

5 NOV 2024

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination November – 2024  
Semester: UG VII Semester (I.P.R. Hons.)  
Subject: Patent Law and Practice

Time: Three hours

Marks: 100

**Instructions:**

1. Students are required to answer any five questions only.
2. All questions carry equal marks.
3. Use of Bare Act or any other reference material is not permitted.

Q.1). "The Indian Patent Act, 1970 mandates the satisfaction of the triple test of patentability to enable an inventor to claim the fruits of his invention in the form of an exclusive right." Examine the given statement in the light of relevant judicial decisions, while explaining the patentability requirements in India. Also examine how India has used the TRIPS flexibilities to carve out list of inventions that are non-patentable.

(Marks: 20)

Q.2). Mr. X created an invention relating to a method of repairing damaged high-pressure gas pipelines in 2020. He conducted several experiments at his research center to arrive at the end invention. However, before applying for patent, he undertook a final trial of the invention on an actual damaged pipeline connection. Thus, he conducted a public experiment of the same to test the feasibility and likelihood of success of the invention on 1<sup>st</sup> January, 2024 and to assess whether the process could be successfully carried out. Upon being satisfied of the working potential of the invention, he proceeded to file a patent application on 1<sup>st</sup> March, 2024 for the "method of repairing damaged high-pressure gas pipelines". The same was published by the patent office in the patent journal on 1<sup>st</sup> October, 2024. Mr. Y files a pre-grant opposition against the application alleging that the application was anticipated as "the invention so far as claimed in any claim of the complete specification was publicly known or publicly used in India before the priority date of that claim."

In light of the public use v. experimental use debate, discuss whether the provisions of the Patent Act, 1970 would enable the grant of patent in above mentioned cases where an invention has been publicly tested. Cite relevant provisions and case laws in support of your answer. Also mention the other grounds which could lead to anticipation.

(Marks: 20)

Q.3). 'Nexavar' is a drug used for treatment of Kidney and Liver cancer. The same has been granted a patent in India to the patentee 'Eli Lilly Pharmaceutical Co.' in 2023. Bajaj Healthcare Ltd. applies to the Controller of Patent to grant a Compulsory license in respect of the drug on 1<sup>st</sup> October, 2024 alleging that the invention has not been worked in India and that the same is not available at reasonable prices.

In the given factual situation, decide whether the Controller can grant the license or not. While answering the question, discuss the relevant provisions of the Patent Act, 1970 that provide the requirements for grant of Compulsory License in India as well as the factors that the Controller shall consider while granting a compulsory license. Also



suggest whether a Compulsory License in respect of a patent can export the patented invention under the license. Cite relevant case laws.

(Marks: 20)

Q.4). Discuss the opportunities available under the Patent Act, 1970 for making opposition to or challenging the grant of patent, whether before or after the grant of patent. Highlight the differences between the types of challenges permitted under the Act after the grant and whether an interested person can initiate two parallel proceedings on the same ground after the grant.

(Marks: 20)

Q.5). What are the various types of infringements possible under the Patent Act, 1970? Explain the various doctrines that expand or restrict the possibility of non-literal infringement. Also highlight the remedies available for patent infringement in India.

(Marks: 20)

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

- a). Relevance of Publication and Examination of a patent application
- b). Concept of Priority Date of Claims
- c). Types of Patent Applications
- d). Amendment of Patent Application and Specification

(Marks: 10+10 = 20)