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**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**

**End Semester Examination, December 2017**

**Program: BA., LL.B. (Hons.) Energy Laws & BBA, LL.B. (Hons.) Corporate Laws**

**Semester – IX**

**Subject (Course): Information Technology Law**

**Max. Marks : 100**

**Course Code: LLBL 512**

**Duration : 3 Hrs**

**No. of page/s: 3**

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**Section A**

1. Fill in the Blanks (6 marks)
  - i. Under section 42 of the Information Technology Act, if the \_\_\_\_\_ corresponding to the public key listed in the Digital Signature Certificate has been compromised, then, the \_\_\_\_\_ shall communicate the same without any delay to the Certifying Authority.
  - ii. Notwithstanding anything contained in Criminal Procedure Code 1973, the offence punishable with imprisonment of \_\_\_\_\_ years and above shall be cognizable and the offence punishable with imprisonment of \_\_\_\_\_ years shall be bailable.
  - iii. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ sections of IT Act deal with Cyber pornography.
  
2. State True or False (4 marks)
  - i. A man monitoring the use by a woman of the internet, email or any other form of electronic communication is not an offence in India.
  - ii. PKI stands for Public Key Interest.
  - iii. The court of appeal on the orders issued by Cyber appellate tribunal is the Supreme Court.
  - iv. The maximum penalty for damage to Computer, Computer systems, unauthorized access, download of data, infecting with virus, denial of access etc as per Section 43 is, 5 Lakh Rs.

**Section B**

**(2\*10=20)**

**Attempt any 2 questions of 10 marks each.**

3. Describe and critically analyze the meaning and validity of Clickwrap agreements, Browsewrap agreements and Shrinkwrap agreements. (10 marks)
  
1. What is the doctrine of merger in copyright law. discuss in reference to the decision of the District Court in Oracle v. Google. What was the observation of the Court of Appeals? (10 marks)

2. What is cryptography? What are the different types of cryptography? Does the IT Act prescribe the use of any specific type of Cryptography? If yes, then explain with the help of legal provisions. (10 marks)
3. Write down the process for creation of a Digital Signature. Explain the steps involving the creation and verification of a Digital Signature. (10 marks)

### Section C

(2\*10=20)

Attempt any 2 questions of 10 marks each.

4. Explain the concept of Uniform Domain-name Dispute Resolution Policy along with the various requirements for a claim to be successful. (10 marks)
5. Discuss the position of law with reference to the patentability of software in India and other comparable jurisdictions (10 marks)
6. Section 67 of the Information Technology Act, 2000 prescribes punishment for publishing or transmitting obscene material in electronic form. With respect to the said provision answer the following questions:
  - a. (a) List out the elements/ ingredients of the offence mentioned under the above mentioned provision And explain the 'Miller Test' or the 'Three Prong Test' for determining obscenity. (10 marks)
  - b. (b) Explain obscenity and cyber obscenity. What makes cyber obscenity graver in nature than the traditional form of obscenity? (10marks)

### Section D (2\*25=50)

Attempt any 2 questions of 25 marks each.

7. Mr. Bansal is a client of yours. He approaches you and asks you the following question. "My company has been negotiating contracts with other companies over e-mails. Please advise me on what are the possible legal issues that may arise as a consequence and also advise on how best to avoid such issues from arising from a legal point of view." Draft a reply. (25 marks)
8. Chalischor.com is a famous website which sells products online. It sells products itself rather than allowing other sellers to sell products on its platform. Some of the products it sells are under its own brand 'Sindbad'. Mary orders a Sindbad phone from the website. When the phone arrives, it switches on for a minute, then switches off on its own. It does not switch on again at all. Mary sends a legal notice to Chalischor. Chalischor replies saying that at the time of purchasing, Mary had entered into a clickwrap agreement with Chalischor which, *inter alia*, had the following two clauses:
  - a. Sindbad phones are not covered by any warranty.

- b. Chalischor shall not be liable for any issue in the working of Sindbad phones. Advise Mary on possible legal recourses to protect her interest. (25 marks)
9. The Supreme Court, in a recent case has stepped to the fore with a delightful affirmation of the value of free speech and expression, The Judgment has increased the scope of the right available to us to express ourselves freely, and the limited space given to the state in restraining this freedom in only the most exceptional of circumstances. Justice Nariman, has highlighted that the liberty of thought and expression is not merely an inspirational ideal. It is also “a cardinal value that is of paramount significance under our constitutional scheme.” Answer the following questions in the light of the judgement of the above case:
- (a) State the effect of the judgement of the above mentioned case.
  - (b) Summarize the observation of the Supreme Court with respect to the status of the fundamental right to freedom of speech and expression.
  - (c) Discuss the doctrine of ‘Void for Vagueness’ with respect to section 66A.
  - (d) Discuss in brief the various theories discussed by the court in this case.
- (25marks)
10. Allauddin with intent to threaten the unity, integrity, of Sindia penetrated into the military website of Sindia without authorization. He thus, accessed and copied the critical information infrastructure of the country. He also used this information to cause death and injuries to persons and destruction of property. He also by using this information disrupted the water supplies in the country due to which a state of chaos occurred in the country. Answer the following questions on the basis of this information.
- (a) Describe the offence committed by Allauddin, if any according to the IT Act?
  - (b) List out the elements/ ingredients of the offence mentioned under the above mentioned provision.
  - (c) Explain the modes of committing an offence under the above mentioned provision.
  - (d) What is the punishment prescribed for the commission of the offence and for conspiring to commit the offence?

