

Name:
Enrolment No:



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

Course: Law of Patents and Transfer of Technology
Program: LL.M
Course Code: CLLT 7009

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

Instructions:

SECTION A

S. No.	(Attempt all questions. Each questions carry equal marks) (4x2.5=10Marks)	Marks	CO
	Write short notes:		
Q. 1	Transfer of Technology	2.5	CO2
Q. 2	Historical development of patent law in India.	2.5	CO1
Q.3	Natural Theory	2.5	CO1
Q.4	Surrender of Patents	2.5	CO1

SECTION B

	(Attempt all questions. Each questions carry equal marks) (2x10=20Marks)		
Q. 5	‘An invention has to satisfy certain conditions in order to get a patent’. Examine this statement in the light of Diamond V/s Chakraborty	10	CO3
Q. 6	“Patent by its very nature is a transferable property, and can be transferred from original patentee to any other person.” Explain.	10	CO3

SECTION-C

	(Attempt all questions. Each questions carry equal marks) (2x10=20Marks)		
Q.7	“Now the world is highly imbalanced, not only the developed countries but also the multinational corporations (MNCs) are the major hub for transfer of technology to the developing countries (DCs) through the legal process which protect their rights and privileges while imposing some strict restrictions on the host country or company whatever the case it is.” Examine and analyze the growth and development in DCs by way of technology transfer.	10	CO2

Q.8	“He who first communicates it to the public is the true inventor”. In the light of the above statement, explain the procedure followed in India for obtaining a patent.	10	CO1
SECTION-D			
	(Attempt all questions. Each questions carry equal marks) (2x25=50Marks)		
Q.9	<p>A Switzerland based company, are exclusive owners of registered Indian Patent, a product by process patent on Ferric Carboxymaltose, a novel water-soluble iron carbohydrate complex prepared by a novel process. The patented product is useful in the intravenous treatment of iron deficiency when oral iron preparations are ineffective or cannot be used. The Plaintiff 1 has granted a license to Plaintiff 2, a company incorporated under the Companies Act, 1956, for the manufacture and commercialization of above patented product, in India. Further, Plaintiff 2 is the owner of the copyright with respect to literary work on website.</p> <p>The Plaintiffs filed a suit for restraining the Defendants from infringement of Indian Patent; infringement of copyright in the literary work; dilution and tarnishment of brand image of the Plaintiffs; malicious falsehood; delivery up; rendition of accounts; damages etc. against the Defendants. Further, the Plaintiffs pleaded that the Defendants are manufacturing and selling the impugned patented product and falsely represented on their website that the Plaintiff no.1 has given an IP license to the Defendant no. 1 to manufacture and commercialize the impugned patented product.</p> <p>Still, further, the Plaintiffs pleaded that Defendant no. 1 has blatantly copied the literary write-up/content of the Plaintiff No.2s website, thereby amounting to infringement of the copyright of Plaintiff No.2. Such activities of the Defendant no.1 also amounts to dilution of the brand image of the Plaintiffs thereby resulting in unlawful enrichment. Furthermore, the Plaintiffs pleaded that the Defendant No.1, despite the operation of an ad-interim injunction against it, continued its infringing activities through the Defendant No.3 and under the able guidance of the Defendant No.2.</p> <p>a) Whether the acts of the Defendants for unauthorized manufacture and sale of patented product amounts to infringement of Plaintiffs' patent rights? Explain and suggest remedy.</p> <p>b) Whether the act of the Defendant no. 1 for misrepresenting on the website as being an IP license holder of impugned patent amounts to infringement of Plaintiffs' patent rights? Explain and suggest remedy.</p>	(2X12 5=25)	CO1
Q.10	<p>CPL Biotech Research division – drug discovery and development was initiated in 2009 and are committed to discover and develop Biotechnology novel molecules. Century recognizes the role of Biotechnology as the future of the pharmaceutical industry in enhancing the specificity and effectiveness of such molecules. Stem cells have tremendous potential for treating disease and replacing or regenerating the diseased tissue. Stem cells have enormous potential in health and medical research but to fully harness this potential, scientists are studying how stem cells transform, or differentiate, into the diverse range of specialized cells that make humans what they are today. Century pharmaceuticals ltd Biotechnology Research Division started the stem cell research in the year 2018 knowing the study of stem cells is one of the most</p>	25	CO4

