

Maharshi Dayanand University Rohtak



Ordinances, Syllabus and Courses of Reading for Diploma in Intellectual Property Law Examination

Session—2002-2003

Available from :

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Maharshi Dayanand University
Rohtak-124 001 (Haryana)

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DIPLOMA IN INTELLECTUAL PROPERTY LAW

Scheme of Examination (2002-2003)

| Name of Paper | Paper No. | Marks | Time |
|---|------------------|--------------|-------------|
| 1. General regime of Intellectual Property Rights Law | I | 100 | 3 Hrs. |
| 2. Patent Law | II | 100 | 3 Hrs |
| 3. Law of Copy Rights | III | 100 | 3 Hrs. |
| 4. Law of Trade marks | IV | 100 | 3 Hrs. |
| 5. Law of Industrial designs & Geographical indications | V | 100 | 3 Hrs. |

Note : There shall be eight questions in each paper & candidate will have to attempt only 5 questions. All questions carry equal marks. Question paper will be set in order to cover the whole syllabus equitably.

DIPLOMA IN INTELLECTUAL PROPERTY RIGHTS LAWS

The Coming into existence of the Trade-Related Intellectual Property Rights (TRIPS) Agreements, alongwith the WTO, has enhanced the importance of intellectual property rights. Whereas the globalisation and liberalisation of global economic and trading environment has posed many challenges to the national economy, it has also opened new vistas for professionals.

The business executives and technocrats need to know the intricacies of the Intellectual Property rights in order to protect their professional and business interests and to become more competitive in the increasingly interdependent economies, and thereby to evolve new strategies to enable themselves to effectively capitalise on the available or emerging market opportunities. The legal professionals are obliged to protect the interests of their clients by rendering expert knowledge on contract formations and defending their cases properly. The course relating to intellectual property rights is conducted in order

to fulfil these goals and to impart knowledge to persons in business houses, technocrats and legal professionals.

The aims of the course are :

To impart systematic knowledge of the basic notions of the intellectual property laws in the overall context of WTO/TRIPS rules on intellectual property rights;

To enhance the professional competence and operational efficiency of the students in the field of intellectual property law; and

To acquaint students with the importance and main functions of the intellectual property rights in the national and international context.

The course will cover important international conventions on intellectual property rights-Paris Convention, Berne Convention, Rome Convention, Madrid Agreement, WTO/TRIPS Agreement as well as the Indian Law of patents, copyright and neighbouring rights; trademarks; industrial designs, etc.

A brief outline of each paper is given below :

PAPER I General Regime of Intellectual Property Rights Law

Time : 3 Hrs.

Max Marks : 100

1. Introduction to Intellectual Property Rights

- Concept, basic notions and definition of IP
- Evolution of IP and its economic importance
- IPR Protection clauses in International Contracts
- Kinds of IP - Industrial property : patents, utility models, industrial designs, trademarks and trade names and appellations of origin
- Copyright, neighboring rights and rights relating to folklore
- Layout design (Topographies) of integrated Circuits

2. Important International Conventions : An overview
 - The Paris Convention for the Protection of Industrial Property;
 - The Patent Cooperation Treaty;
 - The Berne Convention for the Protection of Literary and Artistic works;
 - The Universal Copyright Convention;
 - The Rome Convention for the Protection of Literary and Artistic Works;
 - The Madrid Agreement concerning the International Registration of Trade Marks;
 - The WTO TRIPS, and
 - The WIPO Convention - history, structure and function; WIPO's Arbitration and Mediation Centre.
3. Exhaustion of IP rights.
4. Unfair competition, including trade secrets.
5. Plant breeders' rights; UPOV Convention - Its scope and implications.
6. Impact of new technologies on IPRs, multimedia, right to privacy, character merchandising, etc.
7. Impact of WTO and other international Conventions on the Indian IPR laws.

PAPER II Patent Law

Time : 3 Hrs.

Max. Marks : 100

The subject will be discussed in the context of the Indian patent law - Patents Act, 1970, International arrangements : Paris Convention, PCT and important regional arrangements, and the TRIPS Agreement.

It will also deal with historical and economic background of the Indian patent system in the global context; patentable subject matters (issue of discovery, computer software, aesthetic creations etc.) inventions

specifically excluded from patentability (public order, morality, animals and plants); patentability requirements (novelty, non-obviousness or inventive step and industrial applicability of usefulness); procedure of filing patent applications, patent specifications, ownership and assignment; content of patent rights, patent granting procedure; revocation; patent infringement and remedies including execution of judgements. In addition, reference will be made to utility models, short term patents or petty patents. References will also be made to important Indian Court cases on the subject.

PAPER III Copyright and Neighbouring Rights

Time : 3 Hrs.

Max. Marks : 100

The paper will relate to the Copyright Act, 1957 (as amended in 2000); the Berne Convention, Universal Copyright Convention, Rome Convention. WIPO's Copyright Convention and Phonogram Treaty, 1996 and the TRIPS Agreement. It will deal with historical and economic background; copyrightable works, literary, artistic, scientific works, computer software, works of applied art, etc.; content of right including exceptions (for example, fair use); rights accorded and their contents (e.g.. moral rights, economic rights and their limitations); ownership and transfer of copyright, duration of right, renewal and terminations; data base protection.

