

Name:
Enrolment No:



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, DEC 2020

Course: IP Litigation
Program: BTECHLLB(H)
Course Code: LLBL653

Semester: XI
Time: 03 hrs.
Max. Marks: 100

Instructions: All questions are compulsory.

S. No.	SECTION-A	Marks	CO
	1. Each Question will carry 5 Marks 2. Instruction: Write answers within 100 words		
Q1	Under what conditions, if any, can an alleged infringer bring proceedings to obtain a declaratory judgment of non-infringement?	5	CO1
Q2	Explain Primary and Secondary copyright infringement.	5	CO1
Q3	Do the courts/government bodies deal with infringement and invalidity simultaneously or must invalidity actions be brought in separate proceedings?	5	CO1
Q4	Luxury Marks vs. Mark of Common Man. Comment.	5	CO1
Q5	Differentiate between the concept of Plagiarism and Copyright.	5	CO1
Q6	Explain the well-known marks protection at pre-registration and post grant of registration stages.	5	CO1
	SECTION-B		
	1. Each question will carry 10 marks 2. Instruction: Write short / brief notes		
Q7	Intellectual Property Rights (IPR) are classified under the category of rights <i>in rem</i> and it is no longer <i>res integra</i> that a right <i>in rem</i> is not arbitrable. In India, with arbitration becoming a norm for resolution of commercial disputes, the contemporary debate is – whether disputes involving IPR can be referred to and resolved by arbitration. Comment.	10	CO2
Q8	On what grounds may a proprietor lose rights in a registered trade mark?	10	CO2
Q9	The existence of commercial courts to deal with IP disputes proves to be a significant step, considering IP litigation in India is at nascent stage of development. Critically analyze the above statement.	10	CO2
Q.10	How is the liability of intermediaries, such as internet service providers treated? Under what conditions can they be liable for copyright infringement? Are there any specific defenses available to them?	10	CO3

Q.11	Explain how patent infringement is assessed, state important case laws.	10	C03
	SECTION-C 1.Each Questions carries 20 Marks 2. Write Long Answers		
Q12	<p>Copying a book is similar to stealing somebody's jewelry. Large scale organized copying is like robbing a jeweler's shop or a bank. But then, there is a major difference. In the case of a bank robbery the newspapers are full of sensational news and the whole might of the State, especially the police jumps in to catch the culprit; there is pressure of public opinion even on the judge trying the case. The effect is electric. General lack of awareness about the importance of copyright is a serious problem. Several academics are unaware of the implications of copyright infringement. K S Padmanabhan of East West Books rightly believes that enforcement will be more successful if awareness about the problem is brought about by wide publicity. According to him, "several academics are unaware of the implications of copyright infringement At a recent book exhibition organized at the Madras University, several faculty members were asking permission to take books out for photocopying. We had a hard time in trying to explain to them that what they intend doing is an infringement of the copyright law. If this is the case with faculty members, you can well imagine the problem we face with students who freely photocopy textbooks. We also find several unscrupulous trademen engaged in freely selling photocopies of textbooks"</p> <p>A person cannot be held liable for infringement of copyright if he has taken only the idea involved in the work and given expression to the idea in his own way. Two authors can produce two different works from a common source of information each of them arranging that information in his own way and using his own language. The arrangement of the information and the language used should not be copied from a work in which copyright subsists. Many problems that authors face arise out of the above interpretation. Giving her comments on copyright enforcement, Shobha De, author of many best sellers, writes "at present my biggest fight is against TV serial makers who commission programmes, ask for detailed concept note and disappear. Next thing, I see an inspired version of my original script on the small screen. So far, I have yet to come across a competent lawyer to advise me on how best to protect myself.</p>		CO4
1.	Explain the concept of "idea and expression of idea under copyright". Further, state what kinds of protection are provided to the same under Indian Copyright Act.	10	
2	Critically analyze the above passage and write the concluding remarks with support of case laws.	10	