


Name:			
Enrolment No:			
UPES End Semester Examination, May 2023			
Course: Intellectual Property Laws Program: BA/ BBA / B Com LLB (Hons.). Course Code: CLCC4007		Semester: VIII Time : 03 hrs. Max. Marks: 100	
Instructions: All Questions are compulsory			
SECTION A (5Qx2M=10Marks)			
S. No.		Marks	CO
Q 1	Geographical Indications can be registered in India for - a) Goods b) Services c) both goods and services d)none of the above	2	CO1
Q 2.	Which of the following is true regarding trademark registration in India? a) Registration is mandatory to obtain trademark protection b) Registration is optional, but it provides stronger protection than an unregistered mark c) Only Indian citizens or companies can register a trademark in India d) Trademark registration is valid for 10 years and cannot be renewed	2	CO1
Q 3	Write a brief note on the Hegelian personality theory.	2	CO1
Q 4	Define moral rights of an author.	2	CO1
Q 5	What do you mean by the publication of a patent application?	2	CO1
SECTION B (4Qx5M= 20 Marks)			
Q 6	“All inventions are not patentable” Explain in light of sections 3 and 4 of the Indian Patent Act.	5	CO2

Q 7	Explain the concept of Dilution of trademark. Illustrate the ways in which dilution can be committed.	5	CO2
Q 8	“Paris convention, 1967 strive to safeguard the Industrial design”. In the light of the statement explain the phrase Industrial Design and the legal protection offered.	5	CO2
Q 9	Explain provisions in respect of infringement of copyright in dramatic and musical work.	5	CO2
SECTION-C (2Qx10M=20 Marks)			
Q 10	Critically examine the observations made by the Court in Oxford University Press v. Rameshwari Photocopy Service to understand the meaning of ‘Fair dealing’ and ‘in course of instruction’.	10	CO3
Q 11	<i>Distinctive marks invariably contain the best chances of success. However, if proprietors are not careful with its usage and promotion, such marks run the risk of becoming generic.</i> Considering the statement, elucidate the concept of spectrum of distinctiveness with relevant examples.	10	CO3
SECTION-D (2Qx25M=50 Marks)			
Q12	<p>Mr. Rohit has created an invention related to new and useful improvements in lawn sprinklers and has it as its principal object. The provision of a lawn sprinkler comprising a sprinkler head mounted on a wheeled frame and attached to a pressure water supply, and having means operable by the pressure of the supply water to propel said wheeled frame over the ground.</p> <p>Another object is the provision in a Jawn sprinkler of the character described wherein the sprinkler head rotates to distribute water evenly over a wide area, and wherein said propelling means operating mechanically from the rotation of the said head.</p> <p>A further object is the provision of a lawn sprinkler of the class described wherein said propelling means operates by traction in an elongated member, which may be the water supply hose; laid out on the ground. The frame is steerable, so as to follow the elongated member around curves. Other objects are simplicity and economy of construction, efficiency and dependability of operation, and adaptability for uses other than the watering of lawns.</p> <p>An inventor/applicant has filed an application for a patent in India and approaches you immediately thereafter for filing an international application under PCT with specific questions on the following:</p>	25	CO4

	<p>a) Whether he can claim priority of his application filed in India and within what time. (5 Marks)</p> <p>b) When he can file a national phase application from the PCT route? (10 Marks)</p> <p>c) After the filing of the national phase application, what would be the fate of his previous application? (10 Marks)</p> <p>Please advise him as per the provisions of PCT and the Indian Patents Act.</p>		
Q 13	<p>The plaintiff, Superon Schweisstechnik India, was operating a business geared to the repair and reclamation of welding electrodes. The company's "umbrella" trademark was SUPERON, along with which the company used the term "VAC PAC" for electrodes that are vacuum packaged. The plaintiff have adopted the trademark of VAC-PAC from last 14 years. The defendant, Modi Hitech India Ltd., used the trademark GMM/arc for its products and also used the term "VAC PAC" with its trademark to indicate that its electrodes were vacuum packaged</p> <p>The plaintiff argued that "VAC PAC" was a term coined by them and, with its widespread use and passage of time, the term had gained a secondary meaning indicating that products containing the term belonged to their company.</p> <p>The Plaintiff alleged that the Defendant has dishonestly adopted an identical trademark VAC-PAC for the same goods as that of the plaintiffs', such as welding electrodes. Therefore, adoption of "VAC-PAC" is completely dishonest.</p> <p>Hence, the plaintiff has filed a suit before the Court claiming the following reliefs</p> <ol style="list-style-type: none"> a. Permanent injunction to restrain the Defendants from infringing their mark "VAC-PAC" b. Damages amounting to rupees 1,00,00,001/- <p>In the light of facts cited, decide whether the plaintiffs will succeed in their claim or not? Cite relevant case laws and legal provisions in support of your answer.</p>	25	CO4