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**INTERNAL ASSESSMENT TEST – I**

Sub:	Research Methodology & Intellectual Property Rights						Code:	BRMK557	
Date:	07/ 11 / 2024	Duration:	90 mins	Max Marks:	50	Sem:	V	Branch:	All

Answer any 5 full questions

		Marks	CO	RBT
1	What is enforcement of patent rights? Classify and explain the patent infringement. According to the Patents Act 1970 section 2(1)(j) which criterion (conditions of patenting) has to be fulfilled by a patent for its grant?	10	CO3	L1
2	Write the definitions of (i) A Priority Date (ii) Patentee (iii) Patent specification (iv) Exclusive and Non-Exclusive License (v) patent claims	10	CO3	L1
3	List the inventions eligible for patenting. Also list the non-patentable matters	10	CO3	L1
4	Explain the process of patent application in India.	10	CO3	L2
5	Which are the Copyright infringement acts? What is “The fair use of Doctrine”? Give few examples of it.	10	CO4	L2
6	What do you mean by Copyright? What are the classes of Copyrights?	10	CO4	L2
7	List the advantages of the Trademark registration. What is the validity of trademark? Mention the types of trademarks registered in India.	10	CO4	L1
8	Brief at least two interesting copyright cases	10	CO4	L1

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**INTERNAL ASSESSMENT TEST – III**

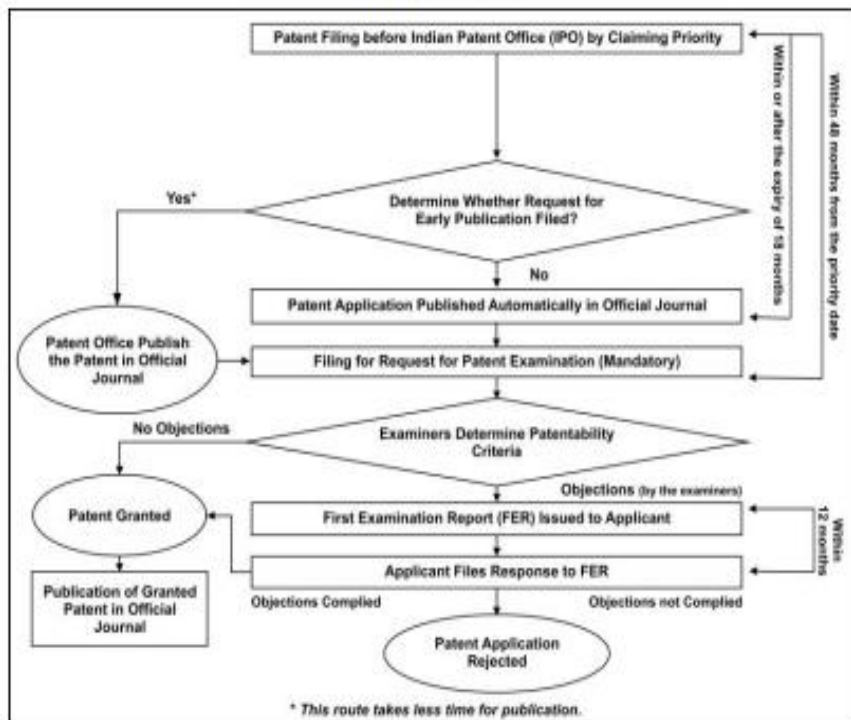
Sub:	Research Methodology & Intellectual Property Rights						Code:	BRMK557	
Date:	07/ 11 / 2024	Duration:	90 mins	Max Marks:	50	Sem:	V	Branch:	All

