



PRESIDENCY UNIVERSITY,
BENGALURU

SCHOOL OF LAW

MID TERM EXAMINATION

Odd Semester: 2018-19

Course Code: LAW 413

Course Name: International Regulation on IP

Branch & Sem: BBA., LL.B. (Hons.) VII Sem

Date: 25 October 2018

Time: 2 Hours

Max Marks: 60

Weightage: 30%

Instructions:

- (i) *All parts of the question paper are compulsory*

Part A

Answer **all** the Questions. **Each** question carries **five** marks. (4x5=20)

1. Analyse the ways in which the Patent Cooperation Treaty comes to the help of an inventor who wants to file for patent in different jurisdictions
2. The Paris Convention was one of the first attempts to ensure a level playing field in the area of Industrial property. Discuss
3. The Berne Convention on Copyrights laid down a framework for the international protection of copyrights. Discuss
4. There is an economic rationale behind Intellectual Property protection going global. Point out the same with relevant examples.

Part B

Answer **all** the Questions. **Each** question carries **five** marks. (4x5=20)

5. Read the case study and answer the questions following it:

India's national solar programme, which was launched in 2010, aims to "establish India as a global leader in solar energy, by creating the policy conditions for its diffusion across the country as quickly as possible". To incentivise the production of solar energy within the country, the government under the programme agrees to enter into long-term power purchase agreements with solar power producers, effectively "guaranteeing" the sale of the energy produced and the price that such a solar power producer could obtain. Thereafter, it would sell such energy through distribution utilities to the ultimate consumer. However, a solar power producer, to be eligible to participate under the programme, is required compulsorily to use certain domestically sourced inputs, namely solar cells and modules for certain types of solar projects. In other words, unless a solar power producer satisfies this domestic content requirement, the government will not 'guarantee' the purchase of the energy produced.

In 2013, the U.S. brought a complaint before the WTO arguing that the domestic content requirement imposed under India's national solar programme is in violation of the global trading rules. Specifically, it said, "India has violated its "national treatment" obligation by unfavourably discriminating against imported solar cells and modules. In other words, India was discriminating between solar cells and modules which were otherwise identical on the basis of the national 'origin' of the cells and modules, a clear violation of its trade commitment. India principally relied on the 'government procurement' justification, which permitted countries to derogate from their national treatment obligation provided that the measure was related to "the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or use in production of goods for commercial sale". India also argued that the measure was justified under the general exceptions since it was necessary to secure compliance with its domestic and international law obligations relating to ecologically sustainable development and climate change.

- 5.a Has India violated the national treatment principle by imposing a mandatory domestic content requirement? Discuss in the light of the national treatment principle.
- b. Do you agree with the contention of the US that India is in violation of the National Treatment principle
- c. It is no doubt important that steps have to be taken to mitigate climate change. India's ambitious program to generate solar energy is a step in this direction. Analyse whether this can be a good reason to claim an exception from the national principle.
- d. Do you agree with the contention that national treatment principle works against the interest of developing countries like India? Give your views for as well as against the beforementioned contention.

Part C

Answer **all** the Questions. **Each** Question carries **ten** marks.

(2x10=20)

6. "Internationalisation of Intellectual property has been a process going on since the latter half of the 19th century. A number of Conventions were entered into in order to streamline and harmonise the process of grant and protection of intellectual property rights." In the light of the above observations discuss why Intellectual property needs to be protected internationally?
7. "The Indian Patent Act of 1970 was a wisely devised law that furthered the national interest. It had unique provisions to suit our needs as a developing country." In the light of the above statement analyse the changes that had to be carried out in the Patent Act of 2015 in the context of being TRIPS compliant.



