

NATIONAL LAW UNIVERSITY, JODIIPUR

End Term Examination July-October 2024

Semester: LLM – I Semester (IPR Hons.)

Subject: General Principles of Intellectual Property Law and Emerging Forms of IP

Time: Three Hours

Marks: 100

*Instructions:*

1. All questions carry equal marks. Question No. 2 and 3 are compulsory. From Question nos. 1, 4, 5 and 6 attempt any two questions.
2. Read the questions completely and carefully before answering.

Q.1). Critically evaluate the jurisprudential justifications for Intellectual Property Rights. Discuss how these theories such as natural rights, utilitarianism, contribute to the legal and ethical foundations of IPR and analyse their implications for creators at large.

(Marks 25)

Q.2). Diageo Brands, a prominent liquor manufacturer, claimed protection of its hipster design of a whiskey bottle, supposedly modelled on the shape of a smartphone which could conveniently be carried in the hip pocket. It claimed novelty over its rectangular shape, its smooth rounded shoulders, V-shaped neck, rimmed rounded cap and dimpled bottom, claiming it to be distinctive and strikingly perceptive. Alcobrew Distilleries, another prominent player in the liquor industry, disputes this supposed claim to a monopoly over the hipster tag and features, arguing it to refer to a person, who during times of prohibition, used to carry a hip flask. Alcobrew Distilleries further asserts that design features claimed are common to liquor trade and the dimpled base is a functional feature for stability and could not be legally excludable.

Based on this factual scenario:

- a. Discuss the procedure for registration of design along with the requirements for registration of design.
- b. Legal remedies available for Alcobrew Distilleries against Diageo Brands.

Substantiate your answer with appropriate provisions of Designs Act, 2000 and relevant case law.

(Marks 15+10= 25)

Q.3). The Tang orange, a hybrid citrus variety developed by Citrus Innovations, a small agricultural research firm, has gained significant popularity over the past five years due to its exceptional sweetness, vibrant color, and resistance to common citrus diseases. After conducting extensive research and trials, Citrus Innovations successfully applied for plant variety protection (PVP) for the "Tang Orange", asserting its unique characteristics, including flavor profile, size, and disease resistance.

In a surprising turn of events, AgroCorp, a large multinational agricultural corporation, has recently launched a new product line featuring a similar variety of orange called "Sunny Citrus." AgroCorp claims that it independently developed this variety through traditional breeding methods. However, Citrus Innovations suspects that AgroCorp's new variety closely

resembles the Tang Orange and believes it may have derived from unauthorized access to its genetic materials or breeding data.

Citrus Innovations conducted its own analysis and found that Sunny Citrus has nearly identical attributes to the Tang orange, including fruit size, color, and taste. Concerned about potential infringement on its plant variety rights, Citrus Innovations decides to investigate AgroCorp's breeding process and seeks legal counsel to understand its options.

- a. While discussing the protections available under UPOV, 1991 list down the criteria to met for Tang Orange to be eligible for registration under one of the UPOV signatories.
- b. Discuss the provisions for infringement and their exceptions under the Plant Variety Protection and Farmers Rights Act, 2001.

(Marks 15+10 =25)

Q.4). Write short notes on the following:

- a. Article 27.1 of the TRIPS Agreement
- b. Prior Publication for Registration of Designs under the Designs Act, 2000
- c. Researchers' Rights under the Plant Variety Protection and Farmers Rights Act, 2001
- d. Traditional Cultural Expressions
- e. Restoration of lapsed design under the Designs Act, 2000

(Marks 5x5 =25)

Q.5). Christopher, an ex-employee of D Company, was hired by an unknown third party to take aerial photographs of a D Company methanol plant under construction in Texas. The plant contained equipment to produce methanol by a new process D Company had invented that it was taking care to keep secret. The plant was unfinished, and Christopher could see the equipment from the airplane. D Company contends that Christopher's photographs contained enough information to allow a skilled person to discover its secret process for making methanol. D Company is trying to sue Christopher for misappropriation of trade secrets. Are there any remedies available to both D Company and Christopher in this scenario?

(Marks 15 +10 = 25)

Q.6). Ms. Shailja is an activist working for protection of biological diversity of India. She is aware of misappropriation of biological resources of Indian origin and planning to organize a series of awareness workshop on "Access and Benefit Sharing Mechanism" in rural India. Before that venture she wants your help to clarify the provisions of Biological Diversity Act, 2002 which are helpful to prevent the misappropriation by proper implementation of Access and Benefit Sharing Mechanism.

(Marks 25)