Answer any 5 full questions

		Marks	CO	RBT
1	What is enforcement of patent rights? Classify and explain the patent infringement. According to the Patents Act 1970 section 2(1)(j) which criterion (conditions of patenting) has to be fulfilled by a patent for its grant?	10	CO3	L1
2	What is IP? List the various types of IP. What is the position of India in the Global ranking of “Intellectual Property right”, as per SCIMAGO 2020 report?	10	CO3	L1
3	List the inventions eligible for patenting. Also list the non-patentable matters	10	CO3	L1
4	What are the types of patent applications? What are the various parts of Complete Specification of patent?	10	CO3	L2
5	Which are the Copyright infringement acts? What is “The fair use of Doctrine”? Give few examples of it.	10	CO4	L2
6	What do you mean by Copyright? What are the classes of Copyrights?	10	CO4	L2
7	List the advantages of the Trademark registration. What is the validity of trademark? Mention the types of trademarks registered in India.	10	CO4	L1
8	Briefly explain the process of Copyright Registration.	10	CO4	L1

		Marks	CO	RBT
1	<p>Enforcement is the process of ensuring compliance with laws, regulations, rules, standards and social norms.</p> <p>Patent rights are usually enforced by the judicial courts.</p> <p>Direct Infringement - when a product is substantially close to any patented product or in a case where the marketing or commercial use of the invention is carried out without the permission of the owner of the invention.</p> <p>Indirect Infringement - When some amount of deceit or accidental infringement happens without any intention of infringement.</p> <p>There is a set criterion, as provided in Section 2(1)(j) of the Patents Act, 1970, which must be fulfilled for a product or a process to qualify for the grant of a patent. The criterion encompasses:</p> <ol style="list-style-type: none"> 1. Novelty - <i>Not part of 'State of the Art'</i>. The innovation claimed in the patent application is new and not known to anybody in the world. In other words, the innovation is a) not in the knowledge of the public, b) not published anywhere through any means of publication and c) not be claimed in any other specification by any other applicant. 2. Inventive step - <i>Not obvious to the person (s) skilled in the art</i>. The innovation is a) a technical advancement over the existing knowledge, b) possesses economic significance and, c) not obvious to a person skilled in the concerned subject. 3. Capable of industrial application - <i>For the benefit of society</i>. The invention is capable of being made or used in any industry. <p>Classify and explain the patent infringement.?</p>	2 2 2 4	CO3	L1
2	<p>(i) A Priority Date: The date on which the first application for the invention is filed, whether it is provisional or with complete specifications.</p> <p>(ii) Patentee: A person/ Organization who owns the patent (granted)</p> <p>(iii) Patent specification: Patent specification is a written description of the invention and the way of representation and process of making and using the same.</p> <p>(iv) Exclusive and Non-Exclusive License: In an Exclusive Licence, the patent is sold to only one individual/ organization for a fixed time period. During this time period, no other person or entity can exploit the relevant IP except the named licensee. In Non-Exclusive Licence, a patentee can sell his patent rights to as many individuals/parties as he likes.</p> <p>(v) patent claims: Claims can be defined as the scope of the protection conferred by a patent, or the protection sought in a patent application. The purpose of the claims is to define which subject matter is protected by the patent</p>	2 Each	CO3	L1
2	<p>Intellectual Property (IP) is a vast field comprising of technology-led inventions, work of artisans, novel Industrial Designs, unique brands of commercial items, and Traditional Knowledge being practiced continuously over centuries for the production of goods (carpets, textiles, food products, etc.). In order to understand the extensive field of IP, it has been divided into various categories. Intellectual Property (IP) is a special category of property created by human intellect (mind) in the fields of arts, literature, science, trade, etc. Since IP is a novel creation of the mind, it is intangible (i.e. invisible and indivisible) in nature and differs from the tangible property, such as land, house, gold and car with which we are quite familiar. Intellectual Property Rights (IPR) are the privileges accorded to the creator/inventor (of IP) in conformance with the laws. In India, these categories include Patents, Copyright and Related Rights, Trademark, Trade Secrets, Industrial Designs, Geographical Indications and Semiconductor Integrated Circuits Layout Designs.</p> <p>For example, the Scimago (publicly available online portal which ranks journals and countries based on the data taken from Scopus) 2020 report ranked India at 4th position in the parameter of a number of 'Research Publications', and 50th position in the parameter of 'Intellectual Property Rights'.</p>	2 4 2	CO3	L1
3	<p>The majority of patents are granted to inventions displaying an improvement over the existing invention. For example, many patents can be awarded to a single molecule e.g. penicillins (an antibiotic that kills microbes) and its derivatives. The derivatives are made by making subtle changes in the structure of the penicillin resulting in new/improved properties,</p>	4	CO3	L1

