



TAMILNADU NATIONAL LAW UNIVERSITY



QUESTION PAPERS

LL.M

**END SEMESTER (EVEN-SEMESTER) EXAMINATIONS,
MAY-2023
&
REPEAT (ODD-SEMESTER) EXAMINATIONS,
JUNE-2023**

Name :

Register No.:

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programmes
Repeat (Odd-Semester) Examination, May 2023
LAW AND JUSTICE IN A GLOBALIZING WORLD

Time: 2 ½ hours

Maximum Marks: 50

Answer the following questions. All questions carry equal marks.

1. *“The issue with international institutions is that there is a crisis of legitimacy. Trust in these institutions is a serious problem”* – Critically examine the role of economic interventions made by WTO in third world countries.
 2. *“Contemplating Justice on a global scale in today’s world can easily be seen as an almost impossible”* – Critically examine the concept of global justice.
 3. *“Global Contestation over the institutions of democracy and state building cannot be meaningful unless considered in relation to constitutionalism”* – Critically examine the relation between constitutional developments and globalization in India.
 4. *“Social exclusion is closely tied to the new economic world order, globalized, with free and open markets, which isn't bringing prosperity or social justice to all”*- Critically evaluate Globalization as a racial project.
 5. Critical analyse the historical phases of globalization.
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programmes
Second Semester, End Semester Examinations (Even-Semester), May 2023
INTELLECTUAL PROPERTY RIGHTS AND LITIGATION

Time: 2 ½ hours

Maximum Marks: 50

Answer all the Questions. All the questions carry equal marks.

1. The question of infringement of a patent is a mixed question of law and fact. The infringement of patent may be done in a number of ways, one of which is by using the patent or any colourable imitation thereof in the manufacture of patented articles. Infringement may not be of the complete whole of the process but it may be only in part. Where infringement is only in part, it is necessary that the protection which is sought for, for such part, is material or totally new. In the light of the above statement, critically examine the various types of infringement with the help of decided case laws and also refer to the relevant provisions under the USA, UK and Indian Patents Law.
2. In 1995, Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations was adopted at Marrakesh. The Final Act contains several agreements on different subjects of international trade. The Agreement of Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods popularly known as the "TRIPs Agreement" is an integral part of the Final Agreement. In the light of the above statement, critically evaluate the standards concerning the availability, scope of Geographical Indications, Industrial Designs and copyright and related rights available under the TRIPS Agreement, 1995.

3. (i) Do you agree with the view that the registration is a pre-requisite to statutorily protect the intellectual property rights? Explain the provisions relating to registration of copyright, Trademarks and patents under the Copyright Act, 1957, Trademarks Act, 1999 and the Patent Act, 1970.

(5 Marks)

- (ii) The Intellectual Property Rights (IPR) is an exclusive right to own, use, or sell a method or a product or any work for a limited period, granted to the Intellectual Property (IP) holder by the government allowing him/her to commercially exploit his/her IPR. Whenever the IP holder is unable to commercially exploit his work or the IP rights, Discuss the way in which he / she can exploit his work? Refer to the relevant provisions under the Intellectual Property Laws.

(5 Marks)

4. The Intellectual Property Laws extends protection to the various intellectual Properties by conferring certain rights to the owner of the Intellectual Property Rights. In case of infringement, the IP holder is entitled to certain remedies under the relevant Acts. Where the several IP rights are owned by different persons, the owner of any such right shall, to the extent of that right, be entitled to the remedies provided by the IP laws and may individually enforce such rights by means of any suit, action, or other proceedings without making the owner of any other right a party to such suit, action or proceedings. Keeping the above paragraph in mind, critically analyse jurisdiction of the courts and the various remedies available under the under the Copyright Act, 1957, and the Patent Act, 1970. Refer to the relevant provisions under the relevant act, and quote the relevant case laws in this regard.

5. (i) Briefly explain the procedure relating to the international filing patent under the PCT route and also compare it with the Paris route. **(5 Marks)**

- (ii) Write a short note on 'Nice classification'. **(5 Marks)**

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programmes

Second Semester, End Semester Examinations (Even-Semester), May 2023

INTELLECTUAL PROPERTY RIGHTS AND COMPEITION LAW

Time: 2 ½ hours

Maximum Marks: 50

Answer all the Questions. All the questions carry equal marks.

