

Name:	
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, May, 2019

Course: Intellectual Property Law
Programme: BALLB, BBALLB, BComLLB
Time: 03 hrs.
Instructions:

Semester: VIII
CC:LLBL401
Max. Marks: 100

SECTION A

S. No.		Marks	CO
Q 1	<p>Fill in the blanks</p> <p>a. If the trademark is not registered, a protection still exists in the form of the tort of _____.</p> <p>b. One of the theoretical justifications for protection of Intellectual Property is the theory of _____ which proposes that the Law must aim for the greatest good of the greatest numbers.</p> <p>c. The rights of an author or artist with respect to his or her creation are governed by the law of _____ .</p> <p>d. If you invent a new process for recording music, you will likely apply for a _____.</p> <p>e. An invention may be a product or a _____.</p>	[5]	CO1
Q 2	<p>State true or false</p> <p>a. A trade mark shall not be registered if it is such as to create a likelihood of confusion.</p> <p>b. There is no inventive step if the applied invention is obvious to a person having ordinary skill in the art.</p> <p>c. Moral rights consist only of the right to paternity.</p>	[3]	CO1
Q 3	<p>Choose the correct option</p> <p>a. Under the Patent Act, the person entitled to receive a patent on a new invention is</p> <p style="margin-left: 40px;">i. The one who invented it first</p> <p style="margin-left: 40px;">ii. The who applied for a patent first</p> <p style="margin-left: 40px;">iii. The one who commercialized it first</p> <p style="margin-left: 40px;">iv. The one who first thought of it</p> <p>b. As a general rule</p>	[2]	CO1

	<ul style="list-style-type: none"> i. Intellectual property rights are assignable ii. Moral rights can be assigned but not waived iii. Intellectual property rights are not assignable iv. Both A & B 		
SECTION B			
Q 4	<p>Discuss in brief, the context and meaning of any 2 the following provisions:</p> <ul style="list-style-type: none"> a. S. 3(b) an invention the primary or intended use or commercial exploitation of which could be contrary to public order or morality or which causes serious prejudice to human, animal or plant life or health or to the environment; b. S. 3(c) the mere discovery of a scientific principle or the formulation of an abstract theory or discovery of any living thing or non-living substance occurring in nature; c. S. 3(k) a mathematical or business method or a computer programme per se or algorithms; 	[10]	CO2
Q 5	<p>Write a short note on the nature, extent of protection and term of protection for any 2 of the following:</p> <ul style="list-style-type: none"> a. Literary work b. Musical work c. Artistic work 	[10]	CO2
SECTION-C (Attempt any 2)			
Q 6	What is idea expression dichotomy? How is it related to the legal concepts involved in RG Anand Vs Delux Films (AIR 1978 SC 1613)?	[10]	CO2
Q 7	Discuss the concept of compulsory license, distinguishing it from assignment.	[10]	CO2, CO4
Q 8	What is GI? Discuss the difference between Trade marks and GI. Also discuss the criteria for registration of GI.	[10]	CO2
SECTION-D			
Q 9	Rajneesh downloaded twenty different songs from various websites. He created a folder to store those songs and played those songs in his room. After a week, he shared that songs folder through Facebook. Whether Rajneesh will be liable for copyright infringement of songs under Indian Copyright Act? Analyse.	[20]	CO3, CO4

Q 10



The device shown above has been created for addressing the problem of losing keys. It has a central console and any key that needs to be connected to the system needs to be annexed to keychain that comes with the console. On losing the key, pressing the relevant number of button on the console will make the keychain sound a loud alarm.

Is this device patentable? Discuss using the relevant legal provision.

[30]

CO3

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SECTION A

S. No.		Marks	CO
Q 1	Fill in the blanks a. The term of a patent is _____ years from the date of _____ of the application. b. Copyright protects literary, dramatic, musical and _____ works, in addition to other works such as sound recordings and cinematographic films. c. Copyright protection for literary works last for a period of _____ years the death of the author. d. Novartis v Union of India deals with the interpretation of section _____ of the Patent Act, 1970.	[5]	CO1
Q 2	State true or false a. Design protection is not a form of intellectual property in India. b. Trademark protection is available for a period of 10 years and is renewable for a period of 5 years thereafter. c. Computer programs are artistic works. d. There is no criminal remedy in case of copyright infringement e. The priority period of patent application is 12 months from the date of the original filing.	[5]	CO1

SECTION B

Q 3	Discuss the law on infringement of patents and claim construction, along with relevant provisions and case laws, where applicable.	[10]	CO2
Q 4	Explain in detail, the concept of Fair use in Copyright law.	[10]	CO2

SECTION-C (Attempt any 2)			
Q 5	What is the procedure for registration of Patents? Write a detailed note.	[10]	CO2
Q 6	In light of the decision in Eastern Book Co. v. D.B. Modak (AIR 2008 SC 809), discuss the principles of copyrightability in compilation of facts.	[10]	CO2
Q 7	Referring to section 2(d) of Designs Act, 200, explain what are Design Rights? Distinguish Design rights from Copyrights.	[10]	CO2
SECTION-D			
Q 8	<p>TVS filed for a patent for its invention titled “Shock Absorber with helper spring” which Bajaj opposed. The invention related to a shock absorber for a vehicle and in particular, one with a helper spring (to aid the shock absorber). The applicants claimed that the helper spring composed of non-linear springs had the property of absorbing and dissipating energy efficiently, thereby increasing the passenger ride comfort and durability of the shock absorber. Usually, there is a time lag of the damper in absorbing the energy and then releasing it to the surroundings which results in discomfort to the passengers. The steel they used for this invention was Grade 2 steel. This invention was economically significant.</p> <p>However the non-linear spring was in fact, composed of several small linear springs put together. Secondly, the use of the cheaper Grade 2 steel instead of the commonly used Grade 3 steel was cost effective. Thirdly the “Helper Spring” as claimed by the applicants was similar to old “PU Bump stop” which was used by others.</p> <p>Answer the following:</p> <ol style="list-style-type: none"> a) Explain the three essentials of patent. b) State whether the last paragraph constitutes state of prior art. Whether TVS invention can be patented? 	[25]	CO3, CO4
Q 9	Citing relevant legal provisions, discuss the issues and decision of the Delhi High Court case titled <i>The Chancellor, Masters & Scholars Of University Of Oxford & Ors v. Rameshwari Photocopy Services & Ors</i> .	[25]	CO3. CO4