	<p>exciting areas of contemporary biomedical research and believed that Stem Cell Research & Therapy will act as a highly active forum for both basic and translational research into stem cell biology and therapies. Stem cells have enormous potential for alleviating suffering for many diseases which currently have no effective therapy. Research has progressed to the preclinical evaluation and it is important that this pathway leading an excellent science and rigorous standards of clinical research to treat age related degenerative and terminal patients.</p> <p>An international organization has transferred the technology and licensed to Century Pharmaceuticals ltd to develop the technology and market.</p> <p>a) Draft a technology transfer agreement.</p>		
--	---	--	--

Name:	
Enrolment No:	

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

Course: Law of Patents and Transfer of Technology
Program: LL.M
Course Code: CLLT 7009

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

Instructions:

SECTION A

S. No.	(Attempt all questions. Each questions carry equal marks) (2x10=20Marks)	Marks	CO
	Write short Notes:		
Q. 1	Patent as a monopoly right.	2.5	CO3
Q. 2	Utility of the patent system other than securing legal rights.	2.5	CO1
Q.3	Rights of Patentee	2.5	CO1
Q.4	Utilitarian Theory	2.5	CO1

SECTION B

	(Attempt all questions. Each questions carry equal marks) (2x10=20Marks)		
Q. 5	Define compulsory Licence. What is the basic utility of compulsory licence? Explain the practical limitations in invoking compulsory licences.	10	CO1
Q. 6	“Law of patents” has its growth and development from contribution of International Conventions”. Examine the validity of this statement.	10	CO3

SECTION-C

	(Attempt all questions. Each questions carry equal marks) (2x10=20Marks)		
Q.7	“Patent protection is necessary to preserve adequate economic incentives for invention and innovation”. Comment.	10	CO3
Q.8	The current economic and business environments are extremely severe, and global companies are facing fierce competition across the world. In addition, as technological innovation is increasingly speeding up and becoming cross industrial, regardless of their size, companies often find it difficult to fully accomplish their business plans simply by relying on their own development capabilities and technologies. Examine and analyze the growth and development by way of technology transfer.	10	CO2

SECTION-D

(Attempt all questions. Each questions carry equal marks) (2x25=50Marks)			
Q.9	<p>Roche was granted Indian Patent No. IN ‘774 in February 2018, under which as per Claim 1, they had patent rights over the Erlotinib Hydrochloride (EH) molecule (which has demonstrated breakthrough capabilities as an Epidermal Growth Factor Receptor (EGFR) inhibitor which spiked survival benefit in non-small cell lung cancer (NSLC) patients). Based on media reports declaring Cipla’s intention to launch a generic version of Roche’s drug in January 2018, Roche moved the Delhi High Court seeking injunction to stop Cipla from marketing Erlolcip. Cipla forwarded a counterclaim, claiming that Roche’s patent was invalid.</p> <p>a) Whether the manufacture of Erlolcip infringes Roche’s IN ‘774 patent. Explain the remedies if any available against infringement.</p>	25	
Q.10	<p>IIT, Delhi is one among the 7 IITs of India with a mission to contribute to India and the world through excellence in science and technology, education and research, and to serve as a valuable resource for industry and society. The primary objective of the institute is to impart higher education and training to students. The institute has a well-developed system for technology transfer in the form of an IPR policy. The purpose of processing commercialization by IIT, Delhi, which is a non-profit organization, is to meet one of its stated objectives of disseminating the fruits of research and development for the benefit of public and society. Since any R&D effort is expensive and transfer of its results to users is a complex process, the motivation of the institute in commercial transaction is meant to sustain the effort of transferring the research from the laboratory to actual field of exploitation and not for making profit. Commercialization provides incentive to inventor and provides ‘technology push’ to the invention and couples it to the ‘market pull’. The institute usually grants non-exclusive license for commercialization.</p> <p>A hi-tech cost effective rust converter technology, named, Rustgard technology developed at IIT Delhi, has been licensed to M/s Multitrade Transactions & Solutions Pvt Ltd, New Delhi, for commercial production at their facility in Noida-UP. The product has been developed as per international standard and continues to have certain key imported ingredients not available in the country.</p> <p>a) Draft a technology transfer agreement.</p>	25	CO4