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INTERNAL ASSESSMENT TEST – III

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| Sub: | Research Methodology & Intellectual Property Rights | | | | | | Code: | 21RMI56 | |
| Date: | 13/03/2024 | Duration: | 90 mins | Max Marks: | 50 | Sem: | V | Branch: | All |

Answer any 5 full questions

| | | Marks | CO | RBT |
|---|--|-------|-----|-----|
| 1 | Which are the Copyright infringement acts? What is “The fair use of Doctrine”? Give few examples of it. | 10 | CO4 | L2 |
| 2 | What do you mean by Copyright? What are the classes of Copyrights? | 10 | CO4 | L2 |
| 3 | Which works are not covered under the jurisdiction of Copyright? | 10 | CO4 | L2 |
| 4 | Brief at least two interesting copyright cases | 10 | CO4 | L1 |
| 5 | Explain the following about design registration: (i) Design Rights (ii) Enforcement of Design Rights (iii) Protection term of Design | 10 | CO5 | L1 |
| 6 | Differentiate between GI, Trademark and Traditional Knowledge | 10 | CO5 | L2 |
| 7 | Discuss the famous patent cases about Neem and Basamati Rice | 10 | CO4 | L3 |
| 8 | Briefly explain the process of Trademark Registration in India. | 10 | CO5 | L1 |

Q.1) Copyright Infringements: (Copyrights Acts, 1957) (% Marks)

- Making copies for sale or hire or selling or letting them for hire without permission.
- Place for the performance of owned work (in public)
- Distributing infringing copies for trade
- Public exhibition of infringing copies for trade
- Importation of infringing copies
- Translating a work without the permission of the owner
- An auditorium/hall owner's liable for punishment if he knowingly allows his premises to be used for playing illegal songs, music, dramas, etc.
- Copyright Infringement is a Criminal Offence
- Copyright Infringement is a Cognizable Offence

Fair Use of Doctrine (5 Marks)

Limited use of Copyrighted materials for teaching and research purposes is legally permitted, under 'The Fair Use of Doctrine'.

- The character of the use : is purely educational, non-profit and personal.
 - The use of work is factual in nature and not imaginative.
 - Permission is not needed if only a small portion of Copyright protected material.
 - small portion of the work not affecting the author's economic and moral rights
- Examples: 1) Personal use of Copyrighted work for studies or Research,
2) Reporting of current events in the media 3) Reproduction of the work by teachers or scientific researchers 4) Free for Govt. officials in the performance of their duties 5) Use of any work prepared by the Secretariat of a Legislature 6) Bonafide religious ceremony

Q2) **'Copyright'** is legal rights provided to the work in the fields of literature and computer software. **'Related Rights'** encompass the author's work in the fields of dramatics, sound recording, film/video recordings, paintings, architecture, etc. 3 Marks

Classes 7 Marks

- Literature: Books, Essays, Research articles, Oral speeches, Lectures, Compilations, Computer programme, Software, Databases
- Dramatics: Screenplays, Dramas.
- Sound Recordings: Sound recordings on any media.
- Artistic: Drawing, Painting, Logo, Map, Chart, Photographs, Work of Architecture, Engravings, and Craftsmanship
- Musical: Any action intended to be sung, spoken or performed with the music
- Cinematograph Films: Audio visual recording performed by any medium
- Figurative works : Maps, Drawings, diagrams, Charts of a scientific nature, commercial prints and labels;
- Photographic works : Photographs, Photogravures
- Multimedia products: combine text with visual images, sound and computer programs such as video games
- Architectural works : Buildings themselves

Q3) **Ideas:** Copyright law only protects the way ideas are expressed in a particular creation, but does not protect the underlying idea, procedure, method of operation, mathematical concept or system involved.

Example: Your company has copyright over a book that describes a system for beer processing. The copyright in the book will allow you to prevent others from copying the text and illustrations of the book, but it will not give you any rights to prevent competitors from using the machinery, processes, and merchandising methods described in the book

Facts: Copyright does not protect facts - whether scientific, historical, biographical or news of the day - but only the manner in which such facts are expressed, selected or arranged.

Example: A biography consists mainly of facts about a person's life. The author may have spent considerable time and effort discovering things that were previously unknown. Still, others are free to use such facts as long as they do not copy the particular manner in which the facts are expressed.

Useful articles. In some countries, copyright protection is not available to useful articles, such as bathroom sinks, clothing or computer monitors

Names, titles, slogans and other short phrases. Single words, names, titles, slogans, headlines, short phrases, short word and combinations are generally excluded from copyright protection.