	<p>such as acid stability or temperature stability or killing a wide range of microbes (germs). The new antibiotic molecules, known as second, third or fourth generation penicillins can also be patented. In our daily life, we use many patented items, such as toothbrush, toothpaste, shoes, pen, eyeglasses, textiles, mobile phones, wrist watch, bicycle, scooter, car, television, cold drinks, beverages and many more. It is not uncommon that many products contain several inventions (patents) e.g. the laptop computer involves hundreds of inventions working together. Similarly, cars, mobile phones and televisions have many patented components.</p> <p>The non-patentable matters</p> <ul style="list-style-type: none"> • Invention contrary to public morality - a method for human cloning, a method for gambling. • Mere discovery - finding a new micro-organism occurring freely in nature, laws of gravity. • Mere discovery of a new form of a known substance - use of aspirin for heart treatment. Aspirin was patented for reducing fever and mild pains. • Frivolous invention - dough supplemented with herbs, merely changing the taste of the dough, 100 years calendar, bus timetable. • Arrangement or rearrangement - an umbrella fitted with a fan, a torch attached to a bucket. • Inventions falling within Section 20(1) of the Atomic Energy Act, 1962 - inventions relating to compounds of Uranium, Beryllium, Thorium, Plutonium, Radium, Graphite, Lithium and more as notified by the Central Government from time to time. • Literary, dramatic, musical, artistic work - books, sculptures, drawings, paintings, computer programmes, mathematical calculations, online chatting method, method of teaching, method of learning a language as they are the subject matter of Copyright Act. 1957. • Topography of integrated circuits - protection of layout designs of integrated circuits is provided separately under the Semiconductor Integrated Circuit Layout Designs Act, 2000. • Plants and animals - plants and animals in whole or any part including seeds, varieties and species and essentially biological processes for the production or propagation of plants and animals are excluded from the scope of protection under patents. • Traditional knowledge - an invention which in effect is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known components are also excluded 	6		
4	<p>In India, the process of grant of a patent is a lengthy procedure that may take anywhere 3-4 years or more. The major steps involved in this process are listed in as</p> <ul style="list-style-type: none"> - Filing a patent application along with the required documents, - Publication of the patent application (18 months publication), - Filing a request for examination, - Filing a pre-grant opposition by an interested person(by others) - Examination of the patent application based on the request for examination - Filing reply to comply with the requirements of the objections raised by the patent office - Attending hearing, if any - Acceptance or rejection of the patent application - Publication grant of the patent application, - Filing a post-grant opposition by an interested person(by others) - Grant of patent hearings 	6	CO3	L2



Source: <https://www.invntree.com/> (slightly modified)

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4	<p>Provisional Application - A patent application filed when the invention is not fully finalized and some part of the invention is still under experimentation.</p> <p>Ordinary Application - A patent application filed with complete specifications and claims but without claiming any priority date.</p> <p>PCT Application - An international application filed in accordance with PCT.</p> <p>Divisional Application - When an application claims more than one invention, the applicant on his own or to meet the official objection on the ground of plurality may divide the application and file two or more applications.</p> <p>Patent of Addition Application - When an invention is a slight modification of the earlier invention for which the patentee has already applied for or has obtained a patent, the applicant can go for ‘_Patent of Addition’, if the modification in the invention is new.</p> <p>Convention Application - If a patent application has been filed in the Indian Patent Office, and the applicant wishes to file the same invention in the one or more Convention countries (e.g. Paris Convention) by claiming the same priority date on which application was filed in India, such an application is known as Convention Application.</p> <p>The various parts of Complete Specification of patent are</p> <ol style="list-style-type: none"> 1. Title 2. Background of Invention 3. Summary of Invention 4. Diagrams 5. Description of Diagram 6. Detailed Description 7. Claims 8. Abstract 	6	CO3	L2
5	<p>As per the Copyrights Acts, 1957, the following acts are regarded as an infringement of Copyrights:</p> <ul style="list-style-type: none"> • Making copies for sale or hire or selling or letting them for hire without permission. • Permitting any place for the performance of owned work (in public) where such performance constitutes an infringement of Copyright. • Distributing infringing copies for trade or to such an extent to affect the interest of the owner of the Copyright prejudicially. • Public exhibition of infringing copies for trade purposes. 	4	CO4	L2

