

Name:	
Enrolment No:	

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

**Course: Intellectual Property Law**  
**Programme: B.TECH. (ET), LL.B. (Hons.) Cyber Law**  
**Time: 03 hrs.**  
**Instructions:**

**Semester: X**  
**CC:LLBL401**  
**Max. Marks: 100**

**SECTION A**

S. No.		Marks	CO
Q 1	Discuss the Moral Rights of an Author? Explain the right of Attribution/ Paternity as discussed in Amar Nath Sehgal v. Union of India.	5	CO 3
Q 2	Differentiate between Copyright and Design?	5	CO 3

**SECTION B**

Q 3	Explain the idea-expression dichotomy in copyright? Discuss with the help of relevant case laws?	10	CO 1
Q 4	Explain the criteria of obtaining Patent in India. Discuss the legal provisions under the Patent Act along with the recent cases?	10	CO 2

**SECTION-C**

Q 5	Explain what constitutes infringement action in a registered trademark. State what more is necessary to be proved in case the trade mark is not registered so that passing off action may be successful. Explain with the help of Cadila Health v. Cadila Pharma case.	10	CO 3
Q 6	Explain in detail, the concept of Fair use in Copyright law. Discuss the legal provisions under Copyright Act and DU Photocopy Case.	10	CO 2

**SECTION-D**

Q 7	The originality standard in Indian copyright regime is an oft-discussed idea. How original should the author's work be? Would sheer usage of independent skill, labour and capital qualify the author for copyright protection in the derivative work? Answer these questions by discussing elaborately the case of <i>Eastern Book Company and Ors. v. D.B. Modak and Anr.</i> , emphasizing on the court's position on originality in Copyright	15	CO 2
Q 8	"Compulsory License (CL) is an involuntary contract between a willing buyer and an unwilling seller imposed and enforced by the State". Discuss at least two cases (including the provisions of law involved therein), which deal with CL in Indian Intellectual Property system. Also, submit your views on the rationale of CL; reflecting whether it is desirable or not.	15	CO 3
Q 9	Seventy kilometers northeast of Beijing, China, is the Pinggu district, which bills itself as the biggest peach farm in the world. With a growing area of over 6,000 hectares and an annual output of 270 million kilograms of more than 200 varieties of peaches in four major categories in 2009, peach plantations in Pinggu stretch as far as the eye can see. What sets the fruit apart	20	CO 4

	<p>from those cultivated in other regions are their beautiful colors, high sugar content, unique flavor and large size. To make the best out of it, Pinggu Farmers Association has organized itself to develop the fruit as a brand specifically associated with the geographical territory of Pinggu district.</p> <p>In 2002, Fruit Mart, an Indian chain of fruit bazaar, started selling packed peach fruits with the label Pingufarm Peaches. When it came to the notice of Pinggu Farmers Association, they objected to the label and claimed that it is in violation of their Trade Mark and Geographical Indication. In this backdrop, with the help of case laws and legal provisions decide-</p> <p>Is there any violation of Trade Mark(TM) or Geographical Indication (GI) in this case? If yes, how?</p> <p>Is it necessary that the GI is registered so as to give protection? What is the process of GI registration in India?</p> <p>What is the difference between TM and GI? What additional protection does GI registration confer if the product is already sold under a certain TM?</p>	<p><b>7</b></p> <p><b>6</b></p> <p><b>7</b></p>	
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**SECTION A**

S. No.		Marks	CO
Q 1	Write a note on Hegel Personality Theory?	5	CO 1
Q 2	Explain the Moral Rights of an Author under Copyright Act? Discuss Right of Integrity and Right of Attribution.	5	CO 2

**SECTION B**

Q 3	Discuss the concept of Originality in Copyright. Explain the shift from ‘Sweat of the brow Doctrine to Modicum of Creativity’	10	CO 2
Q 4	Define Geographical Indications (GIs). Explain the registration procedure of GI in India. Also discuss the relevant Case law.	10	CO 2

**SECTION-C**

Q 5	A Trade Mark is instrumental in brand building, fair competition and consumer ease. In this backdrop, explain the consequences of the violation of the rights of the Trade Mark owner. Support your answer with appropriate judicial rulings and provisions under Trade Marks Act, 1999.	10	CO 3
Q 6	What is the law pertaining to the interaction between copyright and design? Please explain with the help of relevant provisions and case laws.	10	CO 3

**SECTION-D**

Q7	“Where the same idea is being developed in a different manner, it is manifest that the source being common, similarities are bound to occur”? On the basis of the above fact, determine on what grounds the protection is given to the author’s work? Discuss the legal concepts involved in RG Anand v. Delux Films (AIR 1978 SC 1613) and Anil Gupta v. Kunal Das Gupta & Ors., AIR 2002 Delhi 379	15	CO 3
Q 8	Discuss the patentability criteria in India? Ganesh has a patent on a drug formulation (Anac.) and he has licensed the same to an Indian firm Alexa that is manufacturing and selling the same in Indian market for last 3 years. Safari made another drug (IMac.), by changing the form of drug through a different process, the end result being the same as that of Ganesh and claimed the patent. Whether IMac. a novel/new invention and hence deserves a Patent ?	15	CO 2

Q 9	<p>In India, protection to well-known trademarks is given more importance as compared to ordinary trademarks. Earlier this protection was given by way of common law like passing off. Later, with the enactment of Trademarks Act of 1999 many changes were made in the trademark law including protection of well-known trademarks even without registration or use in India. The Act allows special treatment and rights to the proprietors of such well known trademarks. Further Judiciary has also played an important role in giving special protection to well-known trademark. In the light of this statement answer the following:</p> <p>(a) What if defendants involved themselves in the business of selling of artificial jewelry using the name Rolex which already had name and reputation all over the world associated with the Plaintiff. What is the remedy left to the Plaintiff?</p> <p>(b) Explain protection of Well-known Trademark in India with the help of relevant case laws</p>	<p><b>Total:</b> <b>20</b></p> <p><b>10</b></p> <p><b>10</b></p>	<p><b>CO 3</b></p>
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