

Name:	
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, December 2023

Course: Law of Trademarks
Semester: VII
Program: B.A.LL.B/B.B.A.LL.B./B.Com.LL.B (IPR)
Time: 03 hrs.
Course Code: CLIR4003 **Max. Marks: 100**

Section-A

- Instructions-**
1. Attempt all questions
2. Each Question will carry 2 Marks

S. No.	Fill in the blanks	Marks	CO
Q 1	Renewal of trademark registration is for ____ years.	2	CO1
Q2	A trademark can be registered under the Trademarks Act 1999 only if it is distinctive for the goods or services for which it is sought to be registered. The mark must not be _____ or descriptive.	2	CO2
Q3	Section 12 of the Trademark Act 1999 lays down the concept of _____.	2	CO1
Q4	When a trademark is no longer actively used for the registered goods or services, it may be subject to _____ if not defended or maintained.	2	CO2
Q5	A trade mark distinguishing the goods or services of members of an association of persons is known as _____.	2	CO1

SECTION B

- Instruction-**
1. Each question will carry 5 marks
2. Write short / brief notes
3. Attempt all questions

Q6	What are the categories and criteria of Trademarks that are eligible for registration?	5	CO2
Q7	Distinguish between identical, similar and near resemblance with reference to trade mark.	5	CO2
Q8	Describe a house mark. How is it different from a trademark.	5	CO4

Q9	Enumerate the relative grounds for refusal of trademark registration drawing a parallel between absolute grounds and the point of distinction between the two.	5	CO2
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SECTION-C

Instruction-

- 1. Each question will carry 10 marks**
- 2. Write short / brief notes**
- 3. Attempt all questions**

Q10	Whether a mark nearly resembles another or causes confusion is purely a question for the courts to decide and if so, what kind of evidences will be admissible to substantiate.	10	CO3
Q11	<p>“It has been said that one murder makes a villain and millions a hero; but I think it would hardly do to act on that principle in such matters as this, and to say that the extent of a man’s piratical invasions of his neighbor’s rights is to convert his piracy into a lawful trade.”</p> <p>Referring to the concept of <i>Publici Juris</i> decide whether the word “Ganesh” over agarbatti and incense sticks may be allowed to be registered.</p>	10	CO4

SECTION-C

Instructions-

- 1. The Question carries 25 Marks.**
- 2. Attempt all parts of the question.**
- 3. Maximum word limit for each question is 400 words.**

Q12	<p>The petitioner is a Company incorporated in America. The company since before its incorporation old men's and women's apparel and accessories. The petitioner company now carries on the same and other business as the owner of 'Calvin Klein' and 'CK' mark. The range of business includes perfumes, toiletry & optical glasses. Goods bearing the name Calvin Klein or CK have been sold by the petitioner or its predecessor-in-interest throughout the world but not in India. The petitioner's grievance is that in September 1993, the petitioner found that the respondents were representing to the customers in India that the respondents were the owners of the mark Calvin Klein and were soliciting business in respect of wearing apparel namely Jeans which were described as Calvin Klein Jeans.</p> <p>The respondents have contended that they have been carrying on business in manufacturing and marketing Hosiery and ready-made garments and shoes under trade mark Calvin Klein since 1992 and they have been using not only the trade mark Calvin Klein but also CK on the buttons.</p>		
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	<p>It has been contended by the petitioner that it is the prior user of the trade mark which conferred ownership and the fact that the user has taken place outside India did not affect the question of ownership.</p> <p>Discussing the concept of prior use as a defence, decide whether there is a possibility of confusion between the plaintiff's and the defendant's goods in the sense that the people purchasing the defendant's goods might do so in the belief that the goods are those manufactured by the plaintiff.</p>	25	CO4
Q13	<p><i>“There are two parts of the doctrine of honest concurrent use. First part is that the adoption must be honest and the second part is that there is concurrent use of the trademark with another trademark.”</i></p> <p>Sanjani Kumar lanka registered proprietors of trademarks SK LANKA, LANKAS, INTERNATIONAL SCHOOL, LANKAA MEDICAL UNIVERSITY & SK LANKA MEDICAL UNIVERSITY, filed a suit for infringement of trademark and passing off against Lanka Institute of Education and Research (hereinafter Lanka Institute), alleging them of the use of similar trademarks – LANKA PUBLIC SCHOOL, LANKA GIRLS SCHOOL, LANKA COLLEGE OF PHARMACY and others for providing services like education, training, sporting and cultural activities. In this pursuance, Sanjani Kumar Lanka had filed an interim application for the grant of an injunction restraining the use of similar marks by Lanka Institute.</p> <p>Discuss and decide in light of the statement provided.</p>	25	CO4