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NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination April-May, 2024
Semester: UG – X Sem (I.P.R. Hons.)
Subject: I.P. Valuation & Management

Marks: 100

Time: Three Hours

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.
4. Use of Simple Calculator is permitted.

Q.1) "Oppo" and "Xiom" are two trademarks that exist in the market relating to telecommunication devices. Both the marks have been used for smartphones and have a similar pricing strategy targeting largely the consumers from the same income group. Neither of the two brands have any other market operations with regard to any other category of devices except for smartphones and their accessories. Both the marks enjoy a decent goodwill in the market and have a loyal consumer base. Their products are generally priced between Rs. 10,000 to 40,000 and they entered the market in the year 2008.

oppo



xiaomi

While applying market approach, suggest whether the two trademarks are comparable IPs. Also explain the applicability of Market approach for valuation of IP assets, including the essential conditions, its legal framework and purposes for which the approach may be used and what are its limitations.

(Marks: 20)

Q. 2) As per WIPO, "an IP Audit is a systematic review of the intellectual properties owned, used or acquired by a business so as to assess and manage risk, remedy problems and implement best practices in IP asset management". In light of the given statement, discuss the need and objects of IP audit and the circumstances where such audit is required. Illustrate the steps of an IP Audit and highlight the relevance of such audits through case studies.

(Marks: 20)

Q.3) a) "The 25% Rule of Thumb is an empirically suggested baseline that allocates a 25:75 ratio between the licensor and licensee, respectively in accordance with the allocation of risk." In view of the above statement, explain the Rule of Thumb as a tool for Valuation. Highlight the utility and the limitations of the approach.

b) Explain the premium pricing model of valuation of IP bearing products. Highlight its utility and relevance with the help of illustrations and case studies.

(Marks: 10 +10 = 20)

Q.4) A food processing and selling company based in Mumbai has a trademark, consisting of the word "Nandus" written in a stylised manner, which is being used since 1st July, 1977, but has not been registered. The word "Nandus" is an essential feature of the trademark with a specific red color font and a heart shape device above the name Nandus. The business primarily related to manufacturing and marketing processed and frozen chicken and meat products such as chicken kebabs, chicken nuggets, fried chicken, boneless chicken, chicken legs and other varieties of chicken products such as spice mixes as well as meat pies, meat tenderisers and in respect of the said business, the company adopted such mark:

Nandus



Mr. XYZ, a representative of Nando's India Restaurants Private Ltd. (an Indian subsidiary of a company incorporated under the laws of Ireland) has approached you. The company has been using the mark "Nandos" as a part of their trademark for a chain of restaurants they had opened up in Delhi in 2007. They had a number of similar restaurants in a few other jurisdictions abroad and had just entered the Indian market. In light of its cross-border reputation, they continued using the same trademark "Nandos" as a part of their Trademark.



Mr. XYZ seeks your advice and guidance on seeking and procuring a Trademark registration in India. Guide him on the pre-filing, during-filing and post-registration due diligence while suggesting whether there is a possibility for such registration in India.

(Marks: 20)

Q.5) Mr. M obtained a patent protection over an invention relating to a smart watch. The device could monitor heart rate, physical activity, calories burnt, etc. After obtaining the patent protection, he intends to commercialise his invention by giving licenses to intended manufacturers. He receives two offers for licensing his patent rights to them for manufacturing the said watch. He faces a question as to whether he should grant an exclusive license to Titan Watch Co. 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 Fossil Watch Co. and Casio Watch Co. simultaneously. Consider the following alternatives available to him (Mr. M) and prescribe the most reasonable option that may be resorted to while applying Income Approach:

OPTION 1: Mr. M may grant an exclusive license to Titan Watch Co. where he assumes the returns to range upto 50 lakhs in the 1st year, 60 lakhs in the 2nd year, 80 lakhs in the 3rd year and 100 Lakhs in the 4th year. The expected rate of royalty per year under the license would be 20%. ($R_m = 15$, $R_f = 8$, $\beta = 1$).

OPTION 2: Mr. M may grant two identical non-exclusive licenses to Fossil Watch Co. and Casio Watch Co., respectively wherein he assumes the returns to range up to 80 lakhs in the 1st year (40 lakhs from each licensee), 110 lakhs in the 2nd year (55 Lakhs from each licensee), 140 lakhs in the 3rd year (70 Lakhs from each licensee) and 160 Lakhs in the 4th year (80 Lakhs from each licensee) for both non-exclusive licenses taken together. The expected rate of royalty per year under the licenses would be 15% for each of them. ($R_m = 13$, $R_f = 8$, $\beta = 1$).

Assumptions:

1. The licensees are enterprises engaged in the manufacture of similar articles. 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: 20)

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

- a) Asset Strength Approach of Valuation
- b) Methods of Damage Calculation in IP litigation
- c) Securitization of IP Assets
- d) Goodwill Valuation

(Marks: 10+10=20)