

Indicative Model Question Paper
Professional Programme
New Syllabus 2022
Intellectual Property Rights - Law & Practice

Time Allowed: 3 hours

Maximum Marks: 100

Total Number of Questions: 3

Note: Answer ALL Questions. All questions are compulsory

Question 1

The Todi Corporation, Japan based company has been the owner and exclusive user of the “Toddy” trademark ever since 1940. They used the aforementioned trademark for their tyres and other automobile parts all around the globe. Todi Corporation had its trademark registered in India in 1950, and was renewed time and again. However, in 1967, the company erred in renewing it, and as a result of which the registration became null and void.

In order to market tyres and automobile parts, Todi Corporation and the Indian company Yoda & Co. , another automobile manufacturing company formed a joint venture in 1979. The registration for “Toddy” the trademark by Yoda & Co. was given in 1985. The appellants invited dealers for sale of their tyres and automobile parts bearing the Toddy logo in 1990. The Todi Corp. learned that the automobile parts they bought from the Yoda & co. was of lower quality than the automobiles they produced. This infuriated the Todi Corporation, who then brought a passing-off lawsuit and requested the issuance of an interlocutory injunction.

In 1994, the Delhi High Court’s learned single judge issued a temporary injunction. In 1995, the court’s division bench upheld the learned single judge’s decision following an appeal. Aggrieved by this, Yoda & Co filed a suit with the Hon’ble Supreme Court. The suit is a passing off action brought by the plaintiff-respondents to restrain the defendant appellants from manufacturing selling, advertising or in any way using the trade mark ‘Toddy’ in any other trade mark deceptively or confusingly similar to the trade mark of ‘Toddy’ in respect of their goods.

Answer the following-

1. Whether or not the respondents, who are not the registered owners of the “whirlpool” trademark regarding washing machines, can continue their action for passing off against the registered proprietor of a trademark?
2. What is the difference between infringement and passing off in terms of trademark?

3. Explain with appropriate case laws whether or not a trans-border reputation was acquired by respondent?
4. What are the rights enjoyed by the owner of the registered trademark?
5. What reliefs can he sought in case his right is infringed or passed off?

(5 marks each)

Question 2

A company LMN Pharma, company based in India is keen on developing a muscles tear medicine "Oxydo" the combination of which is obtained using different salts and their chemical components. LMN is also interested in filing for a patent for the same to avoid any infringement in future. They also want to access whether their product will stand out in the market or not. For the production of "Oxydo" they might need help of some other patented salt. Advise.

1. Should LMN Pharma conduct a patent information search (PIS) for their product? What is the purpose and use of PIS for them in this scenario?
2. How various types of patent search can prove to be beneficial for LMN Pharma? Explain
3. Give in brief the patent databases LMN Pharma can refer to.
4. LMN Pharma discover a patent "Alkamine", patented by Z which can prove to be of help in their muscle medicine. In what ways can they approach Z to use their patented drug together, advice.
5. To file for patent, LMN Pharma is required to file a patent application. What all should be included in patent application and enumerate the contents of such application.

(5 marks each)

Question 3

X wants to register his design of a pocket friendly steam iron that enables user to carry such iron in his pocket without a hassle. Help X with the following.

1. Explain with reasons whether his design falls under the ambit of Design Act 2000. Whether X's design is capable of being registered.
2. Explain the process of registration of design.
3. A representation sheet of an article is an important document required to be filed along with the application for registration. Explain
4. The registration of a design confers upon the registered proprietor 'Copyright' in the design for the period of registration. Explain
5. X wants to register his steam iron design to combat piracy. What constitutes piracy of a registered design?

(5 marks each)

Question 4

Mr. Ali asserts that in 2010 he conceptualized and wrote the screenplay for a film titled "Madhyastha" and promptly registered it with the Film Writers Guild in Los Angeles, securing registration number No. FWG-20210415. Seeking production opportunities, Mr. Ali met with Ms. Smith, a renowned film producer, in November 2011. They mutually agreed to develop "Madhyastha" into a feature film during their meeting, and pre-production activities commenced in early 2012. However, negotiations with Ms. Smith fell through as she insisted on obtaining full ownership of the script, including all rights to derivatives, remakes, and adaptations.

Subsequently, Mr. Ali sought alternative producers, and by mid-2012, he had garnered interest from multiple production houses. Unfortunately, discussions stalled due to the producers' insistence on acquiring complete rights to the script. Mr. Ali, however, was only willing to grant a license for the specific purpose of producing a film based on "Madhyastha."

Despite encountering setbacks, Mr. Ali eventually found a production company willing to adhere to his licensing terms, and filming commenced in January 2013. "Madhyastha" completed production in November 2014. While the film received praise from critics and was nominated for several prestigious awards, including the Golden Globe for Best Original Screenplay, it failed to achieve commercial success. Mr. Ali attributes this failure to the insufficient promotional efforts by the producers, which resulted in limited public awareness of the film.

In March 2016, Mr. Ali discovered that the production YMK Productions Pvt. Ltd. was planning to release dubbed versions of "Madhyastha" in English, Telugu, and Marathi without his prior consent. It was also found that YMK productions has already released it in Bhojpuri. Feeling betrayed, Mr. Ali is considering legal action against the production company to protect his intellectual property rights.

Advise him on the following issues:

- a) Who has the rights with regarding dubbing of the movie?
- b) What are the derivative rights?
- c) Will actions of YMK productions amounts to infringement of copyrights?
- d) Do the actions of YMK productions falls under statutory exceptions copyright infringement?
- e) What remedies can Mr Ali claim against infringement of copyright?

(5 marks each)