

[illegible]

Sub:	RMIPR					Sub Code:	BRMK557	Branch	ALL
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Answer any FIVE 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? Or Explain about Novelty, non obviousness and usefulness (industrial application) of patentability criterion.	10	CO3	L2
2	List the inventions eligible for patenting. Also list the non patentable matters .	10	CO3	L1
3	What is History of IP in India.	10	CO3	L2
4	Which are the Copyright infringement acts? What is "The fair use of Doctrine"? Give few examples of it.	10	CO4	L2
5	What is Trademark and its designations? Explain Classification system for trademarks and its role in categorizing different types of Marks.	10	CO4	L1
6	Briefly explain the process of Trademark Registration in India .	10	CO4	L1
7	Discuss any two Intellectual property right cases from these 1) Neem Case, 2) Curcuma (Turmeric Powder) Case, 3) Basmati Rice Case .	10	CO3	L3

M. J. I.
Faculty Signature

CCI Signature

HOD Signature

enforcement of patent right is following and abiding by the law, rules, regulations, policy and social norms.

• Patent infringement

Patent infringement is concerned with the duplication of a applicant's patented innovation without permission also known as piracy.

• Patent infringement is of two types

1) direct infringement :- this is where a patented application was copied and used as an marketing or for other profitable reasons

2) indirect infringement :- this is where there was a deceit or an unknowingly done infringement involving money and others sometimes.

Novelty

• Novelty is when the patented application is a new idea not known by public

i) it must not be known to anyone in public

ii) it must not be published anywhere such as an article or a Research paper

iii) it must not be applied for patent by another applicant.

non obviousness.

• non obviousness is the patent can not be filled with things and ideas that are obvious for any person with a decent skill on that subject.

ex:- a penholding place for a notebook

- obvious - so not patentable

- a new formula based drug

- not obvious so patentable

- usefulness

• usefulness refers to a patent applications industrial applications

• only theoretical concepts which are proved only on paper can't be used to file a patent

• a idea with no bare minimum prototype can't be considered for filing a patent.

- ex time machine can not be considered

- a new kind of water filter can be considered

2.)

Patenting is registering an individuals or a group of Peoples innovative ideas by law to help prevention in copying or duplicacy of the idea by another organisation or individual

• Inventions eligible for patenting .

• Any invention from a small paper clip to components of machines etc are patentable .

• a single idea can have multiple patents just by doing a small modification

• ex - a drug can be registered for its initial cure for fever .

• if further modification reduces headache then the modification can be filed for patent

• we see and use a lot of patented products in our everyday life such as laptop components, fans etc

• multiple patented components can be combined to form one industrial products such as Automobiles

- Non Patentable matters
- Contrary of human morals:-
such as cloning a human or a gambling method
- mere invention
Such as finding a new microorganism existing in nature
- mere invention of existing Patents
Such as inventing Aspirine can cure ^{Stomach} ~~Stomach~~ aches while Aspirine was patented for a cure of fever
- frivolous invention
 - invention only in theory or which does not make a difference
 - ex - a Time machine
 - dough with leaves
- Arrangement or rearrangement
 - a pen with a cup
 - a bucket with a stick etc
- metals that fall under the ~~act~~ Atomic Act Section 20(1)
- ~~metals~~ inventions related to metals - uranium, plutonium, graphite, lithium etc specified in the law can not be

Patented

- Plants and animals
- Plants and animals found in nature can't be patented.

History of IP in India

1) Pre independence

- in (1856 - 1947) In there was Britain Patent Act which let inventors have rights to their invention
- later this act was modified.

2) Post independence.

- the Britain Patent Act was modified was encouraging patents
- Committees like Ayengar's requested to limit ~~no~~ number of Patents on food items.

3) 1970 Act.

- the Patent Law was modified the Law was active and applicable from 1972
- Now the Indian government issued patents on the Process of Inventions.

- encouraging in developing inexpensive Products and drugs for medical use
- TRIPS Act ↓
- in around 1995 - 2th India joined WHO and hence became a part of TRIPS.
- Indian Indian Law Standards increase to the international Standard during (1995 - 2005)
- India was now accepting product Based and Process Based Patents

currently in (2005)

- India digitalised Patent application and forms
- India has a Committee for patent approval
- both product Based and Process patents are accepted.
now

4) Copyright infringement acts are

- when a copyrighted idea is used or hired to be used without the permission of the copyright owner
- when public spaces are rented to use a copyrighted idea without permission of the owner
- using a copyrighted idea for marketing without permission
- a copyrighted logo or symbol used as a symbol for sales or misleading information
- using copyrighted idea for other monetary reasons.

The fair use of Doctrine

- the copyrighted idea can be used without permission in some cases like.

1) for education purpose

if the copyright is used for education purpose and not for any other reason.

2) for research or for publishing current events

- to ideas which are copyrighted can be posted on ex - news etc for publishing current events.

3) using Quotations or a small fractional part of a Copyright.

ex:- a song using a verse from an already existing song in a different musical note.

4) by Government officials by some official work.

5) by NGO's for official work.

6) by teachers for teaching purposes

ex: explaining about copyright etc

7) for deriving facts and ~~no~~ with no innovation and creation

ex:- Stating the facts from a artwork etc

ex:- for research papers reference etc as it comes under education.

5)
a Trademark is a name or logo registered under law and by legal policies.

- a Trademark can be anything from a persons name, last name etc

- one must avoid trademarks which are common factors
Such as common names, common animals etc.

- Categorizing trademarks

- trademarks are classified based on how they are made or name

- 1) can be the name or last name of the owner

ex Mr. Ratan Tata owns TATA as a trademark

- 2) can be something unrelated to the product

ex India Gate sells products related to food grains

- 3) can be a unique combination of letters

ex:- yahoo

- 4) can be a fruit or a unique logo (Apple logo)

ex:- Apple

- Can be named after unique or not so common animals
ex jaguar.
- Can be uniquely designed logos.

7

1) Neem Case

The neem case is a problem where the ~~was~~ United States Patent organization granted a Patent to two individuals on Antifungal neem oil production.

- The Indian who's challenged this.
- as Neem oil ~~was~~ as an antifungal insecticide was a part of Indian Traditions.
- and a Nations Traditions can not be patented.
- the patent was take revoked and cancelled as it was a Traditional Practice in India from centuries.

2) Curcuma (Turmeric Powder)

- ° Problem:- the use of curcuma in turmeric as a antibacterial ingredient was patented
- ° this was patented by Mississippi institution
- ° the indian organization CSIR challenged this
- ° as turmeric was used for its antibacterial ~~and~~ properties from centuries in India
- ° which was proven by the ancient scriptures
- ° later after ~~been~~ proven that the use of turmeric curcuma as an antibacterial element is a Traditional culture in India
- ° the patent was cancelled.