

Roll No: -----

**UNIVERSITY OF PETROLEUM
AND ENERGY STUDIES**

End Semester Examination, May, 2018

Program/course:

B.Tech. LL.B. CSE

Subject: Intellectual Property Rights

Code :LLBL 401

No. of page/s: 5

Semester – X

Max. Marks : 100

Duration : 3 Hrs

SECTION A

Objective type / Short Answer type memory based general questions

5 questions *2 marks -10 marks

1. Intellectual Property Rights (IPR) protect the use of information and ideas that are of:
 - a. Ethical value
 - b. Moral value
 - c. Social value
 - d. Commercial value
2. If the term of the years of the assignment is not mentioned then it is assigned for how many years under the Copyright Act, 1957:
 - a. 3 years
 - b. 2 years
 - c. 5 years
 - d. 6 months
3. Under which section the definition of 'Mark' in the Trade Marks Act, 1999 is defined:
 - a. Section 2 (1) (j)
 - b. Section 2 (1) (b)
 - c. Section 2 (1) (m)
 - d. None of Above
4. What is the term of Patent as prescribed in Section 53 of the Patents Act, 1970:
 - a. 30 Years
 - b. 20 Years
 - c. 15 Years

- d. 10 Years
- 5. In which section the definition of 'Design' in the Designs Act, 2000 is defined:
 - a. Section 2 (1) (a)
 - b. Section 2 (1) (d)
 - c. Section 2 (1) (e)
 - d. Section 2 (1) (i)

SECTION B

Short Answer Type Conceptual questions

Attempt all questions. All questions carry equal marks

(4 question*5 Marks -20 marks)

- 6. Are Geographical Indications protected in India? Name ten registered Geographical Indications in India.
- 7. What are Non-Conventional Trade Marks? Explain the difference between TM, SM and ®.
- 8. Explain the contribution of 'Personality Theory' in the evolution of Intellectual Property Rights.
- 9. Why Intellectual Property Right protection is not granted to 'Discoveries' in the world?

Section C

Analytical questions

Attempt any two questions. Each question carries 10 Marks

(2 questions *10 Marks -20 marks)

- 10. Write a brief note on the importance of: TRIPS, Paris Convention, Berne Convention and Rome Convention in the evolution of Intellectual Property Rights.
- 11. In the concept of Trade Marks: "Two marks, when placed side by side, may exhibit many and various differences, yet the main idea left on the mind by both may be the same." In the light of this statement explain the concept of Deceptive Similarity with the help of case laws.
- 12. What is the life of Industrial Design? Explain the benefits of registered Design?

Section D

All questions are compulsory

Application based questions/ Case study (2 questions *25 marks-50 marks)

13. Mr. Kamlesh Banerjee, aged 36, resident of Kolkata is educated and Rich businessman. In the Trade Mark Registry Mr. Kamlesh Banerjee made an application for registration of trademark 'INDIANOIL'. The opponent was registered as well as well-known proprietors of Trademark 'indianoil'. When the Trade Mark Registry raised objection, Mr. Kamlesh Banerjee gave two clarifications namely: (i) That the overall presentation, theme and color combination is different from the registered trademark of opponent and (ii) He was not aware about the product of opponent and all this similarity happened coincidentally.

On the basis of this hypothetical problem answer following questions: Answer given in Yes /No form are not acceptable. Justify your answer. **(25 Marks)**

1. Where is the head Office of Trade Mark in India? What is the place of jurisdiction for filing appeal against the decision of Trade Mark Registry?
 2. In your opinion should Mr. Kamlesh Banerjee get trade mark or his application must be rejected?
 3. Explain the meaning of following marks and specify in which category the INDIANOIL falls:
 - a. Descriptive Marks
 - b. Non Descriptive Marks
 - c. Non- Conventional Marks
 - d. Inventive Words
 4. Does this case fall within the ambit of Deceptive Similarity?
 5. Whether the defense of 'Honest and Concurrent Use' will be available to Mr. Kamlesh Banerjee?
14. Jindal Publisher Pvt. Ltd., Noida, the Plaintiff is a popular online publishing house of Law Reports under the name and style of "Supreme Court Cases (Civil)", "Supreme Court Cases (Criminal)" and Supreme Court Cases (Contract Laws) in June, 2016. The plaintiff has also allegedly published the database package, available on CD-ROM for finding Supreme Court rulings on any provision of law. This software is known as "SCHOLARWEB CASES" and is easily compatible on most frequently used Microsoft Windows programme. The defendant named Vikas Publisher Pvt. Ltd., Allahabad, have developed the same software package called "NO.1WEB LAWS", published online in two CD ROMs for finding Supreme Court rulings on any point of law in August 2017. Jindal Publisher Pvt. Ltd. filed suit for the infringement of copyright against Vikas Publisher Pvt. Ltd in New Delhi in November 2017. **(25 Marks)**

On the basis of this hypothetical problem answer the following questions: Answer given in Yes /No form are not acceptable. Justify your answer with relevant Sections and case laws.

