

Seat No.: _____

Enrolment No. _____

GUJARAT TECHNOLOGICAL UNIVERSITY**PGDIPR – SEMESTER I • EXAMINATION – SUMMER • 2015****Subject code: 495101****Date: 05-04-2015****Subject Name: IPR & Patent Prosecution in India****Time: 10:30 am - 01:30 pm****Total Marks: 100****Instructions:**

1. Make suitable assumptions wherever necessary.
2. Figures to the right indicate full marks.
3. For Part A, write appropriate Question no. and sr. no. of question in answer book and write appropriate answer only. Answer re-corrected will not be considered in evaluation.

QUESTION PAPER I**Part A****Q.1 Fill in the blanks****[05]**

1. Provision of compulsory licensing is under Section _____ of Indian Patents Act
2. Validity of Design registration is _____ years after registration
3. India introduced Product Patents in the year _____
4. Request for Early Publication of Patent filed is to be made in Form no. _____ of Indian Patent Office
5. Office for Registration of Copyright is located at _____ city in India.

Q.2 Mark True OR False**[05]**

1. Patent validity is for 20 years from the date of grant of patent -----
2. Geographical Indications(GI) in India can be registered with any of four patent offices-----
3. In cases of IPR litigations and disputes in India, Intellectual Property Appellate Board(IPAB) is the final authority-----
4. In India State Governments also have direct role to play in formulation and implementation of IPR system-----
5. While applying for patent, both the Request for examination & Request for Early publication fees are mandatory -----

Q.3 MCQs**[30]**

1. Patent Cooperation Treaty(PCT) allows time period of _____ months to decide on national phase filing
 - a. 12 months
 - b. 18 months
 - c. 30 months
 - d. None of the above

2. In India, Post Grant Opposition has to be filed with _____
 - a. Office of the Controller General of Patents at Mumbai
 - b. Patent office at Kolkata
 - c. Office of IPAB
 - d. High court of the concerned state
3. The Trade Related Intellectual Property Rights (TRIPS) agreement is under the regime of _____
 - a. WIPO
 - b. WTO
 - c. UN office
 - d. US Patent & Trademark Office
4. The National Institute of Intellectual Property Management (NIIPM) and the Patent Information System (PIS) in India are located at _____
 - a. Delhi
 - b. Chennai
 - c. Bhubneshwar
 - d. None of the above
5. As per Indian Patents Act, 1970, inventions contrarily to well established Natural laws are banned under section _____
 - a. Sec 3(d)
 - b. Sec 3(a)
 - c. Sec 3(f)
 - d. Sec 4(b)
6. As per Indian Patents Act, after filing the patent application, the maximum time available to file Request for Examination is _____
 - a. 30 months
 - b. 48 months
 - c. 24 months
 - d. 18 months
7. Pre-grant opposition in India can be filed within _____ months of publication
 - a. 36 months
 - b. 12 months
 - c. 6 months
 - d. 3 months
8. A person / company located at Ahmedabad has to file his trademark application at _____
 - a. Trademark office in Mumbai
 - b. Any of the Trademark offices in India
 - c. Trademark office at Ahmedabad
 - d. Trademark office at Delhi
9. The Copy Right Amendment Act of the year _____ is considered the most substantial so far in India
 - a. Year 2005
 - b. Year 2012
 - c. Year 2008
 - d. None of the above

10. When an applicant feels that he has come across an invention which is a slight modification of the invention for which he has already applied for or has obtained patent, the applicant can go for _____
- Divisional patent
 - Patent of Addition
 - Amendment of Patent
 - Provisional patent
11. Patent search / Prior art search essentially establishes the Patentability criteria of _____
- Novelty
 - Industrial applicability
 - Non obviousness
 - All of the above
12. In patent filing application to Indian Patent office, Patent Specifications details have to be filled in Form no. _____
- 05
 - 02
 - 18
 - 09
13. The Madrid Agreement (1967) essentially was to standardize provisions related to _____
- Trademark
 - Design registrations
 - Copyrights
 - Plant protection
14. First Examination Report is issued after filing _____
- Provisional patent application
 - PCT application
 - Filing of complete specifications
 - Trademark registration application
15. The earliest and the most fundamental framework for IPR at the international level is considered to be _____
- The Paris Convention
 - The Berne Convention
 - The Madrid Protocol
 - The Doha declaration

Part B

Que. 4 Write a short note on followings (Any FIVE)

[50]

- Trade secret
- Post grant opposition
- International Patent Classification system
- Drafting of complete specification
- WIPO
- Patent Cooperation Treaty(PCT)
- Geographical Indications

Que. 5 Solve below mentioned case studies (Any ONE)

[10]

1) Case study of Nexavar : Bayer v/s NATCO Pharma

In April 2012, The Indian Patent office allowed Indian company Natco pharma to produce & sell Nexavar (SorafenibTosylate) the Anti-Cancer drug. Natco had filed an application for allowing it a low cost version of SorafenibTosylate.

The drug is patented (up to 2021) by the German pharma company Bayer. The Indian Generic version was expected to cost Rs. 8800/- as against Bayer price of Rs.2.80 lakhs (120 capsule pack therapy for a month)

As a part of litigation that ensued, Natco is to pay royalty @7.00% to Bayer as per March 2013 verdict by the H'ble Supreme Court of India

The Controller General of Patents, Govt. of India passed this order under provision of Compulsory Licensing (CL) of Indian Patent Act. This is supposed to be the first case of CL in India post TRIPs era.

Please elaborate on:

- Relevant section of Indian Patent Act for Compulsory Licensing
- Key provisions / conditions under this section
- Are Compulsory Licensing and its use in this particular case in compliance with TRIPs and WTO guidelines?

2) Case of Opposition

Hindustan Lever Ltd. Vs Godrej Soaps

In a landmark case a patent filed by Hindustan Lever Ltd. on 14th Oct., 1992 in India was opposed by Godrej Soaps Ltd. The patent had two priorities of UK dated 14th Oct, 1991 and 14th July, 1992 and was granted on 18th May, 1996 in India. The grounds of opposition were:

- Prior publication
- Prior public use and prior public knowledge
- Obviousness and lack of inventive step
- Non-patentability
- Insufficiency and clarity of description
- The applicant has failed to disclose to the Controller the information required by section 8 or has furnished the information which in any material particular was false to his knowledge

After the hearing it was concluded that the teachings of the cited exhibits were insufficient to prove the grounds of opposition mentioned above. The applicant amended the claims and specifications to make their point clear and to overcome the opponent's allegations.

After considering notice of opposition, statements and evidences from both of the parties and hearing, the opposition was dismissed.

Elaborate on:

- Relevant sections / sub sections(if any)of Pre grant and Post grant opposition under Indian Patents Act
- Key provisions / conditions under this sections
- Your views, in brief on this case
