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## UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, May 2018

Program: BALLB (EL), BBALLB (CL), BComLLB (TL)

Subject (Course): Intellectual Property Law

Course Code : LLBL 401

No. of page/s:

Semester – VIII

Max. Marks : 100

Duration : 3 Hrs

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### Section A

1. Fill in the blanks (5 marks)
  - a. The term of a patent is \_\_\_\_\_ years from the date of \_\_\_\_\_ of the application.
  - b. Copyright protects literary, dramatic, musical and \_\_\_\_\_ works, in addition to other works such as sound recordings and cinematographic films.
  - c. If the trademark is not registered, a protection still exists in the form of the tort of \_\_\_\_\_.
  - d. One of the theoretical justifications for protection of Intellectual Property is the theory of \_\_\_\_\_ which proposes that the Law must aim for the greatest good of the greatest numbers.
2. State true or false (5 marks)
  - a. Design protection is not a form of intellectual property in India.
  - b. Trademark protection is available for a period of 10 years and is renewable for a period of 5 years thereafter.
  - c. A trade mark shall not be registered if it is such as to create a likelihood of confusion.
  - d. There is no inventive step if the applied invention is obvious to an expert testifying in the court.
  - e. Moral rights consist of the right to paternity and the right to integrity.

### Section B (Attempt any two)

(20 marks)

3. What is the procedure for registration of trade marks? Write a detailed note.
4. Discuss the law on infringement of patents and claim construction, along with relevant provisions and case laws, where applicable.
5. Explain in detail, the concept of Fair use in Copyright law.
6. Discuss the concept of compulsory license, distinguishing it from assignment.

### Section C (Attempt any two)

(20 marks)

7. Discuss the law on infringement of trademarks along with the relevant provisions and case laws.
8. What is the procedure for registration of Patents? Write a detailed note.

9. What is idea expression dichotomy? How is it related to the legal concepts involved in *RG Anand Vs Delux Films* (AIR 1978 SC 1613)?
10. What is the law pertaining to the interaction between copyright and design? Please explain with the help of relevant provisions and case laws.
11. Discuss Geographical Indication ( GI) in India and its procedure? Discuss whether GI protection is granted to Darjeeling Tea or not?

### **Section D**

Please read the passage below carefully:

“Another way to understand intellectual property is to examine the ways in which an artist or inventor interacts with the law. An interesting example is the empire created by Walt Disney, an American artist and entrepreneur.

In the 1920s, Mr. Disney's small animation studio produced several cartoons based upon a character named Oswald the Rabbit. The cartoons were produced in conjunction with a larger motion picture studio, Universal. At a meeting with a Universal executive in New York in 1928, Mr. Disney was informed that Universal claimed the rights to Oswald. Moreover, Universal had hired away several of Disney's animators so that they could draw the character for Universal. Mr. Disney was forced to relinquish any claim to Oswald.

Distressed, Disney and his wife set out by train for California. On the train ride, Mr. Disney drew a new cartoon character named Mortimer Mouse. He showed the drawing to his wife, Lillian, who liked the character but suggested changing the name to Mickey Mouse. Back in California, Mr. Disney featured his new character in several shorts, including the early sound cartoon "Steam-boat Willie." This time Mr. Disney was careful to acquire copyright ownership to his Mickey Mouse films and character.

Throughout the 1930s, Mr Disney's company produced many successful cartoon shorts featuring characters such as *Mickey Mouse* and *Donald Duck*. He also produced award-winning shorts in which animation was mixed with famous symphonic pieces. It was in the creation of these *Silly Symphonies* that Walt Disney overcame an obstacle that had plagued animators. Because all cartoon backgrounds were one-dimensional (i.e., drawn on a flat piece of paper), the early cartoons lacked any sense of depth. If a camera moved in closer and closer to a background, it became obvious that the trees were flat. Mr. Disney wanted the cartoons to have the same depth of field as live-action movies. He hired craftsmen to build a special camera with several planes of glass at different levels. By placing different parts of the background on different pieces of glass and placing the camera above, Disney was able to create the impression of depth that is now taken for granted in high-quality animation. The first short that used the invention, "The Old Mill," received an Academy Award in 1937. The Disney invention, the multiplane camera, was granted a patent on April 23, 1940.

In 1937 he made the film *Snow White and the Seven Dwarves*. The success of that film led to other classic animated features, including *Fantasia*, *Lady and the Tramp*, and *One Hundred and One Dalmatians*. These films are now among the most valuable copyright properties in the world and have been re-released numerous times and in different formats, such as videotape and laser videodiscs. The public never seems to tire of them.

In the 1950s Walt Disney took several new directions. His company began producing live action films such as Treasure Island, Mary Poppins, Old Yeller, and The Absent-Minded Professor. He also exploited a new medium, television, with the series "Walt Disney Presents," and sold musical recordings through his record label, Buena Vista. In 1953, Walt Disney hired a new assistant to sell Disney merchandise. By placing images of copyrighted Disney characters on lunchboxes and clothing, Walt Disney's company began earning \$50 million a year. Merchandising now provides a major source of revenue for the Disney company.

But Walt Disney was eager to do something much more diverse. He often visited carnivals and zoos with his two daughters and wondered why such parks did not accommodate adults as well as children. Mr. Disney spent a great deal of money designing a character-based theme park, but was met with consistent rejection from bankers and investors. However, with great perseverance Walt Disney created the first family theme park, Disneyland which opened in 1955.

Today, the company that Disney started is one of the largest owners of intellectual property in the world and Mickey Mouse, though over 60 years old, continues to generate revenue in films, on merchandise, and at the Disney theme parks. In 1998, the Disney Company lobbied successfully for extending the length of copyright protection, preventing Walt Disney's earliest Mickey Mouse cartoons from falling into the public domain."

On the basis of the passage above and your knowledge of the Intellectual Property Law, please answer the following questions.

12. Among the various intellectual property held by Disney company, are the following:
- i. Cartoons,
  - ii. toys,
  - iii. methods for creating artificial rain and artificial fog,
  - iv. television programs,
  - v. Websites,
  - vi. Financial information,
  - vii. Books,
  - viii. the name Disney,
  - ix. Disney logos,
  - x. films,
  - xi. bags with Disney logo,
  - xii. Domain names
  - xiii. design of an amusement ride,
  - xiv. sound recordings,
  - xv. a film editing table,
  - xvi. confidential information about the company,
  - xvii. marketing strategies,
  - xviii. characters,
  - xix. symbols,
  - xx. Computer imaging system.

Depending on the category to which they belong, please put each of the above in the correct column:

Copyright	Trademark	Patent	Trade Secret

(20 marks)

13. In order to be protected as intellectual property by law, all intangible ‘things’ must satisfy certain criteria, only on the fulfillment of which would each of these things be protected. The law with respect to these criteria is often in the grey area and poses interesting conundrums. Write an essay on the subject matter and criteria of protection for the following forms of intellectual property; especially highlight the grey areas thrown up by each of these. Use provisions of law and cases wherever relevant:
- i. Copyright (types of works protected, originality, sweat of the brow/minimum modicum of creativity tests and other requirements of copyrightability)
  - ii. Trade marks (meaning of marks, distinctiveness, likelihood of confusion, and other requirements of trademark protection)
  - iii. Patent (Section 3, patentability criteria and other aspects of patentability) (30 marks)

Answer the above three in about 250-300 words each.

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- xxvii. Books,
- xxviii. the name Disney,
- xxix. Disney logos,
- xxx. films,
- xxxi. bags with Disney logo,
- xxxii. Domain names
- xxxiii. design of an amusement ride,
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