

Name:

Enrolment No:



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, December 2018

Course: IP LITIGATION

Programme: B.Tech ET LLB –IPR

Time: 03 hrs.

Instructions:

Semester: XI

CC:LLBL653

Max. Marks: 100

SECTION A

| S. No. | | Marks | CO |
|--------|--|-------|----|
| Q 1 | Write short notes on the followings: | 10 | |
| | a. Ambush marketing b. Trade dress c. Image Merchandising d. Passing off e. Personality rights | 2x5 | 3 |
| | | | |

SECTION B

| Q | Statement of question | 20 | |
|----|---|----|---|
| 1. | Write a note on Right to privacy and publicity available under personality rights and its inter relation. | 10 | 1 |
| 2. | Write a note on comparative advertisement. | 10 | 2 |


SECTION-C

| Q | Statement of question | 20 | |
|----|---|----|---|
| 1. | 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. | 10 | 2 |
| 2. | Trademark infringement is a violation of the exclusive rights attached to a trademark. Analyze the statement in reference to <i>Sleekcraft Test</i> with the help of relevant case laws. | 10 | 3 |

SECTION-D

| Q | Statement of question | 50 | |
|---|-----------------------|----|--|
|---|-----------------------|----|--|

| | | | |
|----|---|-----------|----------|
| 1. | Da Vinci's <i>Mona Lisa</i> , a painting of worldwide fame, is being widely used in apparels. Analyze the legality of usage based on character merchandising along with its <u>types</u> and <u>relevant case laws</u> . | 10 | 3 |
| 2. | Legal action was brought against EA's video game which featured players having the same field or court position as those of the real athletes, as well as a physical likeness (e.g. height, weight, bald head, skin tone, jersey number) resembling them. The right of publicity purports to protect against uncompensated commercial exploitation of a person (such as an athlete's) likeness or identity. Comment. Also, analyze and explain the concept of "right to publicity" with the help of relevant judgements. | 20 | 4 |
| 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 <i>ReaOrange</i> . The orange-shaped <i>ReaOrange</i> 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. | 20 | 3 |

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SECTION A

| S. No. | | Marks | CO |
|--------|---|-------|----|
| Q 1 | Write short notes on the followings: <i>Answer any two</i> | 10 | |
| | a. Trade dress b. Ambush marketing c. Trade mark and passing off d. Personality right e. Right to publicity | 2x5 | 3 |
| | | | |

SECTION B

| Q | Statement of question | 20 | |
|----|--|----|---|
| 2 | Write a note on civil and criminal remedies available in case of a trademark infringement. | 10 | 1 |
| 3. | Write a note on comparative advertisement | 10 | 3 |

SECTION-C

| Q | Statement of question | 20 | |
|----|---|----|---|
| 3. | Trademark infringement is a violation of the exclusive rights attached to a trademark. Analyze the statement in reference to <i>Sleekcraft Test</i> with the help of relevant case laws. | 10 | 2 |
| 4. | 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'. Analyze and explain the statement relating to the concept of parallel importing along with the relevant case laws and exhaustion of rights principle. | 10 | 1 |

SECTION-D

| Q | Statement of question | 50 | |
|---|-----------------------|----|--|
| | | | |

| | | | |
|----|--|-----------|----------|
| 5. | Beyoncé's name is being widely used in apparels. Analyze the legality of usage based on character merchandising along with its <u>types</u> and <u>relevant case laws</u> . | 10 | 3 |
| 6. | Legal action was brought against EA's video game which featured players having the same field or court position as those of the real athletes, as well as a physical likeness (e.g. height, weight, bald head, skin tone, jersey number) resembling them. The right of publicity purports to protect against uncompensated commercial exploitation of a person (such as an athlete's) likeness or identity. Comment. Also, analyze and explain the concept of "right to publicity" with the help of relevant judgements. | 20 | 5 |
| 7. | San Disk has been in Indian market since 1956. Their packaging and color scheme was copied by a rival company who entered the Indian market in 2018. Decide the case in the light of concept of passing off with the help of relevant cases and elements. | 20 | 3 |