

INTERNAL ASSESSMENT TEST – II

Sub:	Research Methodology & Intellectual Property Rights							Code:	BRMK557
Date:	16 /12/24	Duration:	90mins	Max Marks:	50	Sem:	V	Branch:	AIML A & C Section

Answer any 5 full questions

Marks CO RBT

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|---|----|-----|----|
| 1 Explain the process of patent application in India. | 10 | CO3 | L2 |
| 2 Define Infringement, Patentee, Applicant, Prior Art, Claims, Prosecution, Examination, Priority Date, Invention and Patentability Criteria. | 10 | CO3 | L2 |
| 3 List the inventions eligible for patenting. Also list the non patentable matters | 10 | CO3 | L2 |
| 4 What do you mean by Copyright? What are the classes of Copyrights? | 10 | CO4 | L2 |
| 5 Which are the Copyright infringement acts? What is “The fair use of Doctrine”? Give few examples of it. | 10 | CO4 | L2 |
| 6 Discuss the famous patent cases about Neem and Basamati Rice | 10 | CO5 | L2 |

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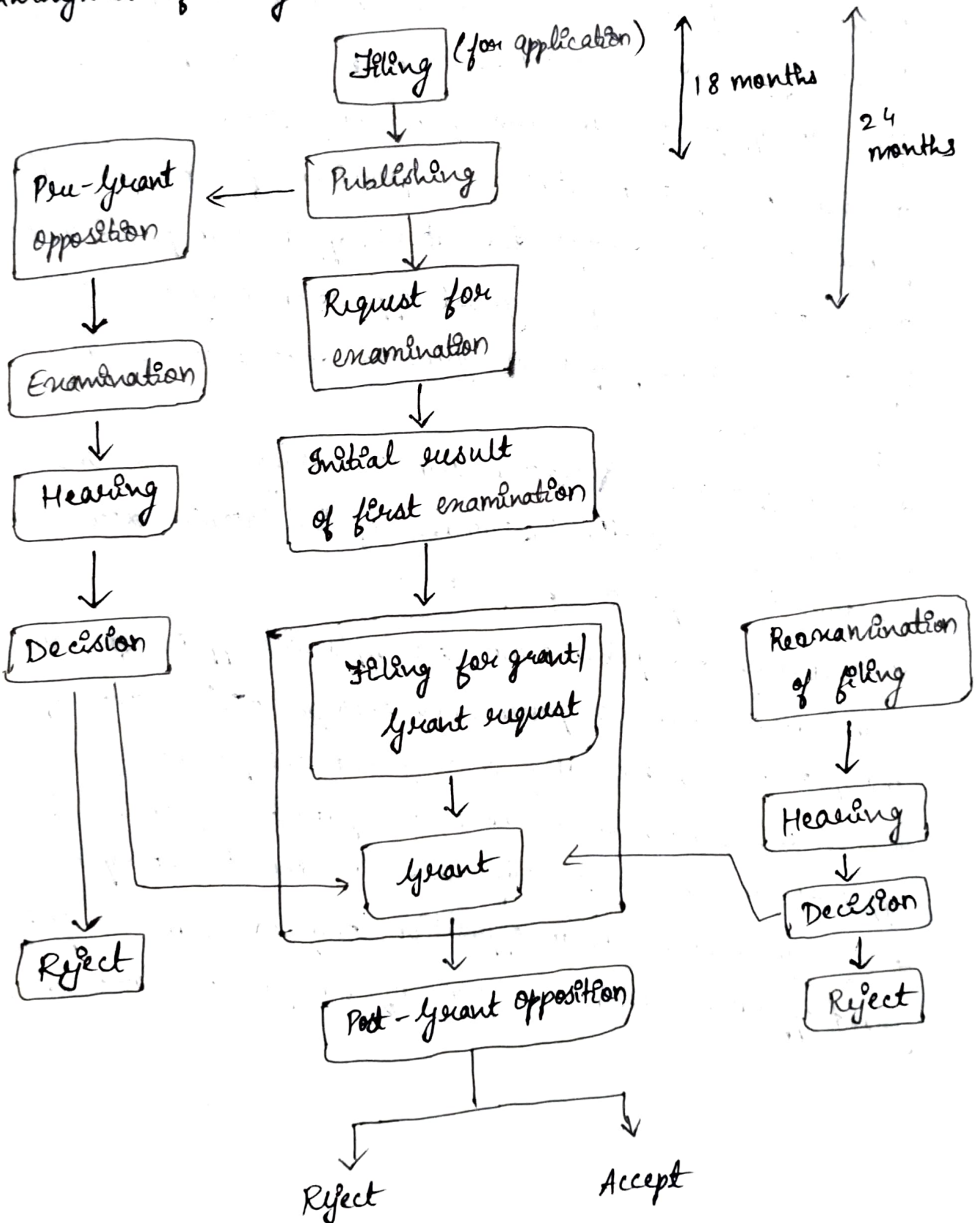
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Internal Assessment Test - 02

- 1) The process of patent application in India can be summarised through the following chart:



- * The first step in the process is filing for patent application with all the details such as applicant name, patent type, specifications, etc.
- * The filed patent is maintained as a secret in the Regional Patent Office for 18 months. In order to make process faster, you can apply for an early publishing form.
- * Then, the patent details are published for the general public to read through the details (application, publication).
- * In this stage, a pre-grant opposition may be raised by the concerned people on grounds that there is any infringement.
- * If an opposition is raised, then a hearing is held and on those grounds, the Controller of the Patents decides whether to accept or reject it.
- * Following the publication, the applicant applies for an examination where a panel reads through the contents of the patent and evaluates it to grant the patent.
- * Once the evaluation is done, the patent is granted to the applicant and it is formally added in the Patent repositories.
- * If anyone still has an opposition, they can raise a post-grant opposition within one-year of the patent grant date.