- I. Under which section of the Copyright Act, 1957 the term 'Database' is defined?
- II. Who is the author & owner of 'Judgments' under the Copyright Act, 1957?
- III. Whether Vikas Publisher Pvt. Ltd infringes the copyright?
- IV. Which is the place of 'Jurisdiction' for filing suit of infringement?
- V. What remedy is available with the plaintiff?

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Objective type / Short Answer type memory based general questions

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1. 'Inventive Step' under the Patent as prescribed in the Patents Act, 1970 includes:
 - a. Technical Advancement
 - b. More than Existence Knowledge
 - c. Economic Significance
 - d. All of the above
2. Absolute ground for the refusal of registration of Trade Mark is mentioned in which of the following section:
 - a. Section 9
 - b. Section 7
 - c. Section 11
 - d. None of the above
3. Intellectual Property Rights (IPR) protect the use of information and ideas that are of:
 - a. Ethical value
 - b. Moral value
 - c. Social value
 - d. Commercial value
4. Under which section the definition of 'Collective Mark' in the Trade Marks Act, 1999 is defined:
 - a. Section 2 (1) (j)

- b. Section 2 (1) (g)
 - c. Section 2 (1) (m)
 - d. None of Above
5. In which section the definition of 'Design' in the Designs Act, 2000 is defined:
- e. Section 2 (1) (a)
 - f. Section 2 (1) (d)
 - g. Section 2 (1) (e)
 - h. Section 2 (1) (i)

SECTION B

Short Answer Type Conceptual questions

Attempt all questions. All questions carry equal marks

(4 Question*5 Marks -20 marks)

- 6. What are Non-Conventional Trade Marks? Explain the difference between TM, SM and ®.
- 7. Define 'Design' and explain the subject-matter of Designs Act, 2000.
- 8. Explain the concept of 'Passing Off' and 'Infringement' under the with the help of landmark cases.
- 9. What are various Infringements of Copyright given under the Copyrights Act, 1957? Explain various tests for the evaluating the infringement of subject-matter of copyright.

Section C

Analytical questions

Attempt any two questions. Each question carries 10 Marks

(2 questions *10 Marks -20 marks)

- 10. Analyse the contribution of 'Philosophies of Intellectual Property Rights' which contributed for the origin of the protection of intellectual property rights at International and National levels? Which philosophy do you like the most and why?
- 11. Define the term 'Invention' and 'Inventive Step' under the Patents Act, 1970. Describe Inventions which are not Patentable as mentioned in the Act.
- 12. What is the need for the registration of Geographical Indications? How GIs is different from Trade Mark? Mention 5 examples.

Section D

All questions are compulsory

Application based questions/ Case study (2 questions *25 marks-50 marks)

13. K. Nandan created a bronze sculpture named 'Kalima' to decorate 'Nritya Bhawan' situated in Karnataka under the control of Central Government of India. 'Nritya Bhawan' is known for rich heritage of art in South India. The creation of K. Nandan was given special place of pride in Nritya Bhawan for the last 10 years from 1962-1979. In 1979, Government changed and removed the sculpture and dumped in a store room. In the process of removal, it was mishandled and the mural lost its market value. K. Nandan filed suit in District Court for the violation of his right to authorship.

On the basis of this hypothetical problem answer following questions: Answer given in Yes /No form are not acceptable. Justify your answer. **(25 Marks)**

1. In the above-mentioned hypothetical problem who is the copyright owner-Central Government or K. Nandan?
 2. Whether suit by K. Nandan for violation of his copyright is maintainable?
 3. What is Infringement of Copyright as given in the Copyright Act, 1957?
 4. What is the concept of 'Contract of Service' and 'Contract for Service'?
 5. On which landmark case this problem is based?
14. Jindal Publisher Pvt. Ltd., Noida, the Plaintiff is a popular online publishing house of Law Reports under the name and style of "Supreme Court Cases (Civil)", "Supreme Court Cases (Criminal)" and Supreme Court Cases (Contract Laws) in June, 2016. The plaintiff has also allegedly published the database package, available on CD-ROM for finding Supreme Court rulings on any provision of law. This software is known as "SCHOLARWEB CASES" and is easily compatible on most frequently used Microsoft Windows programme. The defendant named Vikas Publisher Pvt. Ltd., Allahabad, have developed the same software package called "NO.1WEB LAWS", published online in two CD ROMs for finding Supreme Court rulings on any point of law in August 2017. Jindal Publisher Pvt. Ltd. filed suit for the infringement of copyright against Vikas Publisher Pvt. Ltd in New Delhi in November 2017. **(25 Marks)**

On the basis of this hypothetical problem answer the following questions: Answer given in Yes /No form are not acceptable. Justify your answer with relevant Sections and case laws.

- VI. Under which section of the Copyright Act, 1957 the term 'Database' is defined?
- VII. Who is the author & owner of 'Judgments' under the Copyright Act, 1957?
- VIII. Whether Vikas Publisher Pvt. Ltd infringes the copyright?
- IX. Which is the place of 'Jurisdiction' for filing suit of infringement?
- X. What remedy is available with the plaintiff?