

Roll No.

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 12

NOTE : Answer ALL Questions.

PART-I

1. Swastik Ayurved Pharma Limited is one of the largest producers of Herbal and Ayurvedic products in India. To expand its market share, Swastik regularly advertised the claimed benefits of its products. These advertisements promoted the products as having medicinal properties and the ability to cure ailments without side effects. However, the advertisements lacked any scientific evidence to support such claims. Relying upon these advertisements, Rajeev, a consumer, purchased the products. The products, however, turned out to be ineffective and did not match the claims made in the advertisements.

Rajeev, the complainant, lodged a complaint with the Secretary, Ministry of Health, Government of India, alleging that the advertisements released by the company were misleading, false, and deceptive, intended to misguide the general public, and in violation of the Consumer Protection Act, 2019, which mandates that advertisements must be truthful and not misleading. Further, the Advertising Standards Council of India (ASCI) also found the advertisements

to be misleading and in violation of its regulations. It was contended that the company and its directors should be held liable for such misleading and deceptive advertisements. The case was ultimately referred to the Supreme Court under Article 136 of the Constitution of India by way of a special leave to appeal.

From the above case study, answer the following questions as per the provisions of the Consumer Protection Act, 2019 :

- (i) Who is a “consumer” under the Consumer Protection Act, 2019 ? Can Rajeev be considered a consumer in this case ?

(4 marks)

- (ii) Whether the false, misleading and deceptive advertisement may be treated as unfair trade practice ? Explain in detail.

(4 marks)

- (iii) Can the producer and its directors be penalized for issuing false or misleading advertisements under the Consumer Protection Act, 2019 ?

(3 marks)

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- (iv) When and to whom a case may be lodged against and be appealed against such order ?

(2 marks)

- (v) Distinguish between defect and deficiency under the Consumer Protection Act, 2019 ?

(2 marks)

2. (a) Swarna Charitable Trust registered on 21.12.2023 engaged in the Educational Sector filed an Application with the RBI seeking approval to invest US\$ in a foreign entity in Australia on 10.2.2025. Examine whether the Trust is likely to receive approval from the RBI for making such an investment. Support your answer with reasons. Also explain the conditions for making Overseas Direct Investment for such a Trust in a Foreign Entity.

(5 marks)

- (b) Whether following remittances by persons other than individuals require prior approval of the Reserve Bank of India under Liberalized Remittance Scheme :

- (i) Vikram Associates, a partnership firm in India wants to remit USD 2,000,000 for consultancy services procured from outside India for a project other than infrastructure Project.

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- (ii) Lakshay & Co., a partnership firm wants to remit USD 9,000,000 for consultancy services procured from outside India for an infrastructure project.
- (iii) Mayank Pvt. Ltd., a Real Estate Company in India want to remit commission of USD 25,000 to an agent outside India for selling a residential flat in India for which he has remitted USD 400,000 in India
- (iv) PQR Pvt. Ltd., a Real Estate Company in India want to remit commission of USD 25,000 to an agent outside India for selling a Commercial plot in India for which he has remitted USD 2,000,000 in India
- (v) Navya Ltd., an Indian company wants to remit USD 100,000 to a company outside India towards reimbursement of pre-incorporation expenses for investment of USD 2,000,000 in its company which is fully brought into India.
- (c) Export & Import Bank of India wants to receive Foreign Direct Investment (FDI) and further raise funds for its trade activities from Japan. State the procedure for raising External Commercial Borrowings (ECB).

(5 marks)

(5 marks)

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3. (a) Sky Heights Aviation Limited wants to enter the Civil Aviation Sector by constructing airports and developing air transport services in India and abroad. Some International Aviation Companies are interested in investing in it. Explain the Entry Routs for investment and the permissible percentage to receive such investment under the Foreign Direct Investment Regulation & Policy.