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**PRESIDENCY UNIVERSITY
BENGALURU**

SCHOOL OF LAW

END TERM FINAL EXAMINATION

Odd Semester: 2018-19

Course Code: LAW 413

Course Name: IRIP

Programme & Sem: BBA.,LL.B.(Hons.) & VII Sem

Date: 27 December 2018

Time: 3 Hours

Max Marks: 80

Weightage: 40%

Instructions:

- (i) **Answer the questions as per the instructions.**

Part A

Answer **all** the Questions. **Each** question carries **five** marks. (4Qx5M=20)

1. What is an incremental invention? Is it patentable under the Indian Law?
2. Impact of globalization on Intellectual Property Rights
3. Importance of the TRIPS Agreement
4. Role of WTO

Part B

Answer **all** the Questions. **Each** question carries **five** marks. (6Qx5M=30)

5. Read the following news report published in the Hindu Business Line dated 22nd November, 2018 and answer the following questions:

The US has rejected the first requests for panels by India and Switzerland at the World Trade Organisation (WTO) to settle the issue of penal duties imposed on their steel and aluminium by Washington. The two countries will now have to apply again at the dispute settlement body's (DSB) next meeting which the US will not be authorised to reject.

"The two argued that the US actions were, in effect and content, safeguard measures and that they were both concerned the US was using national security as a justification for the tariffs," a Geneva-based official told BusinessLine.

At the meeting of the DSB on Wednesday, the second requests of seven members including China, the European Union, Canada, Mexico, Norway, Russia and Turkey to challenge the decision by the United States to impose additional import duties on steel and aluminium products, was accepted.

The Trump administration imposed an additional 25 per cent tariff on steel imports and 10 per cent on aluminium imports against the complainants in March this year. The US contended that the tariffs were imposed owing to national security concerns and the WTO had no authority to adjudicate on the matter.

At the DSB meeting, the US objected to the request for a single panel made by the seven members to look at their similar complaints and said that the DSB should decide on such matters through consensus. "Apart from the similarity between the cases, the reason why the members had asked for a single panel was also the fact that the DSB was short of judges as the appointments process has been stalled by the US for the last few months and vacancies are not being filled," the official said.

In its submission, Switzerland said the US tariffs will have a harmful effect on the multilateral trading system as a whole and that it was concerned the spiralling protectionist measures will have a negative effect on global value chains. India said it shared the view that the WTO system will be undermined if it fails to allow for review of another member's unilateral actions.

Some members such as China, Canada, the EU and Mexico have already imposed retaliatory tariffs against US goods equivalent to the estimated loss suffered by their steel and aluminium sectors due to the higher tariffs. India announced retaliatory tariffs totalling around \$134 million on 29 American items in June this year but is yet to impose it.

- A. Can tariffs be imposed on national security concerns? 5x6=30
- B. What is a multilateral trading system?
- C. What are protectionist measures in international trade?
- D. What is the WTO Dispute resolution system?
- E. Do you agree with the view taken by India in this case?
- F. Is the world headed towards a trade war?

Part C

Answer **all** the Questions. **Each** question carries **ten** marks.

(3Qx10M=30)

6. Write a critique of the below mentioned judgement.

In a landmark judgment, the Division Bench of the Delhi High Court on December 9, 2016 ruled in Rameshwari Photocopy Services Case that the preparation of 'course packs' i.e. compilation of photocopies of the relevant portions of different books prescribed in the syllabus, and their distribution to the students by educational institutions does not constitute infringement of copyright in those books under the Copyright Act,

1957, as long as the inclusion of the works photocopied (irrespective of the quantity) was justified by the purpose of educational instruction.

It held that such photocopying qualifies as reproduction of the work by a teacher in the course of instruction and thus does not amount to copyright infringement by virtue of Section 52(1)(i) of the Act. In effect, it held that the educational institutions do not require a license or permission from the publishers for making and distributing course packs to students if the copyrighted materials included in them are necessary for the purpose of instructional use by the teacher to the class.

7. The TRIPS Agreement is often criticized as an instrument to promote the interests of the technologically developed western countries. Do you agree with this view? Answer with suitable examples.

8. World Trade Organisation (WTO) is playing a pivotal role in facilitating international trade through dispute settlement mechanism. Comment

