

NATIONAL LAW UNIVERSITY, DELHI

B.A.LLB.(Hons.): IV-YEAR, VII-SEMESTER

Mid-Semester Examinations, October-2015

Paper 7.1: Corporate Law-I

Time: 2.00 Hours

Total Marks: 20

Instructions:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper except your Roll No.

Answer ALL the questions.

- Q.1. NLU Co. Ltd. was in the process of incorporation. Promoters of the Company signed an agreement for the purchase of certain furniture for the Company and payment was to be made to the suppliers of furniture by the Company after incorporation. The Company was incorporated and the furniture was used by it. Shortly after incorporation, the Company went into liquidation and the debt could not be paid by the Company for the purchase of above furniture. As a result suppliers sued the promoters of the Company for the recovery of money.
- a) Throw light on the liability of promoters with the help of case laws under the Indian Companies Act, 2013. **(2 Marks)**
- b) Examine in the light of the above facts whether promoters can be held liable for payment
- i). When the Company has already adopted the contract after incorporation? **(3 Marks)**
- ii). When the Company makes a fresh contract with the suppliers in terms of pre-incorporation contract? **(3 Marks)**
- Q2. The golden rule about prospectus is that disclosures should give true and fair view of company's position. The directors of a company issued a prospectus inviting subscriptions for shares stating the object of raising money for furthering the trade of the company, purchase new land and carry out repairs of buildings of company. However, the real object was to pay off real pressing liabilities of the company. The plaintiff applied for shares. He was allotted shares so he advanced money. Soon after, company became insolvent and he sued the directors for fraud. On the basis of above facts, answer the following:
- a. Will the directors be liable to compensate him for fraud? Answer with reasons referring to relevant legal provisions. **(4 Marks)**
- b. Another person, X, bought shares from the secondary market before the company became insolvent. He also sued the directors for fraud. Will the directors be liable to compensate him? **(4 Marks)**
- Q 3. "Preference shares have any advantages over the equity shares. Even then investors prefer to subscribe for equity shares." Explain with reasons whether you agree with the statement or not? **(2 Marks)**
- Q.4. Advise "Asiatic Government Security Life Insurance Co. Ltd.", whether it can seek an injunction against "The New Asiatic Insurance Co. Ltd." which was subsequently formed restraining it from having its name the word "Asiatic" on the ground that it has caused confusion and can deceive the public. **(2 Marks)**

NATIONAL LAW UNIVERSITY, DELHI

B.A.LLB.(Hons.): IV-YEAR, VII-SEMESTER

Mid-Semester Examinations, October-2015

Paper 7.2: Environmental Law

Time: 2.00 Hours

Total Marks: 20

Instructions:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
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- Q.1 A complaint was made to the District Magistrate by a resident-neighbour of a locality, on whose periphery a dyeing unit was located, although it had not yet started its operation. It was alleged in the complaint that the chemical effluent discharge would wind through the natural incline into the resident-neighbour's land who was conducting organic farming.

Considering all possible counter-objections, decide in case of appeal before the High Court against the order of the District Magistrate for removal of the dyeing unit. **(6 Marks)**

- Q.2 What is the significance of the **key** amendments incorporated in the 1988 Amendment of the Water Act, 1974 and the Air Act, 1981? **(4 Marks)**

- Q.3 Write briefly on **any two** of the following:

- a) Polluter Pays Principle.
- b) Public Trust Doctrine.
- c) Adaptation of Public Interest Litigation to environmental issues. **(2.5X2=5 Marks)**

- Q.4 The manufacturer of an export oriented unit had secured a conditional consent for its operations. However, despite reminders, the unit continued to contaminate the waters, citing difficulties in importing the required costly water treatment equipment. Hence, the State Pollution Control Board did not renew the consent.

A petition was put forth before the High Court that the right to carry on trade/business was affected as well as crucial foreign exchange and large number of livelihoods were curtailed, due to non-renewal of consent.

Discuss the possible outcome of the case. **(5 Marks)**

NATIONAL LAW UNIVERSITY, DELHI
B.A.LLB.(Hons.): IV-YEAR, VII-SEMESTER
Mid-Semester Examinations, October-2015
Paper 7.3: Intellectual Property Rights Law

Time: 2.00 Hours (+10 Minutes for Reading)

Total Marks: 20

Instructions:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper except your Roll No.

IMPORTANT: The descriptions given for Questions 1 and 2 are a mixture of fact and fiction. While answering these questions, please consider that all the statements provided in the descriptions are accurate. Even if you are aware of the events upon which the descriptions are based, you should ignore them and answer the questions solely based on the facts provided.