(5 marks)

- (b) X was caught transferring funds through illegal export of opium from India to South Africa. State whether X has committed any offence under the Prevention of Money Laundering Act, 2002. Elucidate the punishment that may be imposed on X under the Act.

(5 marks)

- (c) A housing scheme project was launched by ABC Ltd. in 2015, which is still ongoing and has not received a completion certificate. On 1.5.2016, the Real Estate (Regulation and Development) Act, 2016 (RERA Act) came into force. ABC Ltd. now wants to register this project with the Real Estate Regulatory Authority under the RERA Act. Advise ABC Ltd. whether it can register this project. Also, state which projects are exempt from the ambit of the RERA Act.

(5 marks)

Attempt all parts of either Q. No. 4 or Q. No. 4A

4. (a) What are the objectives of the OIML Certification System under the Legal Metrology Act, 2009 ?

(5 marks)

- (b) State the factors that the Competition Commission of India should consider while determining whether a combination is likely to have an appreciable adverse effect on competition under the Competition Act, 2002.

(5 marks)

- (c) In what manner is the Special Economic Zone Authority constituted ? State the functions of the Special Economic Zone Authority under the Special Economic Zones Act, 2005.

(5 marks)

OR (Alternate question to Q. No. 4)

- 4A. (i) Explain the provisions relating to Special Courts constituted under Section 50 of the Prohibition of Benami Property Transactions Act, 1988.

(5 marks)

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- (ii) Under what circumstances can the Central Government cancel the certificate granted under Section 12 for receiving foreign contribution under the Foreign Contribution (Regulation) Act, 2010 ?

(5 marks)

- (iii) State the objectives of the National Committee on Trade Facilitation (NCTF). How does the National Trade Facilitation Action Plan aim to achieve these objectives under the Foreign Trade Policy, 2023 ?

(5 marks)

PART-II

5. (a) Universal Drugs and Pharma Limited, a multinational pharmaceutical company, was incorporated and registered in Chennai. The company filed a patent application in India under the Patents Act, 1970, for its cancer drug Glivec (Imatinib Mesylate). The application sought to patent a beta-crystalline form of imatinib mesylate, claiming it to be a new form with improved bioavailability and efficacy.

However, the Patent Controller of India rejected the application, stating that the drug did not meet the criteria for patentability under Section 3(d) of the Patents Act, 1970. The rejection was based on the ground that Section 3(d) prohibits the patenting of new forms of known substances unless they demonstrate enhanced therapeutic efficacy compared to the original compound.

Universal Drugs and Pharma Ltd. challenged the decision before the Intellectual Property Appellate Board (IPAB), but the IPAB upheld the Patent Controller's decision.

The company then filed an appeal before the Supreme Court of India, raising the following key legal issues :

- Whether the beta-crystalline form of imatinib mesylate qualifies for patent protection under Section 3(d) of the Indian Patents Act, 1970, given that the substance was already known but had been presented in a new form ?
- Whether the patentability criteria under Section 3(d) are consistent with international standards, or whether they are excessively restrictive ?

In view of the above case study, answer the following questions in accordance with the provisions of the Indian Patent Act, 1970 :

- (i) What is meant by Patent, and what can be patented ?

(2 marks)

- (ii) When mere discovery of a new form of a known substance will not be treated as new invention under section 3(d) of the Patent Act, 1970 ?

(2 marks)

- (iii) What are the rights of patentee under the Patent Act, 1970 ?

(2 marks)

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- (iv) Are the patentability criteria under Section 3(d) in accordance with international standards ?

(2 marks)

- (v) Will Universal Drugs and Pharma Ltd. succeed in its arguments as per the provisions of the Patents Act, 1970 ?

(2 marks)

- (b) Kancheepuram Sarees, a famous product made in the Kancheepuram region of Tamil Nadu, was registered under the Geographical Indication of Goods (Registration and Protection) Act, 1999. The Kancheepuram Handloom Silk Weavers Co-operative Society Limited was constituted to register “Kancheepuram GI” by traditional authentic weavers residing in Kancheepuram region.