Logos, on the contrary, may be protected under copyright as artistic works.

Certificates are not considered as Copyrightable subject matter as there is not much scope for creativity.

Digitally created works and Copyrighted works transformed into a digital format

Q4) Each case 5 marks. Write any two from this (*David vs. Macaques, Indonesia, 2011, 'Happy birthday to you' case law, Amitabh Bachchan for Copyrights over his father's works*).

Q5) i) **Design Rights:** Confers a monopolistic right to the Proprietor. one can legally exclude others from reproducing, manufacturing, selling, or dealing in the said registered Design without his prior consent. (3.5M)

ii) **Enforcement of Design Rights:** file the infringement case in the court in case of any violation or exploitation, Enforces Rs. 50,000 penalty in case of violation of rights. (3.5M)

iii) **Protection Term:** The registered Designs are protected for 10 years in India and can be extended by 5 years after making a renewal application. (3M)

Q6) GI identifies a product/good as originating from a specific place.

Trademark products/goods/service originate from a particular industry/institute/organization/society, etc.

A Trademark can be assigned or licensed to anyone, anywhere in the world, whereas GI is linked with a specific geographical territory.

Products identified as GI are often the result of traditional processes and knowledge carried forward by a community in a particular region from generation to generation.

Similarly, some products identified by a GI may embody characteristic elements of the traditional artistic heritage developed in a given region, known as traditional knowledge.

Tangible products, such as handicrafts, made using natural resources and having qualities derived from their geographical origin.

Q7) **Neem Patent:** The patent for Neem was first filed by W.R. Grace and the Department of Agriculture, USA in European Patent Office. The said patent is a method of controlling fungi on plants comprising of contacting the fungi with a Neem oil formulation. A legal opposition has been filed by India against the grant of the patent. The legal opposition to this patent was lodged by the New Delhi-based Research Foundation for Science, Technology and Ecology (RFSTE), in co-operation with the International Federation of Organic Agriculture Movements (IFOAM) and Magda Aelvoet, former green Member of the European Parliament (MEP) 4. A tree legendary to India, from its roots to its spreading crown, the Neem tree contains a number of potent compounds, notably a chemical found in its seeds named azadirachtin. It is used as an astringent in so many fields. The barks, leaves, flowers, seeds of neem tree

are used to treat a variety of diseases ranging from leprosy to diabetes, skin disorders and ulcers. Neem twigs are used as antiseptic tooth brushes since time immemorial. The opponents’ submitted evidence of ancient Indian ayurvedic texts that have described the hydrophobic extracts of neem seeds were known and used for centuries in India, both in curing dermatological diseases in humans and in protecting agricultural plants form fungal infections. The EPO identified the lack of novelty, inventive step and possibly form a relevant prior art and revoked the patent. Apart from this, several US patents were recently taken out Neem-based emulsions and solutions. (5 M)

Basmati Rice: The US patent office granted a patent to ‘RiceTec’ for a strain of Basmati rice, an aromatic rice grown in India and Pakistan for centuries .Rice is the staple food of people in most parts of Asia, especially India and Pakistan. For centuries, the farmers in this region developed, nurtured and conserved over a hundred thousand distinct varieties of rice to suit different tastes and needs. In 1997, in its patent application Ricetec also acknowledged that “good quality Basmati rice traditionally come from northern India and Pakistan...Indeed in some countries the term can be applied to only the Basmati rice grown in India and Pakistan”. However, the company then went on to claim that it had invented certain “;novel” Basmati lines and grains “which make possible the production of high quality, higher yielding Basmati rice worldwide”. The Indian Government had pursued to appeal only 3 claims out of 20 claims made in the original patent application of RiceTec Inc. What were being challenged were only claims regarding certain characteristics of basmati (specifically starch index, aroma, and grain dimensions) 5 . It is to be noted that WTO Agreement does not require countries to provide Patent protection to plant varieties. It only requires countries to legislate so that plant varieties are protected in some manner (not necessarily through patents). However, US being a strong proponent of Patent protection of plant varieties allowed the patent application. Three strains development by RiceTec are allowed patent protection and they are eligible to label its strain as “Superior Basmati Rice”. Therefore, in Basmati case, RiceTec altered the strain through crossing with the Western strain of grain and successfully claimed it as their invention and the case is an example of problems illustrated in TRIPS with regards to patenting biotechnological processes. (5M)

Q8) Trade Mark Registration process: Figure 5 marks . Explanation 5 Marks

