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NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination August-December – 2025

Semester: PG I Semester (LLM IPR)

Subject: International IP Law and Policy

Time: Three Hours

Marks: 100

Instructions:

- 1) Answer any 4 out of 6 questions.
- 2) Marks have been indicated against each question.
- 3) Write your answers to the point, brevity will be appreciated.

Q.1). “The ‘Star Athletica’ test for judging copyright protection in utilitarian works is embedded more in metaphysics than in law.” Do you agree? Explain your stance with supporting reasons. (Marks 25)

Q.2). a). Athena Diagnostics is the exclusive licensee of the patent, which is directed to methods for diagnosing neurological disorders by detecting antibodies to a protein called muscle-specific tyrosine kinase (MuSK). Athena markets a test called FMUSK that functions by evaluating those antibodies. The patent notes that about 80% of patients with Myasthenia gravis (MG) produce acetylcholine receptor autoantibodies, and that the remaining 20% do not. The named inventors of the 'patent discovered that many of the 20% of MG patients without acetylcholine receptor autoantibodies instead generate autoantibodies to MuSK. After Mayo developed two competing tests, Athena filed suit against Mayo for infringement of the patent, and Mayo moved to dismiss, arguing that the asserted claims of the patent were invalid for claiming patent ineligible subject matter under the product of the nature doctrine. Athena argued that the claims are patent eligible because they recite innovative, specific, and concrete steps that do not preempt a natural law and are directed to a new laboratory technique that makes use of man-made molecules. Mayo responded that the asserted claims are directed to a natural law, namely, the correlation between naturally-occurring MuSK autoantibodies and MuSK-related neurological diseases like MG, that the remaining steps apart from the natural law are standard immunoassay techniques that still leave the claims directed to a natural law, and that it makes no difference with respect to patent eligibility whether the claimed diagnostic method uses man-made materials. Decide.

b). Netherlands passes a statute requiring trademark applicants for cannabis weed products (legalized in Netherlands) to use drab and plain colours (e.g. beige, grey, green) on their packaging during retail sale post registration of trade dress. Countries Y and Z, which are major exporters of cannabis to Netherlands, file a complaint before the WTO, alleging that the law violates their right to obtain a registration for their distinctive marks and maintain their subsequent distinctiveness. The step also constitutes a violation of the WTO member's obligation not to discriminate in the grant of the registration of a trademark based on the nature of the underlying product. Examine the merits of this contention with the help of one relevant case law.

(Marks 12.5+ 12.5 = 25)

Q.3). Critically analyse the underlying rationale of the decision by the US Federal Supreme Court in *Google v. Oracle* in striking the balance between exclusivity and access in case of copyrightable software with supporting references from the TRIPS Agreement and decided cases in the US. (Marks 25)

Q.4). "Since the Paris Convention and the Berne Convention pre-dates the TRIPS Agreement, their relevance has reduced considerably after the Agreement came into force." Do you agree? Substantiate your response with detailed reference to the relevant provisions of the TRIPS Agreement and cases. (Marks 25)

Q.5) Evaluate the limitations of the compulsory licensing scheme for patents under the TRIPS Agreement and explore the reasons why it failed to make an impact in the global IP regime. (Marks 25)

Q.6) a). Manchester United FC ("MUFC") is a famous English football club carrying a registered mark as its club logo. The club uses this logo on various merchandise like jerseys, mugs, posters, calendars, coffee mugs etc. Pierre, a lifelong MUFC supporter in Paris, designed some scarves where he imprinted the logo and advertised them on his blog. Pierre's products quickly gained popularity and soon he opened a store in his locality selling these scarves along with some official MUFC products too. Pierre's intention was however not fraudulent and he indicated prominently on the sign board of the store that "The word or logo on the goods offered for sale are used solely to adorn the product and does not imply or indicate any affiliation or relationship with the manufacturers or distributors of any other product, only goods with official MUFC tags are official MUFC merchandise". Soon, this came MUFC's notice who is now contemplating legal action against Pierre before the European Court of Justice. MUFC has reached out to you for legal advice on a potential trademark infringement suit. Advise.

b). The Board of Cricket Control in India ('BCCI') has entered into a contract with Star Sports for exclusive broadcast of cricket world cup matches in India, Sri Lanka and Bangladesh. Mid way through the tournament, the Star Sports legal team discovers that matches are being streamed in Bangladesh without consent or authorization of Star Sports or BCCI in hotels, pubs, bars and shopping complexes. The online streaming reports generated by the internet service providers also point to a number of private parties viewing and retransmitting the matches in their private residences. It is also found that the Bangladesh Copyright statute permits unauthorized broadcast and screening of sports matches in commercial establishments and within private residences with no guidelines as to the manner of usage. After a dialogue with the Bangladesh government, the Indian government sends a team of delegates to Bangladesh to advise regarding the requirement amendments to the Bangladesh Copyright statute. As the head of the delegation, you have been asked to submit a report to the Bangladesh Ministry of Trade and Commerce. Draft the report with suitable recommendations substantiated by relevant authorities.

(Marks 12.5+12.5 = 25)