- Q 1. BayerischeMotorenWerke AG (commonly known as BMW) is a globally renowned car manufacturer having its headquarters in Munich. BMW produces some of the best-selling luxury cars in the world and it has presence across the world including India. They also advertise their cars extensively through newspapers, television channels and social media in all their markets and most purchasers of luxury cars are considered to be familiar with the brand BMW. In the year 2014, they had a total of 80.4 billion Euros in revenues and more than 3 billion Euros in profits. Their total assets are estimated to be around 154 billion Euros. BMW has many subsidiary companies and one of their subsidiary companies is ALPHABET, which provides different services to corporations which are already having BMW vehicle fleets or which are planning to procure BMW vehicle fleets. The services provided by ALPHABET include financing of vehicles (through different modes like operating lease), fleet management (including repairing and maintenance of vehicles) and advanced mobility solutions (like car pooling for employees).

ALPHABET started its services in India in January 2011 and is having its Indian headquarters in Delhi. ALPHABET has adopted a direct marketing strategy in India and they generally send their representatives to different corporate houses to make them aware of the benefits of ALPHABET services. ALPHABET has also been using a website (www.alphabet.com) since January 2011, which has all the details of the services provided by ALPHABET, including those offered in India. On 4th October 2012, the company managed to register ALPHABET as a trade mark in India underclass 35 (for business administration), Class 36 (for financial affairs including insurance and leasing services), class 39 (for transport and travel arrangements) and class 42 (for research and development of software, particularly those for travel management).

Google is an American multinational company focusing primarily on internet related services and products. Their areas of expertise and market dominance include online information search, online advertising and cloud computing. Nearly 85% of the global internet users are estimated to be using Google for online search. It is also actively engaged in software development and the Android operating system is used in nearly 82% of the smart phones in the world, as on October 2015. Some of the areas where the company is currently investing include development of smart cars, which can drive around without the presence or intervention of human drivers. The vision statement released by the company in this regard for the media mentions that their future smart cars will change the way corporations and individuals manage cars and transportation.

On August 10, 2015, Mr. Lary Page (Founder and CEO of Google) announced his plans to restructure Google into different companies and create a new public holding company - Alphabet Inc. On October 1, 2015, Alphabet became the holding company for Google, Nest Labs, Calico, Google X, Google Capital and Google Ventures. While Search, Maps, Ads, Apps, Android and YouTube continued to remain under Google, new R&D areas like smart cars were moved to Google Ventures. Mr. Lary Page also became the CEO of the holding company Alphabet Inc. and a new person was appointed as the CEO of Google. While searching for a suitable domain name for the new holding company, Mr. Page realised that www.alphabet.com was registered by BMW for their subsidiary company and Mr. Page had to register another domain name (www.alphabet.xyz) on August 1, 2015 for his new holding company.

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The creation of the new holding company Alphabet Inc. received wide attention of the global media and business newspapers across the world had many op-eds on the possible rationales behind the restructuring, particularly anti-trust related issues faced by Google. Mr. Page also advised his legal team across the world to secure trade mark registrations for “Alphabet” in their countries, in as many classes as possible. He particularly suggested them to register the word mark “Alphabet” under Class 42 (for scientific services, technological services, research and design services, industrial analysis and design and development of computer hardware and software) and under Class 39 (for transport, travel arrangements and online travel solutions). On September 15, 2015, the legal representative of Alphabet Inc. approached the Indian trade mark registry for registering the word mark “Alphabet” under Class 39 and 42 for the above mentioned services. During the search that preceded the application process, the legal representative noticed that apart from the registration of the wordmark “ALPHABET” in the name of BMW under Classes 35, 36, 39 and 42, the trade mark registry in India had also granted registrations for “Alphabet Funds” (mutual funds management service, under Class 36, in the name of Mr. Syed Ahmed) and “Alphabet Energy” (for installation and repair services under Class 37, in the name Hawards Inc.) in the year 2008. The legal representative also noticed that numerous preschools in and around Delhi were also using the name “Alphabet”, though none of them had obtained trade mark registrations.