1. Innovation is nothing but commercialisation of invention. Discuss with specify reference to the economic aspects of invention and competition.-Analyse
 2. Technology transfer right may result in severe restraints on the competition prevalent in a market. These licenses therefore ought to be governed by competition laws to ensure that no such eventualities takes place²-discuss
 3. Super Castes Industries Ltd., vision and others is the first case that that witnessed the jurisdiction of the competitive commissioner over intellectual property rights-Discuss With Subsequent Developments
 4. Patent pooling is one of the ways of anti competitive practices in the pharmaceutical industries-discuss with the developments in USA and European union
 5. **Doctrine write short notes: (4 x 2.5 = 10 Marks)**
 1. Doctrine of exhaustion
 2. Relevant product market in pharmaceutical industries
 3. Predatory Pricing
 4. Tying Arrangements
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programmes

Second Semester, End Semester Examinations (Even-Semester), May 2023
LAW OF TRADEMARKS AND GEOGRAPHICAL INDICATIONS

Time: 2 ½ hours

Maximum Marks: 50

Answer all the Questions. All the questions carry equal marks.

1. “[G]ood will is somewhat vaguely considered as the favourable regard of the purchasing public But good will so construed certainly is not property in any technical sense; for no man can have . . . such a proprietary right to the favourable regard of the public that he may exclude others therefrom”. – (Justice Hincks, Premier-Pabst Corp. v. Elm City Brewing Co.) Critically analyse the significance of Goodwill in granting protection to Trademark and state whether mark or goodwill is considered as an Intellectual property?
2. Analyze the significance of “graphical representation” in granting protection to trademark. And determine whether the non-conventional marks that are not capable of graphical representation can be granted protection under the Trade Marks Act 1999?
3. “The Judicial approach in interpreting the terms attribute of Locality” and “spill over of reputation” is not uniform across the globe , hence it leads to differences in providing passing off remedy” – elucidate
4. State whether Bad faith criteria must be proved beyond doubt when seeking remedy for domain name disputes and Trade mark infringement under section 29 of the Trade Marks Act 1999?
5. Determine the significance of geographical Indication in maintaining the quality of the product through generations and protecting the cultural heritage of the locality. State whether GI or Appellation of origin is more efficient in maintaining the quality standards of a good?

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programmes
Second Semester, End Semester Examinations (Even-Semester), May 2023
LAW AND PRACTICE OF PATENTS

Time: 2 ½ hours

Maximum Marks: 50

Answer all the Questions. All the questions carry equal marks.

1. What cannot be patented in India? Why?
2. Is the patent system necessary in India? Critically comment on the “Ayyangar Committee Report on the Revision of the Patents Law” in the post-TRIPs scenario. Explain why Indian Patent Law restricted anticipation in any specification filed in pursuance of an application for a patent made in India on or after the 1st day of January, 1912?
3. Krish, during his studies abroad in the field of mechanical engineering, went to an International Auto Expo in London, where he visited a stall that showcases a prototype of a motor engine that works on hydrogen fuel. He realized that this type of engine is not available in India and aspired to create a similar one. It is to be noted that the prototype shown at International Auto Expo was created by Future Corp Motor Industries based in Germany and it is kept as a trade secret. Inspired by the prototype shown at Expo, Krish chose hydrogen fuel-based engines as his final year research project during his study at New York University. To fulfill his requirement for the award of a degree as per the rules of the University, Krish has to undergo a mandatory three-month internship in the chosen field of his research. And he interned with the ‘Centre for Green Energy’ a private research facility based in New York which was funded by Future Corp Motor Industries.

After completing his studies, Krish returned to India and established his research facility and a start-up under the ‘Make in India’ initiative of the Indian Government in 2018. After 3 years of continuous research, Krish successfully created the first made-in-India hydrogen fuel-based motor engine which can be used for passenger cars. His breakthrough research in hydrogen fuel-based engines was lauded by the leading dailies, science, and political fora in India. Krish preferred patent protection for the

invention through his start-up and filed a patent application that was published by the Indian Patent Office. Following this, Future Corp Motor Industries filed a pre-grant opposition against his patent application and alleges reverse engineering and misappropriation of trade secrets. Decide.

4. Examine the origin and development of Compulsory Licenses under the Patent System and critically comment on the impact of the first compulsory license issued by India.

5. Pepper MINT Furniture (hereinafter 'Pepper') acquired a patent in India over a study table in 2012 which is claimed as follows, "A movable study table comprising: a flat square piece of wood and four steel rods of equal length to support the said flat square piece of wood, wherein, one of the each of said four solid rods are connected to a corner of said square piece of wood, and wherein, each steel rod is supported by a height-adjustable caster at the other end." Pepper claimed that the height-adjustable cluster is an innovation in the furniture industry due to its durability and weight management. Woodmash Furniture (hereinafter 'Woodmash') made a study table having a rotating circular wooden surface with four long circular legs made of wood. The said table is built with a height-adjustable cluster that performs similarly but not identically to that of Pepper and is connected to the wheel assembly. Woodmash started selling their table from 2018 onwards in the Indian market. Pepper files an infringement suit against Woodmash. Decide.

