

2 MAY 2024

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination April-May, 2024
Semester: PG – II Sem (LL.M. - I.P.R.)
Subject: I.P. Valuation & Management

Marks: 100

Time: Three Hours

Instructions:

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

Q.1) "The strength and value of a Company is not only on the basis of its tangible assets, but also the intangible assets such as goodwill and IP."

In view of the above statement, explain the meaning and need of intellectual property valuation and the circumstances where intellectual property valuation is needed. Also explain how Cost Approach of IP Valuation helps in estimating the value of an Intellectual Property.

(Marks: 25)

Q.2) 'NEROLAC PAINTS' and 'ASIAN PAINTS' are two trademarks existing in the market for over 20 years now. They both provide for products such as wall paints, emulsions, paint coats and shields, etc. They also have diversified their product range by providing newer technology based textured paints and sheets. They have been the most preferred wall paint brands in the market and their products are similarly priced and cater to the same class of consumers. They both enjoy undisputed goodwill with regard to their products and have a great loyal consumer base attached to both the marks respectively.

NEROLAC
Colours that Care

ap
asianpaints

Applying the market approach of IP Valuation, examine whether these two trademarks are comparable IPs. Also explain how market approach can be applied to ascertain the value of intellectual property assets and what are the limitations of the said approach.

(Marks: 25)

Q.3) Mr. Poonawala invents a pharmaceutical formulation for treatment of HIV/AIDS. He obtains a patent over the same and seeks to commercialize the said invention by way of licensing the same to BHARAT BIOTECH LTD. Under the license arrangement, the

following are the optimist, pessimist and best guess (most probable) values on the basis of market study:

SCENARIOS	1 ST YEAR	2 ND YEAR	3 RD YEAR	Other values
MOST PROBABLE/ BEST GUESS	55 Lakhs	75 Lakhs	95 Lakhs	($R_m = 15, R_f = 8, \beta = 1$)
OPTIMIST / HIGHEST	60 Lakhs	70 Lakhs	80 Lakhs	($R_m = 14, R_f = 7, \beta = 0$)
PESSIMIST/ WORST CASE	30 Lakhs	25 Lakhs	20 Lakhs	($R_m = 16, R_f = 6, \beta = 2$)

The chances of occurrence of Most Probable/ Best Guess Scenario is 5, for Optimistic is 1 and Pessimistic is 0.

Identify the values of the three scenarios and on the basis of the same, draw the pay-off curve for the given situation.

(Marks: 25)

Q.4) Mr. Kabir Singh creates an original literary work. i.e., a book intended to be prescribed for medical students pursuing MBBS. As Mr. Kabir Singh has obtained a registered copyright on the said literary work, he intends to exploit this intellectual property right by getting the book commercialized and published and derive economic benefits out of the same. He has the option of setting up a publishing house under his name and market the book. He also has the possibility of licensing the right of reproduction and right of circulation and distribution of copies by virtue of a royalty agreement to "The Pharma Books" publishers who are renowned publishers having a great reputation in the market. In case he goes for self-exploration, he would require investments for setting up a publishing house. However, the same would not be applicable in case he enters into a license with "The Pharma Books" Publishers as they are ordinarily involved in the task of publishing and already have the required infrastructure. Additionally, he may also consider giving two non-exclusive licenses to "The Medical Store Publishers" and "The Medicine Line Publishers". Consider the following alternatives available to him (Mr. Kabir Singh) and prescribe the most reasonable option that may be resorted to while applying Income Approach:

(Note: The present estimates have been obtained by drawing an analogy to other similar authors and publishing strategies by way of market approach)

OPTION 1: Mr. Kabir Singh may himself set up a publishing house and get his book published. This would require an investment of 40 Lakhs in the 1st year and an investment of 30 lakhs in the 2nd year. It is from the third year that he begins to draw certain profits. He assumes the returns to range upto 30 lakhs in the 3rd year, 50 lakhs in the 4th year and 70 lakhs in the 5th year. ($R_m = 15, R_f = 8, \beta = 1$)

OPTION 2: Mr. Kabir Singh may grant an exclusive license to "The Pharma Books" Publishers such that they give a license of the copyright to them at a fixed royalty rate of 50% per annum. Under the license arrangement, The Pharma Books Publishers

expects to earn an amount of 70 lakhs in the 1st year, 90 lakhs in the 2nd year, and 120 lakhs in the 3rd year. ($R_m = 14$, $R_f = 8$, $\beta = 1$).

OPTION 3: Mr. Kabir Singh may grant two non-exclusive licenses to "The Medical Store Publishers" and "The Medicine Line Publishers" such that they give a license of the copyright to them at a fixed royalty rate of 40% per annum each. Under the license arrangement, the publishers expect to earn an amount of 110 lakhs in the 1st year (55 lakh each), 130 lakhs in the 2nd year (65 lakh each), and 150 lakhs in the 3rd year (75 lakh each). ($R_m = 14$, $R_f = 8$, $\beta = 1$).

Assumptions:

1. The licensees are publishers engaged in the publication of similar works and have goodwill in the market. Therefore, they do not require any investments to be made with regard to the setting up of publishing house, acquiring printing equipment and obtaining manpower.
2. The license that may be granted shall be a license for a period of 3 years only.

(Marks: 25)

Q.5) Mr. Bharat obtained design protection over his artistic work which comprised of a pattern of shapes in black and purple colour combination. He obtained the design protection intentionally as he wanted to apply the design to articles of manufacture and for more than 50 articles. Upon having obtained the same, he receives an offer from two enterprises for licensing his design to them for being used on wooden furniture such as wardrobes and cabinets. He faces a question as to whether he should grant an exclusive license to "A" Woods Ltd. and restrict his profits to the royalty that he may receive in respect of the same or whether he should grant two non-exclusive licenses to "B" Décor Co. and "C" Home Ltd. simultaneously. Consider the following alternatives available to him (Mr. Bharat) and prescribe the most reasonable option that may be resorted to while applying Income Approach:

OPTION 1: Mr. Bharat may grant an exclusive license to "A" Woods Ltd. where he assumes the returns to range up to 80 lakhs in the 1st year, 70 lakhs in the 2nd year, 50 lakhs in the 3rd year and 40 Lakhs in the 4th year. The expected rate of royalty per year under the license would be 30%. ($R_m = 14$, $R_f = 8$, $\beta = 2$).

OPTION 2: Mr. Bharat may grant two identical non-exclusive licenses to "B" Décor Co. and "C" Home Ltd., respectively, wherein he assumes the returns to range up to 120 lakhs in the 1st year (60 lakhs from each licensee), 110 lakhs in the 2nd year (55 Lakhs from each licensee), 100 lakhs in the 3rd year (50 Lakhs from each licensee) and 80 Lakhs in the 4th year (40 Lakhs from each licensee) for both non-exclusive licensees taken together. The expected rate of royalty per year under the licenses would be 20% for each of them. ($R_m = 15$, $R_f = 8$, $\beta = 1$).

Assumptions:

1. The licensees are enterprises engaged in the manufacture of wooden furniture already. Therefore, they do not require any investments to be made with regard to the setting up of industries and obtaining manpower.
2. The license that may be granted shall be a license for a period of 4 years only.

(Marks: 25)

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

- a) Premium Pricing
- b) IP Management
- c) IP Indemnity
- d) Arbitration and Mediation for IP Disputes

(Marks: 12.5+12.5=25)

