

NATIONAL LAW UNIVERSITY, DELHI

B.A.LL.B.(HONS.), IV-YEAR, VII-SEMESTER (2012 Batch) Special Repeat Examinations, July-2017

Paper 7.3: Intellectual Property Rights Law

Time: 3.00 Hours

Total Marks: 70

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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1. Idea *Per se* is not copyrightable. Elucidate with the help of relevant case laws. [5 marks]
 2. Write an explanatory note on 'originality' as a fundamental concept in UK, USA and India. [5 marks]
 3. Strong Copyright Protection is an essence for economic development. Explain. [5 marks]
 4. Throw some light on Conceptual basis of protection of design under the Design Act 2000. [5 marks]
 5. What are the principles governing trade secret protection? What principles govern third party liability for violations of trade secrets? [7 marks]
 6. Med Crop Inc. has been granted a patent in India on a new drug for curing cancer. It prices the drug for 200000 INR per patient per month and imports the drug into India. At this price, Med Corp serves on 10% of the patient population in high-end hospitals. However, overall 80% of the patients suffering from cancer have access to this drug owing to a competing manufacturer called Bipla in the market. Bipla sells the drug at 20000 INR per patient per month. Although Med Corp sued Bipla for infringement, Bipla continued production since the Court refused to grant an interim injunction in favour of Med Corp. Another generic firm called 'Twinkl' wants to produce the same drug at Rs 10,000/- to satisfy an estimated 10% of patient population. The remaining 10% will never have access even at this price. Explain with reasons if Twinkl will be successful in getting a compulsory licence under the existing provisions in the Patents, Act, 1970 and the jurisprudence in this area. Also explain the grounds on which Med Crop. can argue against the grant of a compulsory licence to Twinkl. [7 Marks]
 7. Bio-life Inc. files a patent in India for a genetically modified rat which is susceptible of having cancer. The patent examiner finds the invention is novel, inventive and is industrially applicable. The examiner also notes that the patent applicant has properly disclosed the invention as per the legal standards. However, the examiner refuses to grant the patent on grounds of Section 3(b) and 3(c) of the Patent Act, 1970. Is this rejection of the justifiable in the context of approach to biotechnology patents in comparative jurisdictions? Explain with reasons. [7 marks]
 8. What are the grounds for registration of a Plant Variety under the Plant Variety Protection and Farmers Rights Act? What are the limited exceptions allowed as defences for infringement under that Act? [4 Marks]
 9. Explain the welfare theory of intellectual property law. What are the social costs involved in providing strong intellectual property protection? [10 marks]
 10. What are geographical indications? What are the economic rationales for providing legal protection for geographical indications? [7 marks]
 11. How is a trademark infringement action distinct from passing off action? Explain the essential elements of passing off action with the help of relevant case laws. [8 marks]