

BIRLA INSTITUTE OF TECHNOLOGY, MESRA, RANCHI
(END SEMESTER EXAMINATION MO2022)

CLASS: IMSc
BRANCH: CHEMISTRY

SEMESTER : III
SESSION : MO/2022

SUBJECT: CH219 INTELLECTUAL PROPERTY RIGHTS

TIME: 03 Hours

FULL MARKS: 50

INSTRUCTIONS:

1. The question paper contains 5 questions each of 10 marks and total 50 marks.
 2. Attempt all questions.
 3. The missing data, if any, may be assumed suitably.
 4. Tables/Data handbook/Graph paper etc., if applicable, will be supplied to the candidates
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- Q.1(a) The company Angostura is famous for their orange syrupy concoction, Angostura Bitters, which is made with ingredients that are native to Trinidad and Tobago. Angostura is one of the oldest bitters, which was first produced by Dr. Johann Siegert in the early 1800s as a stimulant for troops. Over the following years Dr. Siegert continued his research and development (R&D) and perfected the formula for his aromatic bitters in 1824 - which he called Amargo Aromatico - and continued to use them in his medical practice. The formula has not changed since it was perfected in 1824 and continues to be the base for Angostura Bitters. Can copyrights sufficiently protect the intellectual property in the formula for Angostura Bitters? Explain why or why not. [2]
- Q.1(b) What factors must be considered when determining whether a particular information is a trade secret? [3]
- Q.1(c) i. What is Traditional Knowledge defined as and what are the kind of things covered under traditional cultural expression? (2) [5]
ii. What happens if the subject of a patent application is entirely based in traditional knowledge? (2)
iii. In case a patent is sought on an invention based on a biological resource obtained from India, which authority must give prior approval? (1)
- Q.2(a) If inventor uses an invention secretly until it becomes a commercial success, and then applies for a patent – is it still a novelty/ new invention? Give reasons for why or why not. [2]
- Q.2(b) How did the Ayyangar Committee Report affect the law on product and process patents in India? How did those changes affect India's pharmaceutical industry? [3]
- Q.2(c) i) What are the three factors that qualify a subject matter to become patentable? (1) [5]
ii) However, in the case of chemicals and especially pharmaceuticals, if the product for which patent protection is claimed is a new form a known substance, what is the additional test that it must pass? Use the example of a case you have read to support your explanation. (4)
- Q.3(a) i) The act of passing off can be brought to court where: (1) [2]
A. the interest of an author or owner of a copyright work in his business reputation and goodwill is damaged by misrepresentation that falls outside the copyright law
B. the interest of an author or publisher in a literary work is damaged by a literary critic
C. the interest of an author or owner of a copyright work in his business reputation and goodwill is damaged by plagiarism that falls within copyright law
D. the interest of an author or owner of a copyright work in his reputation is damaged by rumours that amount to slander and libel.
ii) A GI can be sought for "any agricultural, natural or manufactured goods or any goods of handicraft or of industry and includes food stuff." Who can apply for a Geographical Indication over such goods? (1)
- Q.3(b) The nature of copyrights is described in the following terms: incorporeal, inalienable and time bound. Explain what each of these terms means. [3]

- Q.3(c) Manoj reads a series of novels by Joan Growling called Berry Rotter about a 10 year old orphan, growing up with her neglectful aunt, who finds out that she can magically transform into a lizard (gecko). The stories follow her escapades getting in and out of trouble in an academy where other kids also learn to control their shape-shifting powers for good. He finds it very compelling and is inspired to write a comic book called Shape-Shifter Shona featuring a 9 year old Shona who can turn into a chameleon. The story shows how the girl manages her shape-shifting abilities while staying in her unpleasant aunt's house. [5]
- i) With reference to appropriate case law, give your reasons as to whether Joan Growling can sue Manoj for a violation of her copyright. (2)
- ii) Assuming that Growling finds that Manoj has used exact lines of dialogue between Berry Rotter and her aunt and friends in his comic book, Shape-Shifter Shona. Giving reasons for each state whether this case (including the overall facts) may involve
A. direct, B. indirect, C. subconscious copying (3)

- Q.4(a) i) The World Intellectual Property Rights Organisation is a specialised agency of the United Nations. Which of the following are not one of its aims: (1) [2]
- A. promote and protect moral and economic rights of creators
B. encourage dissemination and peoples access to creations
C. encourage fair trading that contributes to economic and social development
D. discourage cooperation among members of treaties it administers
- ii) Each country has a different duration of how long a copyright or patent lasts. What are the terms of copyright and patents in India? (1)

- Q.4(b) Answer ANY one. [3]
- i) What are the functions performed by a trademark? (1)
- A trade mark requires to be capable of being represented graphically. What does graphical representation mean in this context? (2)

OR

- ii) In case of infringement of a patent, what are the remedies available to the injured party whose patent has been infringed? (2)
- In cases where a groundless threat of patent infringement is made, what relief is available to the party who has been thus threatened? (1)

- Q.4(c) Classify the following as being patentable or non-patentable subject-matter. Give reasons why you think so. (1 mark each) [5]
- i) a method of vaccination that decreases risk of post-vaccination fevers
ii) a drug branded TamiFen which is a combination of acetaminophen (an anti-fever drug) with ibuprofen (an anti-inflammatory drug)
iii) hereinbefore unknown discovery of a principle for the calculation of volume
iv) a device or method for breaking house locks
v) a bacteria to cure inflammatory bowel disease

- Q.5(a) Fill in the blanks (A) and (B) with the appropriate selections (1 mark for each blank correctly filled): [2]
- Trade-Related Aspects of Intellectual Property Rights (TRIPs) agreement
Berne Convention
World Intellectual Property Organisation (WIPO)
Paris Convention
Patent Cooperation Treaty

The application of copyright protection for software products was firmly established internationally via the WTO's _____(A)_____. Under Article 10 of the, WTO members are required to treat computer programs, whether in object or in source code, as literary works as defined in the _____(B)_____.

- Q.5(b) Answer ANY one. [3]
- i) Describe what is meant by Compulsory Licensing and what is the public purpose that it serves? What is India's first case of Compulsory Licensing? What was the subject-matter of the case? In your opinion, how would you have resolved the case?

OR

ii) The Designs Act, 2000 defines "design" to mean the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article, a two dimensional and/or three dimensional article, manufactured by any industrial process or means, whether manual, mechanical or chemical, which in the finished article appeal to and are judged solely by the eye. In that context, answer the following: Is a novel and original device that facilitates the internal mechanical movement of a crane (imagine a series of hinges which helps the crane flex) registrable under the Designs Act? (1)

What is the intellectual property protection that would be most relevant in each of the following instances (2):

- A. text of an examination question paper
- B. an illustrated cover of a fantasy novel
- C. a handbag that can turn into an umbrella
- D. an action-figure depicting superhero Minnal Murali

- Q.5(c) Answer ANY two: [5]
- i) What are the advantages of filing a Patent Cooperation Treaty application? (2.5)
- ii) What are the ways by which an Indian applicant can file a PCT application? (2.5)
- iii) What are the different phases of filing a PCT application? (2.5)
- iv) What are the requirements for a "complete specification" in a PCT application, and how is it different from a provisional specification? (2.5)

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