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GUJARAT TECHNOLOGICAL UNIVERSITY

PGDIPR – SEMESTER II • THEORY EXAMINATION – WINTER • 2015

Subject code: 495201

Date: 23-08-2015

Subject Name: Patent Enforcement in India & International Patent Systems

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.

Part A

Q.1 Fill in the blanks

[05]

1. The Term of a Patent is _____ Years.
2. No suit or other proceeding shall be commenced or prosecuted in respect of an infringement of a patent committed between the date on which the patent ceased to have effect and the date of the publication of the application for _____ of the patent.
3. A _____ specification cannot be filed in case of a Convention Application (either directly or through PCT routes).
4. Berne Convention is an international agreement governing _____, which was first accepted in Berne, Switzerland, in 1886.
5. The _____ Convention, adopted in 1883, applies to industrial property in the widest sense, including patents, trademarks, industrial designs, utility models, service marks, trade names, geographical indications and the repression of unfair competition.

Q.2 Mark True OR False

[05]

1. A pre-grant representation by way of opposition can be filed by any person.
2. The Term of Patent is 20 years from the 'Grant of Patent'.
3. The Controller does not have the power to call for the information as to the extent to which the patented invention has been commercially worked in India.
4. In any suit for infringement of a patent every ground on which it may be revoked under section 64 shall be available as a ground for defense.
5. The Madrid system provides a centrally administered system of obtaining a bundle of trademark registrations in separate jurisdictions.

Q. 3 MCQs

[30]

1. An application for grant of a compulsory license may be made under the following provisions:
 - a. Section 84.
 - b. Section 85. (F)
 - c. Section 92.
 - d. Section 92A
 - e. All of the above
2. A Patent can be revoked
 - a. Anytime after the grant
 - b. Only 1 year from the date of grant
 - c. Only 3 years from the date of grant
 - d. Only after obtaining the permission from the controller of Patents.
 - e. All of the above.
3. A granted patent gives the patentee the right to claim damages
 - a. From the priority date of the patent
 - b. From the date of grant of the patent
 - c. From the date of filing of the complete specification
 - d. From the date the patent application has survived an opposition proceeding
 - e. From the date of publication of the patent application in the official journal.
4. Every patent agent whose name is entered in the register shall be entitled
 - a. to practice before the Controller of Patents;
 - b. to practice before the Controller of Trademarks;
 - c. to prepare all documents, transact all business and discharge such other functions as may be prescribed in connection with any proceeding before the Controller of Patent.
 - d. to prepare all documents, transact all business and discharge such other functions as may be prescribed in connection with any proceeding before the Controller of Trademarks.
5. Term of Patent is U/s
 - a. 50
 - b. 51
 - c. 52
 - d. 53
6. For an application for Compulsory License , which form is to be filled
 - a. 17
 - b. 18
 - c. 19
 - d. 20

7. Statement regarding the working of the patented invention on commercial scale in India, which form is to be filled
- 7
 - 17
 - 27
 - 37
8. The Hague Agreement governs the international registration of
- Industrial designs
 - Patents
 - Trademarks
 - Copyrights
 - Trade secrets
9. A Patent infringement case should be initiated only in
- Any High Court
 - Directly before the IPAB
 - In a District Court
 - International Court of Justice if it is an international dispute
10. the Controller in any proceedings before him under this Act, have the powers of a Civil Court in respect of the following matters, namely: —
- Summoning and enforcing the attendance of any person and examining him on oath;
 - Requiring the discovery and production of any document;
 - Receiving evidence on affidavits;
 - Awarding costs;
 - All of the above
11. The Controller may refuse to recognize as agent in respect of any business under the Act:
- any individual whose name has been removed from, and not restored to, the register;
 - any person who has been convicted of an offence under section 123;
 - All of the above
 - Non of the above
12. Register of Patent contains
- Names and addresses of grantees and patentee
 - Assignments and Transmissions of patents
 - Notice of any trust effecting on the patent
 - Infringement proceedings on the patents
 - Opposition data on the Patent
 - All of the above
13. Post-Grant opposition application can be done by
- Any person
 - Interested person
 - Government of India

- d. The controller of Patent
 - e. Non of the above
14. Compulsory liscense is
- a. Assignable
 - b. Non-exclusive
 - c. Revocable
 - d. Non of the above
15. Power of court to grant relief in cases of groundless threats of infringement proceedings.
- a. a declaration to the effect that the threats are unjustifiable;
 - b. an injunction against the continuance of the threats;
 - c. such damages, if any, as he has sustained thereby.
 - d. All of the above

Part B

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

[50]

- 1. Revocation of Patents
- 2. Patent Agents
- 3. Rights of co-owners of Patents
- 4. Madrid Protocol
- 5. PCT
- 6. Salient features of European Patent System
- 7. Defenses to infringement

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

[10]

- 1. Your client ZING CHEMICALS, KOREA wishes to enter into the National Phase in India for obtaining Patent as early as possible based on his international application (without claiming priority of earlier filing) filed in Korea. With this intention he approached you at 10th month from the date of international application filing with the prior art search report and preliminary examination report from the International Search Authority.
- 2. You have filed an application with provisional specification on behalf of your client on 15.12.2007, the client is not in a position to provide the total inputs to file a complete specification within the prescribed time but only around 15.2.2009. What action will you take?