Neighbouring rights - the rights of performing artists, phonogram producers and broadcasting organisations; folklore and folk rights; broadcasting rights including satellite and cable distribution; infringement actions, defences and reliefs including execution of judgements.

PAPER IV Trademarks

Time : 3 Hrs.

Max.Marks : 100

This paper will be discussed in the context of the Trade Marks Act, 2000; the Paris Conventions; Madrid

Agreement; Nice Agreement and the TRIPS Agreement. The topics covered will be :

Historical and economic background of trade marks; kinds of marks, eg. Trademarks, service and collective marks, associated marks, certification marks; what can be protected as a mark?; protection requirements - content of the right including the issue of exhaustion of rights; trade names and appellations of origin; assignment and licensing and other forms of exploitation; infringement, right of goodwill; passing off, filching of trade secrets, and execution of judgements.

Effects of new technology (internet) on domain names as enforceable trade or service marks.

PAPER IV Industrial Designs and Geographical Indications

Time : 3 Hrs.

M.M. : 100

The paper will relate to the Design Act, 1911, the Geographical Indications of Goods Act, 2000 and the TRIPS Agreement. The topics covered will be :

- economic background of designs;
- subject-matter of protection; relationship with copyright protection;
- requirements to qualify as an industrial design, i.e. pattern, shape ornamentation, articles, appeal to eye, novelty, originality, intention to multiply industrially.
- aesthetic design and functional design
- procedure for obtaining design protection and keeping its enforceability
- procedure for registration
- infringement and revocation
- remedies
- international arrangements

On Geographical Indications, the topics covered will be :

Definition of Geographical indications;

Conditions for Registration;

Procedure for and duration of Registration

Effect of Registration

Special Provisions relating to Trade Marks and Prior Users.

Offences, penalties and procedure for seeking relief.

Readings

1. Anderfelt, Ulf - International Patent Legislation and Developing Countries. (1971).
2. Bainbridge, D.I. - Intellectual Property, 1992
3. Bodenhausen, G.H. - Guide to the Application of the Paris Convention.
4. Cornish, W.R. - Intellectual Property : Patents, Copyright, Trademarks and Allied Rights, 2nd ed. 1999.
5. Jhala, H.M. - Intellectual Property and competition law in India, with special reference to patents, trade marks, copyrights and know-how contracts, 1985.
6. Merges, Robert P & Ors - Intellectual Property in the new technological age, 1997.
7. Mittal, D.P. - Indian Patents Law, Cal., E.L. Hse., 1997.
8. Narayana, P. - Intelletual Property Law, 2ns ed. Cal., E.L., Hse., 1997.
9. Phillips, J & Firth, Alison - Introduction to Intellectual Property Law, 2nd ed. 1990.
10. Sterling, J.A.L. - Intellectual Property Rights in Social Recordings, Films & Video : Protection of Phonographic and Cinematographic recording and work in National and International Law, 1992.

11. Vashishth, V. - Law & Practice of Intellectual Property in India, New Delhi, Bharat, 1999.
12. Wadehra, B.L. - Law relating to Patents Trade Marks, Copyright Designs & Geographic indications. 2nd ed. Intellectual Property Law Handbook, 1999.
13. WIPO - Agreement between WIPO and the WTO (1995) ... 1996.
14. WIPO - Basic facts about the patent cooperation treaty (PcT).
15. WIPO - Conference on Rules for institutional arbitration and mediation ... 1995.
16. WIPO - Implications of the TRIPS agreement on treaties administered 1996.
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18. WIPO - Intellectual Property : Patents, copyright, trade marks and allied rights. 2nd ed. 1996.
19. WIPO - Paris Convention for the Protection of Industrial property of March 20, 1983.
20. WIPO - The Services of the WIPO Arbitration Centre, 1996.
21. WIPO - WIPO Conference on Mediation, Geneva, March 9, 1996.

22. WIPO - WIPO Mediation Rules : WIPO Arbitration Rules and WIPO Expedited Arbitration Rules, 1996.
23. WIPO - WIPO Asian Regional Colloquium on the judiciary and the Intellectual property system, New Delhi, Sept. 9-11, 1992.
24. WIPO - Background Reading Material on Intellectual Property, 1998.
25. WTO Text - The Agreement on Trade-related Aspects of Intellectual Property Rights.
26. WTO Focus (Monthly)
WIPO Bulletin
WTO WEBSITE : www.wto.org
27. Various Journals - mainly IIC, Journal of the Indian Law Institute, Indian Journal of International Law, American Journal of International Law, Journal of World Trade and International Legal Materials - for latest developments.

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WTO WEBSITE : www.wto.org
27. Various Journals - mainly IIC, Journal of the Indian Law Institute, Indian Journal of International Law, American Journal of International Law, Journal of World Trade and International Legal Materials - for latest developments.