(25 marks)

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### Section A

1. Fill in the Blanks (6 marks)
  - i. The doing of any act necessary to obtain information essential for operating \_\_\_\_\_ of an independently created computer programme is considered fair use under the Copyright Act.
  - ii. Under section 42 of the Information Technology Act, if the \_\_\_\_\_ corresponding to the public key listed in the Digital Signature Certificate has been compromised, then, the \_\_\_\_\_ shall communicate the same without any delay to the Certifying Authority.
  - iii. A \_\_\_\_\_ is an individual, person, entity who uses a well known trademark as a web address or in any other manner for his own website as to give a deceptive impression that there is some kind of \_\_\_\_\_ with that trademark.
2. State True or False (4 marks)
  - i. Source code of a computer software is a literary work capable of subsistence of copyright
  - ii. Section 66A of the IT Act was struck down for being in violation of Article 21 of the Constitution.
  - iii. Computer programs per se are not patentable in India
  - iv. Exemption from liability for Intermediaries has been provided for in section 79 of the IT Act.

### Section B

Attempt any 2 questions of 10 marks each.

1. Discuss the position of law with reference to the patentability of software in India and other comparable jurisdictions (10 marks)
2. Describe and critically analyze the meaning and validity of Clickwrap agreements, Browsewrap agreements and Shrinkwrap agreements. (10 marks)

3. What is cryptography? What are the different types of cryptography? Does the IT Act prescribe the use of any specific type of Cryptography? If yes, then explain with the help of legal provisions. (10 marks)
4. Write down the process for creation of a Digital Signature. Explain the steps involving the creation and verification of a Digital Signature. (10 marks)

### Section C

**Attempt any 2 questions of 10 marks each.**

5. Explain the concept of Uniform Domain-name Dispute Resolution Policy along with the various requirements for a claim to be successful. (10 marks)
6. What is the doctrine of merger in copyright law. discuss in reference to the decision of the District Court in Oracle v. Google. What was the observation of the Court of Appeals? (10 marks)
7. Section 67 of the Information Technology Act, 2000 prescribes punishment for publishing or transmitting obscene material in electronic form. With respect to the said provision answer the following questions:
  - a. (a) List out the elements/ ingredients of the offence mentioned under the above mentioned provision And explain the 'Miller Test' or the 'Three Prong Test' for determining obscenity. (10 marks)
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### Section D

**Attempt any 2 questions of 25 marks each.**

8. Donald and Hillary are good friends. They have been together in the college through 4 years of Law. They study together and help each other with University and other work and are also constantly in touch with each other over the phone and whatsapp. On occasions, they share jokes with each other over whatsapp but these are 'clean' jokes without any sexual humour. However, since they are good friends, one day, Donald sends Hillary a joke which has sexually explicit content but only because he found the joke humorous. Hillary is offended and files an FIR against Donald. Police charge Donald with Section 67, 67A, 66E of IT Act and Section 354A (Sexual harassment) and 354D of IPC, *inter alia*. Donald has approached you to be his lawyer against the prosecution. How would you defend him?  
The text of Section 354A(1) is as follows: A man committing any of the following acts—
  - i. physical contact and advances involving unwelcome and explicit sexual overtures; or

- ii. a demand or request for sexual favours; or
  - iii. showing pornography against the will of a woman; or
  - iv. making sexually coloured remarks,
- shall be guilty of the offence of sexual harassment. (25 marks)

9. Chalischor.com is a famous website which sells products online. It sells products itself rather than allowing other sellers to sell products on its platform. Some of the products it sells are under its own brand 'Sindbad'. Mary orders a Sindbad phone from the website. When the phone arrives, it switches on for a minute, then switches off on its own. It does not switch on again at all. Mary sends a legal notice to Chalischor. Chalischor replies saying that at the time of purchasing, Mary had entered into a clickwrap agreement with Chalischor which, *inter alia*, had the following two clauses:
- c. Sindbad phones are not covered by any warranty.
  - d. Chalischor shall not be liable for any issue in the working of Sindbad phones.
- Advise Mary on possible legal recourses to protect her interest. (25 marks)

10. The Supreme Court, in a recent case has stepped to the fore with a delightful affirmation of the value of free speech and expression, The Judgment has increased the scope of the right available to us to express ourselves freely, and the limited space given to the state in restraining this freedom in only the most exceptional of circumstances. Justice Nariman, has highlighted that the liberty of thought and expression is not merely an inspirational ideal. It is also "a cardinal value that is of paramount significance under our constitutional scheme." Answer the following questions in the light of the judgement of the above case:
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  - (d) Discuss in brief the various theories discussed by the court in this case.

(25marks)

11. Allauddin with intent to threaten the unity, integrity, of Sindia penetrated into the military website of Sindia without authorization. He thus, accessed and copied the critical information infrastructure of the country. He also used this information to cause death and injuries to persons and destruction of property. He also by using this information disrupted the water supplies in the country due to which a state of chaos occurred in the country. Answer the following questions on the basis of this information.
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