

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

CLASS: B.Sc./I.M.Sc
BRANCH: Chemistry

SEMESTER : III
SESSION : MO/2023

SUBJECT: CH219 INTELLECTUAL PROPERTY RIGHTS

TIME: 3 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. Before attempting the question paper, be sure that you have got the correct question paper.
 5. Tables/Data hand book/Graph paper etc. to be supplied to the candidates in the examination hall.
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| Q.1(a) i. While national/domestic laws govern people, there is a role played by international conventions and declarations. How does Article 27 of the UDHR support the protection of the Intellectual Property Rights of authors of scientific, literary, or artistic productions? [2] | [5] CO1 | 2 |
| ii. Give at least two examples of international law instruments that establish support of intellectual property rights. [2] | | |
| iii. What is TRIPS? [1] | | |
| Q.1(b) i. A person makes a new device for extracting lemon juice. He names the device 'Frezz' and writes an instruction manual on how to extract lemon juice. A trademark can be registered for: [1] | [5] CO1 | 1 |
| A. The device for extracting lemon juice | | |
| B. The instruction manual | | |
| C. The name 'Frezz' | | |
| D. None of the above | | |
| ii. A copyright exists for: [1] | | |
| A. The device for extracting lemon juice | | |
| B. The instruction manual | | |
| C. The name 'Frezz' | | |
| D. None of the above | | |
| iii. A patent can be sought for: [1] | | |
| A. The device for extracting lemon juice | | |
| B. The instruction manual | | |
| C. The name 'Frezz' | | |
| D. The look, shape and feel of the device | | |
| iv. What does a trademark protect? [1] | | |
| A. A secret formula | | |
| B. A work of literature or art | | |
| C. Logo, name and brand | | |
| D. The look shape and feel of a product | | |
| v. A music band sets up a shopping section on their webpage to sell band-related merch. What IP type can they use to show that they make the merch? [1] | | |
| A. Copyright | | |
| B. GI | | |
| C. Registered Designs | | |
| D. Trademarks | | |
| Q.2(a) Amrita has discovered that a combination formulation of two well-known ingredients when applied topically over the affected area, reduces pain associated with arthritis. Amrita wants to sell this pain-relieving formulation as she feels it will be of great use to sufferers of joint pains in restoring their mobility and zest for life. Amrita is considering applying for a patent for the formulation. | [5] CO2 | 2 |
| i. What are the factors qualifying a subject matter to become patentable? [2] | | |
| ii. In light of these factors, assess whether or not Amrita's formulation fulfills the criteria for patentability and how. [1+2] | | |

- Q.2(b) Amrita finds out that applying for a patent can be quite expensive in the scenario above. With this in mind, she is now wondering if she should keep the ingredients of the formulation a secret at first and see if there is any interest in buying the product before she applies for a patent. What are the advantages and disadvantages of relying on trade secrets to protect IP rights over Amrita's formulation? [5] CO2 3
- Q.3(a) i. What is the primary function of patents? [1] [5] CO3 2
 ii. What is the meaning of the "term" of a patent? [1]
 iii. What is the term of a patent in India? [1]
 iv. What is the meaning and importance of prior art in patent? [1]
 v. What is the relevance of a person skilled in the art when determining prior art? [1]
- Q.3(b) The Explanation to Section 3(d) of the Patent Act reads as follows: [5] CO3 3
 "For the purposes of this clause, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy;"
 Take the compound salicylic acid whose salt (sodium salicylate) and ether derivatives (O-methoxy benzoic acid) have no efficacy hence would be not patentable. On the other hand, two esters of salicylic acid, O-hydroxy methyl salicylate (Oil of Wintergreen) and O-acetylsalicylic acid (aspirin), both have medical importance.
 What is therapeutic efficacy, and does it impact patentability? Please discuss the Novartis Glivec case in your response and explain how section 3(d) dissuades "evergreening."
- Q.4(a) Software is made up of code, which is essentially ideas written down in machine-readable languages. It's obvious that the text of the code, as written down, will be protected by copyright, but the ideas captured in the code are only badly protected. What are "computer-related inventions (CRIs)" and under what circumstances are they patentable? [5] CO2 2
- Q.4(b) i. The aim of WIPO is: [0.5] [5] CO1 1
 A. To promote policy and laws protecting the moral and economic rights of creators in their creations and the rights of the public in access to those creations.
 B. To discourage trading in intellectual property for economic and social development.
 C. None of the Above
 ii. What does TKDL stand for? [0.5]
 iii. What was the reason for setting up a TKDL? [1]
 iv. Define traditional and cultural expressions (TCE). [1]
 v. Who can apply for registering a Geographical Indication? [1]
 vi. Any invention based on any research or information on a biological resource obtained from India must be approved by what authority? [1]
- Q.5(a) i. Copyright is a bundle of rights that may be alienated by assignment. Describe the list of conditions that must be fulfilled for assigning a copyright as per Section 19 of the Copyright Act. [2] [5] CO2 2
 ii. If an author relinquishes his/her copyright over their work, does it put the entire work in the public domain? What is the effect on rights already assigned away to others? [1+1]
 iii. If a work on being relinquished puts it under public domain, using such a work counts as "fair use". Provide any other examples of fair use. [1]
- Q.5(b) i. How do interlocutory injunctions work to protect intellectual property? [2] [5] CO3 1
 ii. Under which circumstances is a John Doe or Ashok Kumar order issued? [1] &
 iii. What other remedies can a court order for the infringement of a copyright or a patent? [2] 2