2. Infringement: It is the unlawful or unauthorised use of a copyrighted or patented material.

Patentee: Patentee refers to the owner of the patent or the one to whom the patent is granted.

Applicant: The one who files the patent application is the applicant.

Prior Art: Refers to all types of information available in the public domain.

Claims: It refers to the ground of area that the patent can act on.

Prosecution: It is the whole process of patent application from the patent application and filing till the examinations and grant.

Examination: It is the process where the committee in the Patent Office read and analyse the information in the patent application, with regards to the details and specifications of the patent.

Priority Date: It is the date on which the application for the patent was filed.

Invention and Patentability Criteria: It is a set of criteria that is necessary for an innovation to satisfy in order to receive a patent grant.

3. The inventions that are eligible for patenting are as follows:
- * any improvisation in the current products that offers a better usage.
 - * any everyday - use product starting from clothespins to advanced technology like nanotechnology and biotechnology,
 - * ~~scientific~~ cells, like penicillin, etc.

Any innovations that fall under the following categories are non-patentable:

- * innovations that go against the ~~to~~ morals of the society: such as human cloning technology.
- * natural phenomena and laws or principles like the law of gravity.
- * plants and animals
- * scientific facts and discoveries
- * any arrangement or rearrangement of existing products; such as adding a fan to an umbrella
- * traditional knowledge that has been passed down in families; such as ayurveda.
- * innovations such as adding herbs to dough and merely changing the taste of the dough.
- * dance forms and music forms or artforms.

4° Copyright refers to the act of claiming rights over a certain original content in fields such as art, literature, music, etc.

For eg: scriptwriters exercise copyrights over their scripts, musicians have copyrights over their original music, etc.

There are various classes of Copyrights which are as follows:

i) Drama : copyrights over scripts, plays, etc.

ii) Literature : copyrights over literary works like books, plays, poems, novels, etc.

iii) Sound and Audio : copyrights over tunes or ~~not~~ digital music pieces.

iv) Artworks : copyrights over paintings, drawings, sculptures, ~~etc~~ and designs.

v) Music : copyrights over original compositions and soundtracks and music albums.

vi) Cinematography : copyrights over filmography, directions, productions, etc.

5. The copyright infringement acts are a set of acts which define what actions fall under infringement. These are as follows:

- * production of copies of the content without permission
- * misuse and sale of the copies of copyrighted content
- * display of copyrighted content in public which hurts the intentions of the owner.
- * Importing of the copies of content
- * sales and distribution of copyrighted content without legal authority over it.

The government has listed out four ~~at~~ characteristics of a situation under which the copyrighted content may be used without serving as a ground for infringement. These fall under "the fair use of Doctrine". The four points are as follows:

- * The character of the use - the intention with which the content is used, such as, the content may be used for teaching or research purposes.
- * The nature of the content - if the content is something that needs to be referred to or used, then it is allowed. Such as printing of a copyrighted book is allowed upto 3 copies.

* The specific part of the content being used - Small portions of the copyrighted content may be used in scenarios like study or research, without causing harm to the original content or owners or publishers.

* The effect of the use of the content on the owner - The content used must not cause harm or any disturbance to the owner or threaten the ownership of the owner over the content.

Examples of Fair Use of Doctrine -

- * Textbooks being used for studies and research
- * Videos used for lectures in classrooms and institutions

6. i) Neem Patent Case -

* Neem is a famous plant in the Indian subcontinent, known for its various traditional uses and medicinal properties.

* In 1994, the ^{US Agricultural Society} ~~US Agricultural~~ a US-based company acquired a patent from the European Patent Office (EPO) on a method to extract neem oil from the neem trees that can be used as a pesticide.

* Various Indian associations, such as Neem Society, and the Indian government opposed this patent grant.

* This opposition was on the grounds that the extraction of neem oil was an age-old tradition in the country and has been practiced by the people for various years. This cannot be patented as it ~~opposes the~~ is a traditional knowledge.

* In 2000, the European Patent Office revoked the grant from the company citing the above reasons.

* This led to the establishment of a Traditional Knowledge Records.

(ii) Basmati Rice Patent Case -

* The Basmati rice is a variant of rice that is long-grained and very flavorful.

* It is regional to the Indian and Pakistani ~~and~~ areas where the production is the highest.

* In 1997, a US-based company Rice Inc. acquired a patent from the US Patent Office on a variation of the Basmati rice.

* They observed that they had discovered a rice variant that was closely related to the Basmati rice but was grown out of the India and Pakistani regions.

* The Indian government opposed the patent on the grounds that the Basmati rice geographically belongs to these subcontinents.

- * Subsequently, granting a patent would ~~not~~ revoke the unique geographical indicator (GI) tag that Basmati rice holds.
- * In 2001, the US Patent office revoked the patent on similar grounds.
- * This case lays importance on the GI tag for patents.