Please answer all the following questions:

- a. BMW wants to prevent Alphabet Inc. from using or registering the mark “Alphabet” in India. Analyse the potential options available for BMW in the light of relevant case laws. What are the legal options available for Alphabet Inc. in such a scenario? **(7 Marks)**
- b. Alphabet Inc. wants to take over the domain name “www.alphabet.com”, which is currently registered and used by BMW. Analyse the options available for Alphabet Inc. to get the domain name www.alphabet.com transferred to them from BMW and the probable results in such a legal action. **(3 Marks)**

Q2. Tequila is a famous distilled beverage from Mexico and the plant *Agave Americana* is used in the production of tequila. Tequila is protected as a geographical indication in many countries, including India. Mr. Soma Reddy, a food scientist from Andhra Pradesh, has been researching on different possible substitutes for *Agave Americana* in the preparation of distilled beverages and he came across a plant known as “Naara Kalabanda” (*Agave Albomarginata*). With some innovations in the distilling process, he was able to produce alcohol which is very similar in taste and characteristics to Tequila. Since Naara Kalabanda was grown widely in Andhra Pradesh, he could also produce the alcohol at very low costs. After obtaining the necessary safety and marketing approvals, he started producing this alcohol at a commercial scale and he is using the word “Alt-Tequila” as the brand name for his product. However, due to monetary constraints, his marketing of Alt-Tequila has been largely limited to different districts of Andhra Pradesh.

Tortoise Cottage is a popular pub in Bangalore. They constantly engage in innovations in their beverages menu, particularly cocktails, and they recently became aware of the innovative product of Mr. Soma Reddy. They decided to include “Alt-Tequila” in their menu as an additional option. They also included a new cocktail in the menu, “Alt-Tequila Sunrise” which just substituted Tequila with Alt-Tequila during the preparation of the cocktail “Tequila Sunrise”. One of the representatives of Tequila Producers Association, who happened to visit the pub, noticed them in the menu. She has approached your firm Mangalchand Amardas & Co. for discussing the potential legal remedies. Please prepare a detailed legal note on the possible legal remedies available for the Tequila Producers Association, in the background of relevant case laws. **(5 Marks)**

- Q3.a. Explain the welfare theory of intellectual property. **(5 Marks)**
- b. Are intellectual property rights vital for promoting innovation and creativity in all sectors? **(5 Marks)**

NATIONAL LAW UNIVERSITY, DELHI

B.A.LLB.(Hons.): IV-YEAR, VII SEMESTER

Mid-Semester Examinations, October-2015

Paper 7.4: Banking Law & Negotiable Instruments

Time: 2.00 Hours

Total Marks: 20

Instructions:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper except your Roll No.
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- Q1. Determine whether the following are valid Negotiable Instruments: **(1¼ X4 =5 Marks)**
- a) X, pay the bearer of this bill Rs.25000/- and debit the same from the rent due to me.
 - b) I will pay or cause to be paid to X or his order Rs.60000/- in twelve equal installments, with each installment being due on the first day of the month. In case of default, I will pay, or cause to be paid the entire remaining amount on the first day of subsequent month.
 - c) I will pay to the bearer of note Rs.1000/- one month after sight.
 - d) Received the promised goods from X, Y pay to X or his order on demand Rs.10000/- (Y is a fictitious person)
- Q2. Examine whether A is a holder in due course in the following cases:
- a) X draws a cheque in favour of Y but due to certain differences between them changes his mind and does not deliver it to Y, without cancelling it. X's servant, who was disgruntled with his pay, takes the cheque and gives it to Y. Y negotiates the cheque with A for consideration, who does not know its history.
 - b) The bill endorsed in blank by X was found by A amidst unclaimed papers in a train compartment. A negotiates the bill to B. Unknown to A, as his servant was dealing for A, the bill is negotiated back to A for consideration, without A knowing that this was the same bill that he had found.
- (2X2=4 Marks)**
- Q.3 Decide on the liability of C in the following cases:
- a) A issues a promissory note to B in lieu of debt. The note is signed by A's brother as guarantor and A also gives security to B. B indorses the instrument sans recourse to C. On non-payment of instrument by A due to subsequent insolvency of A, C seeks firstly the enforcement of security given by A to B which B had returned to A after its negotiation, secondly the return of the consideration and thirdly payment by the guarantor to the original debt due to B from A.
 - b) A is the holder of the bill. B, having the same name as A, comes across the instrument which was lost and indorses it to C. A in the meantime has secured a duplicate bill and seeks payment on it, while C seeks payment on the original bill.
 - c) C obtains a bill of exchange from B after its maturity. B owed money to the acceptor (A) of the bill which A claims he can set off against what is owed on the bill as C is not a holder in due course.
- (2X3=6 Marks)**
- Q.4 Advise A on his position in the following cases:
- a) A draws a cheque payable to B and dispatches it by post. The cheque is stolen in transit and C obtains it. C forges the signature of B and gets payment on the cheque from XY Bank Ltd. The bank reduces the balance of A while B asks A to pay the due debt.
 - b) A draws a blank cheque in favour of B. B fills an amount which includes the time barred debt due from A and gives it to C who takes it as holder in due course. The cheque when presented for payment bounces and C files a civil suit against A and starts prosecution against A under Section 138 of Negotiable Instruments Act.
- (2½X2 =5 Marks)**