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programmes
Second Semester, End Semester Examinations (Even-Semester), May 2023
LAW AND PRACTICE OF SHAREHOLDERS AGREEMENT

Time: 2 ½ hours

Maximum Marks: 50

Instructions to the candidates:

1. Answer all the questions
 2. Marks for each question are mentioned against the question concerned.
 3. You may carry the Corporate Laws Manual or the Bare Acts included in the said manual, and the rules, regulations etc. framed under these Acts. No printed book or other material including judgments can be taken to the examination hall.
 4. In case of questions requiring draft of clauses, include the fair draft of the clause followed by the drafts prepared previously. When three or more draft clauses are found in the answer booklet the draft at the end will be considered as the fair draft.
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1. Write an essay, with a particular reference to NTT Docomo Inc v Tata Sons Limited, O.M.P. (EFA) (COMM.) 7/2016 & IAs 14897/2016, 2585/2017, Delhi High Court, on the investment risks that can be allocated by the parties through a shareholders agreement. (12 marks)

2. Ms. Abirami and Mr. Mohan are two of the members of Tiruchirappalli Holdings Limited (THL). They hold 3.5 lakhs and 2.9 lakhs respectively in the THL. On 20.05.2020, they both entered into an agreement as members of THL that "THL will not be issuing additional shares till they both agree for issue of such of additional shares".

On 20.05.2023, the Board of Directors of THL voted for raising capital by public offer of shares and getting THL listed on a stock exchange as well. A director nominated by Ms. Abirami voted in favour of the resolution.

Now Mr. Mohan aggrieved by breach of above agreement by Ms. Abirami seeks your advice to take legal action. You are required to advise Mr. Mohan on the validity, binding nature and enforceability of the above agreement and restraining the company from proposed public offer of shares. **(12 marks)**

3. Critically comment on V B Rangaraj v. V B Gopala Krishnan, AIR 1992 SC 453, with a particular reference to autonomy of members of the companies registered under the Companies Act, 2013 to enter into agreement regarding investment rights.

(10 marks)

4. Fly Safe Airlines Ltd. (FASL) is a company registered under the Companies Act, 2013 with its registered office in Chennai, India. High Sea Delight (Cayman Islands) Ltd. (HSDL) is a company registered under s the Companies Act (2021 Revision) of the Cayman Islands with its registered office in George Town, the political capital of Cayman Islands. FASL and HSDL propose to form a joint venture with 50:50 participation structure.

a. Suggest the promoters an appropriate business format with merits and demerits of the format. **(2 marks)**

b. Assume that you have suggested the incorporated joint venture company with its registered office in Chennai, India as the business format and advise them by providing the draft of various crucial clauses to be included in the shareholders agreement. **(10 marks)**

Take note of the fact that you are required to include draft clauses in your answer.

5. Write a note on arbitration clause in a shareholders agreement. **(4 marks)**
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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programmes

Second Semester, End Semester Examinations (Even-Semester), May 2023

LAW ON SECURITIES (SECONDARY MARKET REGULATIONS)

Time: 2 ½ hours

Maximum Marks: 50

Answer all the Questions. All the questions carry equal marks.

1. Analyse the role of SEBI in the regulation of Indian Securities Market since its establishment in 1988. Also, critically analyse the multitude of powers and authority that SEBI currently possesses and its impact on Investor Protection in India.
2. The National Cooperative Sustainable Development Corporation (hereinafter NCSDC) is a registered Cooperative Society in India under the Co-operative Societies Act of 1912. In 2023, the Management Committee of NCSDC wants to expand the functions of the Cooperative Society by establishing a Stock Exchange. However, they lack clarity on the following matters:
 - i. What structural changes does NCSDC require in its current management format to make itself eligible to function as a Recognised Stock Exchange in India?
 - ii. Will there be any restrictions on the voting rights of the current members of NCSDC subsequent to the establishment and recognition of the Stock Exchange?

Provide legal advice to the Management Committee of NSCDC with the help of provisions and Regulations under the Securities Contracts Regulation Act, 1956.

3. Define and differentiate the following based on their Form, Nature and Purpose under the SEBI regulations:

- i. Mutual Funds.
- ii. Collective Investment Schemes.
- iii. Alternate Investment Funds.

4. Mr. Nayak is a III year student at a reputed Law University in India. After he completed his corporate law courses, he picked up interest in the field of investments and he started investing in shares of different companies in the secondary securities market.

He purchased 100 shares of LTNNU Limited through a depository participant in dematerialised form. Subsequently, when the said entity was on an uptrend, he sold 25 shares of LTNNU Limited and booked a profit, thereby retaining the remaining 75 shares. One month later when he checked his transactions, he noticed that 75 shares had been wrongfully transferred from his demat account instead of 25 shares. He reaches out to you for guidance.

