

## NATIONAL LAW UNIVERSITY JODHPUR

End Term Examination May 2025

Semester – LLM Semester II (IPR Honours)

Subject: Trademarks, GI and Unfair Competition Law

Time: 3 hours  
marks

Mark: 100

*Instructions:*

- i. All the questions carry equal marks.
  - ii. Answer any **four** out of the **six** questions.
  - iii. Please substantiate your statement(s)/argument(s) with relevant case laws, whenever necessary.
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Q.1 "Passing off is a common law remedy aimed at protecting the goodwill of unregistered trademarks and trade dress against misrepresentation in the marketplace. Critically analyse the essential elements that constitute passing off under Indian trademark jurisprudence."

(25 marks)

Q.2 "Compare and contrast the legal action of trademark infringement under the Trade Marks Act, 1999 with the common law remedy of passing off. Discuss the key differences in elements to be proved, remedies available, and procedural requirements concerning relevant Indian case law."

(25 marks)

Q.3 *A popular streetwear brand named "BluntTruth" applies for registration of a trademark consisting of a stylised image of a man smoking cannabis, accompanied by the tagline "High on Truth". The Registrar of Trade Marks issues a refusal under Section 9(2)(c) of the Trade Marks Act, 1999, citing that the mark is contrary to morality and likely to offend public decency.*

*The brand challenges the refusal, arguing that the mark reflects contemporary youth culture and freedom of expression in art and fashion, and that cannabis use is increasingly decriminalised in several countries.*

**Discuss:**

1. The scope of Section 9(2)(c) of the Trade Marks Act, 1999 about obscenity and morality.

2. Whether evolving societal norms and international trends can influence the interpretation of 'morality' under Indian trademark law.
3. Analyze relevant case law and judicial standards that guide the assessment of morality and public decency in trademark registration.
4. Should the Trade Marks Registry adopt a more liberal approach aligned with freedom of expression?

(25 marks)

Q.4 "Critically examine the registrability of descriptive and generic marks under Indian trademark law. Discuss the concept of 'acquired distinctiveness' and how descriptive marks can overcome objections based on Section 9 of the Trade Marks Act, 1999, concerning relevant judicial decisions."

(25 marks)

Q.5 "Explain the concept of trademark dilution under Indian trademark law. Discuss how dilution differs from traditional infringement, the types of dilution recognised in India, and the standards for proving dilution regarding relevant statutory provisions and case law."

(25 marks)

Q.6 *The artisans of "Kollam Clay Crafts," a traditional pottery technique from a specific district in Kerala, apply for Geographical Indication (GI) registration. Meanwhile, a Delhi-based home décor company starts mass-producing similar-looking items using synthetic materials and markets them under the name "Kollam Inspired."*

*The artisans allege that the company's actions dilute the identity and mislead consumers about the origin and authenticity of the goods. The company argues that their products are "inspired by heritage" and not falsely claiming origin.*

**Discuss:**

1. Whether the use of the term "Kollam Inspired" by a non-local entity amounts to infringement under the Act.
2. The extent of protection provided to registered GIs against dilution and misrepresentation.

(25 marks)

