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Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
Online End Semester Examination, May 2020

Course: Intellectual Property Law Program: BSc LL.B (Hons.) IPR/FHE/M&F Course Code: CLCC4007	Semester: V Time 03 hrs. Max. Marks: 100
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SECTION A

1. Each Question will carry 5 Marks

S. No.	Question	CO
Q 1	Explain the reasons for citing the theory of tragedy of the commons in support of intellectual property rights.	CO1
Q2	Well known trademarks are given protection in countries where they are not even registered. Analyse	CO2
Q3	Elaborate with suitable examples the meaning of literary works under Copyright Law.	CO3
Q4	If colour is to be registered as a type of trademark, what type of trademark will it be and what conditions needs to be satisfied?	CO4
Q5	Explain in short <u>whether</u> microorganisms can be patented?	CO4
Q6	Recently the state of West Bengal & Orissa were fighting over intellectual property rights over the popular sweet rossogolla. What was that fight about?	CO3

SECTION B

- 1. Each question will carry 10 marks**
2. Instruction: Write short / brief notes

Q 7	Discuss the chances of the following to be patented: (a) a naturally occurring bacteria which is discovered for the first time (b) a new form of a medicine with improved efficacy (c) an invention relating to nuclear technology	CO2

Q 8	“The success of a trademark application is a function of its distinctiveness.” In the light of the above statement explain the scale of distinctiveness with respect to trademarks	CO4
Q 9	How does the courts determine the infringement of a copyright when only certain elements of a copyright work are alleged to have been copied? Substantiate with suitable case laws.	CO2
Q 10	Write a note on the importance of protecting geographical indications in a developing country like India. How can it benefit the local and indigenous communities?	CO4
Q 11	What is the importance of the following to the respective intellectual property? (a) inventive step – patents (b) originality – copyrights (c) geographical location – geographical indications	CO3

Section C

1. Each Question carries 20 Marks.
2. Instruction: Write long answer.

Q12	<p>“Technology giant Apple is apparently opposed to a five-employee startup using a pear logo, even if they offer something totally different. The company in question is called Prepear, an app for cooking recipes. Apple has filed a lawsuit because it says the pear looks like the brand's iconic apple and can cause confusion among consumers.</p> <p>The founder of Prepear, Russell Monson, has taken to social networks to ask for help with a Change.org petition to publicize the case and raise funds for the battle against Apple. "Apple has opposed small businesses with fruit-related logos by taking costly legal action even when they look nothing like Apple, or are not in the same line of business," Monson writes in the petition. “Apple has opposed the trademark application for our small business, Prepear, requiring that we change our obviously pear-shaped logo, which is used to represent our brand in the recipe management and meal planning business. Before attacking us, Apple has opposed dozens of other trademark applications filed by small businesses with fruit-related logos. Many of those were changed or abandoned. Most small businesses can't afford the tens of thousands of dollars it would take to fight Apple."</p> <p style="text-align: center;">In the light of the above news report explain in the light of settled principles of trademark law the chances of Apple winning this trademark infringement suit?</p> <p style="text-align: center;">OR</p> <p>“Recently, the aromatic, long grain rice known as ‘Basmati’, became another source of conflict between India and Pakistan. It isn’t the first time that a European GI registration for Basmati has been in the news, nor the first conflict relating to a GI between India and Pakistan. In the past, the GI registration of Pashmina had been a contentious issue. In 2008, India had decided to register Pashmina as a GI domestically and a Pakistani body had opposed this on the grounds that Pashmina was also produced in their territory Pakistan was open for a joint GI tag, but India stated that it could only be possible if it was proven that Pakistan’s wool was of the same quality as India’s. At the end, a GI was granted for ‘Kashmir Pashmina’ solely for India. More than a decade ago, in 2008, India and Pakistan had considered filing a joint application for registration of Basmati as a GI in the EU. However, it</p>	CO4 & CO3
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could not be realised due to rising tensions between the two after the 26/11 Mumbai attacks. Coincidentally, on the same day, Agricultural and Processed Food Products Export Development Authority (hereinafter 'APEDA') filed for Basmati's domestic GI registration and in 2016, the GI was granted in its favour."

In the light of the above news

discuss the issues relating to the ownership of geographical indications in India