

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination Oct -Nov., 2023

Semester: UG - IX Sem (I.P.R. Hons.)

Subject: Patent Specification Drafting and Claim Construction

Time: Three Hours

Marks: 100

Instructions:

1. Attempt any five out of six questions.
2. All questions carry equal marks.
3. Use of any reference material such as Bare Acts is not permitted.

Q.1) List the necessary documents to be filed at the patent office in order to seeking patent protection for an invention while highlighting the relevance of these documents. Also highlight the relevant provisions of the Patent Act, 1970 and the Patent Rules, 2003 that provide for the determination of appropriate patent office for patent application filing.

(Marks: 20)

Q. 2) Company A holds a patent for a unique type of irrigation system that uses a specific design of nozzle and water distribution technology. The patented claims describe the nozzle's dimensions, shape, and materials in detail. Company B has developed a similar irrigation system with a nozzle that, while slightly different in shape and material, achieves the same result of efficient water distribution.

Company A brings an action of patent infringement under the Patent Act, 1970 against Company B's system and alleges that Company B's use of the system infringes on its patent. Company A alleges that the defendant company has only designed around their invention by making insignificant changes to the irrigation system components and therefore, must be held liable for non-literal infringement. Company A prays for injunctions, damages and other equitable remedies.

While applying the principles of patent law to identify non-literal infringement, decide.

(Marks: 20)

Q.3) Discuss the objects and scope of patent amendment under the Indian Patent Act, 1970. While answering, identify the patent related documents that can be amended, the authority/ authorities before which an amendment can be made and the stages at which an amendment can be made. Also explain the significance of amendments in applying the rule of Prosecution History Estoppel during claim construction.

(Marks: 20)

Q.4) Discuss the relevance of intrinsic and extrinsic sources of claim construction as enunciated by the Courts in various judicial pronouncements, particularly in *Phillips v. AWH Corp.*, while also analysing the importance of other canons of claim construction.



Q.5) The inventor of a mobile phone cover intends to apply for a patent for his invention. He makes the following disclosure of the invention to you. Find the description of the invention below and answer the question accordingly.

Description:

The invention relates to a mobile phone cover. Its significance lies in the fact that the cover is an elastic, flexible and stretchable cover that can be universally put upon any mobile device of any dimension. The existing prior art as on priority date includes several types of mobile covers made of different types of material such as plastic, fiber, metal, silicon, or a combination thereof. However, their limitation lies in the specific designing made for each cover such that it is ideally made to complement a specific model or dimension of mobile devices. The present invention resolves the limitation.

The present invention is a compact unit made of elastic rubber. It has a central thick elastic rubber piece, four strings extending from the center piece and four thick elastic rubber edges at the ends. It is designed to have a central thick elastic rubber which will be fixed at the center of the mobile back cover, extending four stretchable elastic rubber strings towards four outer corner such that the outer corners serve as edge protectors as a part of the cover. The outer corners are stretched and placed firmly on the edges so as to fit the mobile device within the said four corners, as illustrated in Fig. 1.

The device also has the four thick elastic rubber edges connected to each other through flexible strings attaching one corner edge to the other. In order to enable access to ports, mic and speakers, these flexible strings have gap in between. The cover also has a small string hole to attach mobile string/accessories to the cover at the bottom left corner.

The claimed invention is necessarily to be made of an elastic material made of rubber or plastic or a combination thereof. The same is necessary such that the flexibility of the cover is not compromised and the utility is served the best. The device has a possibility of being made in any possible color, depending upon the color of the plastic, or rubber, or their combination. The cover can be stretched up to 10 inches in length and 6 inches in breadth. Stretching beyond the said dimension may impact the durability of the invention, which is otherwise expected to last for up to 2 years.

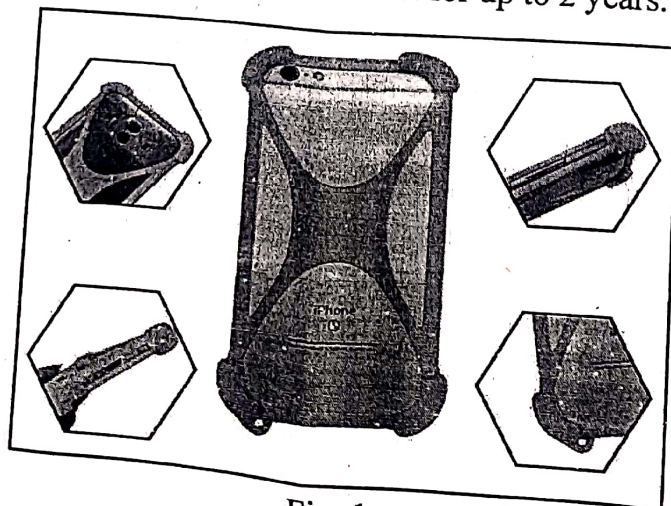


Fig. 1

On the basis of the above information, structure the following:

- A suitable title for the invention
- Minimum five claims
- Identify the parts of the first independent claim.

(Marks: 20)

Q.6) Write short notes on *any two* of the following:

- a. Principle of Claim Differentiation
- b. Relevance and Types of Claims
- c. Contents of Provisional and Complete Specification
- d. Doctrine of Anticipation

(Marks: 10+10=20)