBL465

No. of page/s: 2

Semester – VIII

Max. Marks : 100

Duration : 3 Hrs

Section A

(Short Answer type Memory Based general Questions) (2x5=10)

1. Explain any 5 of the following
 - a. Extended passing off
 - b. Anton pillar order
 - c. Comparative advertisement
 - d. Prior use of trademark
 - e. Ambush marketing
 - f. Cancellation due to non-use of trademark

Section B

Short answer type Conceptual Questions (2x10=20)

1. Discuss the ways of transferring the IP rights (registered as well as unregistered) by a proprietor. **(10 Marks)**
2. Discuss the procedure for registration of trademark under the Trade Mark Act **(10 Marks)**

Section C

Analytical Questions (2x10=20)

3. The Indian Intellectual Property Office recognizes well-known trademarks in India based on their international, national and cross border reputation. Discuss the infringement of well-known trademark along with its types and relevant case laws. **(10 Marks)**

4. Da Vinci's *Mona Lisa*, a painting of worldwide fame, is being widely used in apparels. Analyze the legality of usage based on character merchandising along with its types and relevant case laws.

(10 Marks)

Section D

Application based Case Study Questions (50 Marks)

1. Pt. were registered owner of 'Milky Way' and 'Galaxy' in India for chocolates but not for ice creams. Def were selling ice crème without any brand name. However, they sold in their shop under the name 'milky way galaxy of ice crème'. Can any remedy be claimed here? Discuss the concept of trans-border reputation with the help of leading cases.
(15 Marks)
2. 'Where goods bearing a registered trade mark are lawfully acquired by a person, the sale of the goods in the market by that person is not infringement of the trade mark'. Explain the statement relating to the concept of parallel importing along with the relevant case laws and exhaustion of rights principle.
(20 Marks)
3. Since 1956, a predecessor of X &Y Co. had been selling orange juice using a orange shaped bottle. Eventually, the public identified the container with the X &Y Co's juice. On the other side of the world, A &B's predecessor sold its concentrated orange juice in its orange container under its own brand, called *ReaOrange*. The orange-shaped *ReaOrange* product was also very popular in the US. In 1975, A&B entered the UK market selling its orange juice in bottles. By the end of 1980, ReaOrange brand orange juice had 25% of the total juice market in the UK. Decide the case in the light of the concept of passing off along with the relevant cases and its various elements.
(15 Marks)