	<ul style="list-style-type: none"> • Importation of infringing copies. • Translating a work without the permission of the owner. <p>The limited use of Copyrighted materials for teaching and research purposes is legally permitted, under “The Fair Use Doctrine”, which comprises of the four-part test:</p> <ul style="list-style-type: none"> • The character of the use - use of the work is purely educational, non-profit and personal. • Nature of the work - The use of work is factual in nature and not imaginative • Amount of the portion to be used - permission is not needed if only a small portion of Copyright protected material is to be used. • Impact of use on the value of the Copyrighted material - If a small portion of the work is copied and is not affecting the author’s economic and moral rights. <p>A few examples are listed below:</p> <ul style="list-style-type: none"> • If the Copyrighted work is used for personal use i.e. studies or research. • Quotation mentioned in the Copyrighted work. • Reporting of current events in the media, such as newspapers, magazines or radios/television. • Reproduction of the work by teachers or scientific researchers. • Performance is free of charge by government officials in the performance of their duties e.g. reproduction of any work for a judicial proceeding or a report of a judicial proceeding. • Use of any work prepared by the Secretariat of a Legislature. • Use of the work in a certified copy made or supplied in accordance with any law for the time being in force. • Making three or less than three copies of a book (including a pamphlet, sheet of music, map, chart or plan). • Bonafide religious ceremony, including a marriage functio 	6		
6	<p>Copyrights refer to the legal rights provided by law to the original creator of the work in the fields of literature and computer software. The <u>Related Rights</u> encompass the author ‘s work in the fields of dramatics, sound recording, film/video recordings, paintings, architecture, etc.</p> <p>In India, following classes of Copyrights exist:</p> <ul style="list-style-type: none"> • Literature: Books, Essays, Research articles, Oral speeches, Lectures, Compilations, Computer programme, Software, Databases. • Dramatics: Screenplays, Dramas. • Sound Recordings: Recording of sounds regardless of the medium on which such recording is made e.g. a Phonogram and a CD-ROM. • Artistic: Drawing, Painting, Logo, Map, Chart, Photographs, Work of Architecture, Engravings, and Craftsmanship. • Musical: Musical notations, excluding any words or any action intended to be sung, spoken or performed with the music. A musical work need not be written down to enjoy Copyright protection. • Cinematograph Films: <u>Cinematograph Film</u> is a visual recording performed by any medium, formed through a process and includes a sound recording. For example, Motion Pictures, TV Programs, Visual Recording, Sound Recording, etc. 	3	7	CO4 L2
7	<p>Although, registration of a Trademark is not compulsory, registration provides certain advantages to the proprietor of the Trademark, such as:</p> <p>Legal Protection – prevents the exploitation of the Registering Trademark by other companies/organizations/individuals, without proper authorization by the legal owner/s of the Trademark. In case of legal suits, a registered Trademark can serve as a potent evidence of the lawful proprietorship of the Trademark.</p>	4	CO4	L1

Exclusive Right - grants the Trademark owner full rights to use it in any lawful manner to promote his business.

Brand Recognition - products/ services are identified by their logo, which helps create brand value over time. A strong brand is a huge pull for new customers and an anchor for existing customers.

Asset Creation - registered Trademark is an intangible property of the organization. It can be used for enhancing the business of the company.

In India, a registered Trademark is valid for 10 years. The period can be extended every 10 years, perpetually.

Trademark can be a word that must be able to speak, spell and remember. It is highly recommended that one should choose the Trademark like invented word, created words, and unique geographical name. One should refrain from Trademarks like common geographical name, common personal name and the praising words which describe the quality of goods, such as best, perfect, super, etc.