Explain to him the existing legal position, rights and liabilities of Depositories, Depository Participants and Beneficial Owners under the Indian Depositories Act of 1996. Also, advise him on whom to approach to get his loss addressed which was caused due to the wrongful transfer from his demat account, with the help of relevant legal provisions.

5. Mr. R. Avi is the Head of the Legal Department and Mr. V. Asish is the Head of Corporate Accounts in Synosys Limited, an Indian IT company headquartered in Mumbai. They held Unpublished Price Sensitive Information (UPSI) related to the financial results of Synosys for the quarter that ended on June 30, 2022. The UPSI came into existence on June 29, 2022, and the financial results for the quarter were

published on July 15, 2022, which made the above-mentioned UPSI publicly known information. Ms. B. Rinda and Mr. K. Umar, two citizens of India, had traded in the stocks of Synosys Limited through a recognised stock exchange on 1st July 2022.

Ms. Shaajee is your childhood friend, a B.Com student and an intern in the Corporate Accounts department of Synosys. During a recent meeting, she confides in you regarding the unethical practices carried out by Mr. Avi and Mr. Asish who shared UPSI with Ms. Rinda and Mr. Umar.

With the help of the above facts, answer the following questions with the help of legal and regulatory provisions governing the Indian Securities Market:

- i. What is the possible course(s) of action that SEBI has against Insider Trading?
- ii. Will the actions of Mr. Avi and Mr. Ashish fall under the definition of Insider Trading under the Prevention of Insider Trading Regulations, 2015?
- iii. Will Ms. Rinda and Mr. Umar be liable under the Prevention of Insider Trading Regulations, 2015?

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TAMIL NADU NATIONAL LAW UNIVERSITY, TIRUCHIRAPPALLI
LL.M. Programmes
Second Semester, End Semester Examinations (Even-Semester), May 2023
CORPORATE RESTRUCTURING (MERGERS, ACQUISITION ETC)

Time: 2 ½ hours

Maximum Marks: 50

Answer all the Questions. All the questions carry equal marks.

1. Synthania Company Ltd. is a public listed company and has the business activity of manufacturing aluminum and semi fabricated products. Furji Aluminium Co. (FAC) acquired a substantial number of shares from the market in Synthania Company Ltd. FAC wants to acquire control and create a long term relationship with Synthania Company Ltd. They approached Anwestika Capital Management Ltd, a merchant banking service provider to proceed with further purchase of shares of Synthania Company Ltd. complying with SEBI regulatory requirements. Explain the scope of work of Anwestika Capital Management Ltd for further acquisition of shares of the target company?
2. Tech Manavendra is a global systems integrator and business transformation consulting firm focused on the communications industry. With its core strength in providing Telecom Solutions, Tech Manavendra has other business undertakings such as BPO, Infrastructure Management and Security Consulting. The company is planning to concentrate on their core strength which has high growth rate and high relative market shares. Among the other business undertakings, the BPO is enjoying high relative market share but low growth rate, the Infrastructure Management has high growth rates but low product quality and poor marketing due to failure of management, the Security Consulting has low relative market share and low or no growth.
Advice Tech Manavendra to achieve fastest and long lasting growth applying any one of the strategic growth models/approaches which you have studied?

3. The sections 230(11), 235 and 236 are on the acquisition of shares. Critically analyse these sections and provide your comments.
4. The Competition (Amendment) Act, 2023 notified on 11th April 2023 made certain key amendments to the Competition Act 2002. Comment on the impact of this Amendment Act on combinations.
5. Based on the given situation, draft the below mentioned clauses of Scheme of Amalgamation and Arrangement:

The Audit Committee and the Board of Directors of Soundaryam Finance Limited ("SFL") recommended for drafting a composite Scheme of Amalgamation and Arrangement for the deal among SFL and Inflow Insurance Broking Services Limited ("IIBSL") and their respective shareholders and creditors ("Draft Scheme"), which, inter alia, proposes to merge and consolidate the business of IIBSL ("Transferor Company") into SFL ("Transferee Company"), on a going concern basis subject to the requisite approval of the shareholders and creditors of the Company, the National Company Law Tribunal ("NCLT") and other approvals as may be required. Also SFL (being an equity on BSE and NSE) wants to file an application in accordance with SEBI Regulations separately.

Clauses to be drafted for the above Scheme of arrangement (not more than three pages):

- a) Description of Parties
 - b) Definitions
 - (i) Appointed Date
 - (ii) Effective Date
 - c) Transfer Clause
 - (i) Transfer of assets
 - (ii) Transfer liabilities
 - d) Legal Proceedings
 - e) Any one more clause which you may find as necessary for the above matter
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