

Name:	
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, May,2019

Course: Law of Trademark and Drafting	Semester: VIII
Programme: BTech(ET), LLB (IPR)	Max. Marks: 100
Time: 03 hrs.	
Instructions:	

SECTION A

S. No.		Marks	CO
Q 1	Fill in the Blank i. _____ created obligations upon India to amend its Trade Marks Act in order to provide certain minimum protections to trade marks. ii. A mark should be capable of being represented _____. iii. Registration is _____ evidence of validity.	[3]	CO1
Q 2	What are the seven criteria of graphical representation that the European Court of Justice elaborated upon in the <i>Sieckmann case</i> (Sieckmann v. Deutsches Patent - und Markenamt)?	[7]	CO2

SECTION B

Q 3	Explain (preferably with the help of a flow chart) the theoretical process that the Registrar should follow while considering whether or not a mark fulfills the requirements of being granted a registration with reference to the definition of a mark and section 9 of the Trade Marks Act. (Do not include the procedure of registration here).	[10]	CO3
Q 4	Critically analyse the protection of well-known trade marks, against blurring and tarnishment. Is it really required? Is it in consonance with freedom of speech guaranteed under the Constitution of India? Briefly cite cases where relevant.	[10]	CO1

SECTION-C

Q 5	Write short notes on the following: a) Domain name registration and trade marks b) Meta tagging, hyper linking and trade marks	[10]	CO1, CO3
Q 6	Describe the important steps in the procedure of registration in India for an Indian mark.	[10]	CO3

SECTION-D

Q 7	The below mark is of a very famous restaurant chain in USA, known as Los Pollos Hermanos. It is a premium chain and offers gourmet burgers priced quite high. Even in US, it has presence only in bigger towns. They are famous for their beef burgers.	[25]	CO4
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An Indian proprietor wishes to register a word mark known as 'Los Pollos Murganos' in India for restaurants. Los Pollos Hermanos wishes to oppose the mark's registration. Identify each of the legal issues that owners of Los Pollos Hermanos will have to face in successfully opposing this mark, citing relevant provisions and cases, where applicable.

Would the situation be any different, if the above mark (and only the above mark, not the word mark 'Los Pollos Hermanos') was registered in India?

Q 8

Adidas has learnt that a factory in your city is manufacturing shirts and sweaters with the following mark.



Discuss:

- Civil remedies
- Criminal remedies

available to the Adidas.

[25]

CO3,
CO4

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SECTION A

S. No.	Question	Marks	CO
Q 1	Fill in the Blank i. A trade mark is granted for a period of _____ years further extendable for another period of _____ years.	[2]	CO1
Q 2	Explain in short what is: a. Distinctiveness b. Capability to distinguish c. Inherent distinctiveness d. Acquired distinctiveness Please explain properly, what is the difference between these concepts vis-à-vis the other.	[8]	CO1, CO2

SECTION B

Q 3	What is Assignment? Write a short note on its meaning and various provisions applicable to assignment.	[10]	CO3
Q 4	What is Dilution of a Trade mark. Discuss how is it different from Trade Mark infringement and critically analyze whether and in what circumstances is it proper to grant anti-dilution rights to holders of marks.	[10]	CO3

SECTION-C

Q 5	What are the various issues that arise in Trademark law when trademarks enter the world of internet? Discuss.	[10]	CO3
Q 6	Describe the important steps in the procedure of registration in India for an Indian mark.	[10]	CO3

SECTION-D

Q 7	Look at the images below. Assume that these shirts are available for sale on the roadside. If the owners of Chennai Super Kings team chose to file a law suit for passing off against the manufacturers of these shirts, what will be the possible legal consequences and what are the factors by which the same will be affected? (for the puposes of this question, disregard the other legal troubles CSK is entangled into)	[25]	CO4
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Q 8

Coca Cola has learnt that a factory in your city is bottles and cans with the following mark.



Discuss:

- Civil remedies
- Criminal remedies

available to the Coca cola.

[25]

CO4