The registration of a similar society was also made by the non-traditional producers which used the same G.I. against which the dispute arose. The Kancheepuram Society of Traditional Weavers filed a petition challenging the registration of a similar G.I. for the product, claiming that it would result in the misuse and exploitation of their traditional craft.

The petitioners argued that only the authentic weavers from the Kancheepuram region should be entitled to use the G.I. for Kancheepuram Sarees and that “Broader definition could result in the dilution of the uniqueness and quality of the product.

Therefore, the G.I. of Kancheepuram Sarees should be exclusive to the traditional weavers, of the Kancheepuram region and the G.I. Act should be interpreted in a way that protected the authenticity and tradition of the product. Any registration extending the use of G.I. beyond this would lead to the exploitation of their craft. Union of India, the respondent, argued that G.I. Act is intended to protect the geographical origin of a product and does not restrict registration based on the type of producer. It should be extended to all the producers traditional as well as non-traditional weaver communities which produce authentic “Kancheepuram Sarees”.

Considering the above case study, answer the following questions in the light of Geographical Indication of Goods (Registration and Protection) Act, 1999.

(i) What is meant by Geographical Indication ?

(2 marks)

(ii) What are the benefits of Geographical Indication registration ?

(2 marks)

(iii) Is there any difference between Geographical Indication and Trade Mark ?

(2 marks)

(iv) When may a registered Geographical Indication be treated as infringed ?

(2 marks)

(v) Is the contention of the Union of India, the respondent, correct ? Explain.

(2 marks)

Attempt all parts of either Q. No. 6 or Q. No. 6A

6. (a) Rajat, the proprietor of RC Associates, filed an application for a patent with the Controller for his new invention of a “Smart Watch.” However, the Controller is of the opinion that the invention cannot be performed without a substantial risk of infringement of a claim of another existing patent. What directions may the Controller issue to Rajat under Section 19 of the Patents Act, 1970 ?

(5 marks)

- (b) ES Ltd., a telecommunications company, is in the design phase of a new device that incorporates a cell phone with Internet capabilities. There is a concern that the new device may have nearly the same design as their competitor’s product. What requirements ES Ltd. should comply with before applying for registration of the design of the new device under the Designs Act, 2000 ?

(5 marks)

- (c) ABC Ltd., incorporated in 1996 deals in Plywood under the Trade Names ‘UNIPLY’. It came to know in 1999 that XYZ Ltd. is also using the Name ‘UNIPLY’. ABC Ltd. filed a suit against the XYZ Ltd. along with an application for a Temporary Injunction. The Court granted an ex-parte temporary injunction to the Appellant. In turn, XYZ Ltd. also filed appeal against ABC Ltd. claiming that it was incorporated in 1993 and they have been carrying business under the Name of ‘UNIPLY’ since 1993. XYZ Ltd. claimed the prior use of Marks in question.

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Explain, whether XYZ Ltd. can be restrained from using the name 'UNIPLY' with reference to a case law as per the Trade Marks Act, 1999 ?

(5 marks)

- (d) A Pharmaceutical company develops a new drug with a specific chemical compound 'Carbon Dioxide'. The Company applied 'Carbon Dioxide' to register it as Trademark. Whether this Trademark can be granted as per the Trade Marks, Act, 1999 ?

(5 marks)

OR (Alternate question to Q. No. 6)

- 6A. (i) When may a license be terminated, granted under the Copyright Act, 1957 ?
- (ii) The main goals on which National Intellectual Property Right Policy has focused are mainly to encourage innovation, enhance the business climate and commercially utilize intellectual property. Comment.
- (iii) Who is "Trademark Agent" ? State the qualifications for registration of trademark agent under the law relating to trademarks.
- (iv) How a Patent Specification is prepared ? When is an Application for patent published as per the Patent Act, 1970 ?

(5 marks each)

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