Following are some examples of the registerable Trademarks:

- Any name including personal or surname of the applicant or predecessor in business or the signature of the person e.g. the Trademark BAJAJ is named after industrialist Mr. Jamnalal Bajaj.
- A word having no relevance to the product/services e.g. Trademark INDIA GATE is being used for food grains and allied products.
- Letters or numerals or any combination thereof e.g. YAHOO is the abbreviation of the phrase. Yet Another Hierarchical Official Oracle. It has now become a worldwide famous Trademark.

Table 2.7: Some of the famous examples of Trademarks.

S. No.	Type of the Mark	Mark	Company/Firm
1.	Distinctive General Word	'Apple'	IT Company
2.	Fanciful Designation	'Kodak'	Photograph Film
3.	Distinctive Personal Names	'Ford'	Automotive
4.	Device	'Udhaar'	Financial Technology
5.	Number	'4711'	Perfume
6.	Picture	Allegator	Knitwear Manufacturing
7.	Slogan	Drink it to believe it	Soft Drinks

6

8 **David vs. Macaques, Indonesia, 2011** - In 2011, a UK-based photographer David Slater put his camera on a tripod in the wildlife sanctuary to click the photograph of Macaques monkeys. The Macaques were very curious about the equipment and they found the flashlight fascinating. One monkey clicked a selfie photograph which became very famous and legally controversial on the matter of Copyright. Theoretically, the monkey is the holder of Copyright as he clicked the photo. Practically, David Slater was the claimant of the Copyright. The dispute entered judicial quarters between People for the Ethical Treatment of Animals (PETA) and David Slater. Now, the settlement has been concluded. The photographer i.e. David Slater withholds the Copyright of the picture for having a substantial contribution, but he would pay 25% of the royalty share to the wildlife sanctuary where the monkey lives.

'Happy birthday to you' case law - According to the Guinness World Records, 1998, it is the most recognized song in the English language. The melody of Happy Birthday to You originates from the song Good Morning to All, which has traditionally been attributed to American Sisters, namely Patty Smith Hill and Mildred J. Hill, in 1893. The sisters composed the melody of Good Morning to All to make it more interesting for the children. In 1935, Summy Company registered the Copyright on the Piano Setting on the Song. In 1999

5+5

CO4

L1

Warner/Chappell acquired the company and started taking royalty for the happy birthday song and earned a huge amount. After mediation by the Federal court, Warner Music, through its publishing subsidiary Warner/Chappell, agreed to pay the settlement to a class of _ thousands of people and entities' who had paid licensing fees to use the song since 1949 because only the melody was registered and not the lyrics.

Amitabh Bachchan to lose Copyrights over his father's works in 2063 - Father of renowned actor Mr. Amitabh Bachchan, (late) Shree Harivansh Rai Bachchan was a noted poet and Hindi writer. His most famous work was Madhusaala (1935). He was the recipient of the Sahitya Akademi award and the Padma Bhushan. He also did Hindi translations of Shakespeare's Macbeth and Othello. He passed away on 18th January 2003, at the age of 95. As per the Copyright Act, 1957, the rights over his work will be completed in the year 2063 (rights remain with the author for his lifetime plus 60 years).

- 8 **The process of Copyright Registration:** The application can be submitted by post or online registration through the 'Efiling facility'.
- Any person who is either an author of the work or assignee of the concerned work can file an application for copyright.
 - ✓ Usually, it takes around 23 months to get the work registered by the Copyright Office.
 - ✓ After applying, there is a mandatory waiting period of 30 days.
 - ✓ If any person has any objection to the claim/s made in the application, he can contact the office of the Registrar of Copyrights.
 - ✓ After giving an opportunity of hearing to both the parties, the Registrar may decide the case in favor or against the author of the work.
 - ✓ Once the objections (if any) are cleared, the application is evaluated by the examiners.
 - ✓ If any doubts/queries are raised, the applicant is given ample time (around 45 days) to clear these objections.

