

Name:	 <b>UPES</b> UNIVERSITY WITH A PURPOSE
Enrolment No:	

**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**  
**End Semester Examination, December 2019**

<b>Course: IP Litigation</b> <b>Program: B.Tech-ET-LLB-IPR</b> <b>Course Code: LLBL653</b>	<b>Semester: XI</b> <b>Time: 03 hrs.</b> <b>Max. Marks: 100</b>
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**Instructions: All questions are compulsory.**

S. No.		Marks	CO
Q 1	Name the three treaties or conventions relating to copyright law.	2	CO1
Q 2	Provide for the two ways in which defendant can raise the issue of validity of a patent.	2	CO1
Q 3	The main purpose of trade mark is_____	2	CO1
Q 4	Who can represent parties before the Intellectual Property Appellate Board and the Patent Office?	2	CO1
Q 5	Infringement of copyright proceedings can be instituted before a district court, within whose jurisdiction, the claimant either_____.	2	CO1

**SECTION B**

Q 6	Explain the different grounds on which patent can be invalidated. Are there any other grounds on which an otherwise valid patent can be deemed unenforceable?	10	CO 1
Q 7	Explain the rules and practice concerning evidence in copyright infringement proceedings. Is evidence obtained for criminal proceedings admissible in civil proceedings, and vice versa?	10	CO1

**SECTION-C**

Q 8	Critically analyze the protection of registered and unregistered trademarks with the concern regarding dilution of well-known marks and its protection under trademark legislation.	10	CO3 &4
Q 9	Every time an innovation survey is released, there is a collective groan about India's slide in rankings. Comment explaining the issues regarding patent filing and protection in India.	10	CO3 &4

**SECTION-D**

Q 10	The patent application at the center of the case was filed by Karvia in India in 1998, after India had agreed to enter the World Trade Organization and to abide by	50	CO1, CO2
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<p>worldwide intellectual property standards under the TRIPS agreement. As part of this agreement, India made changes to its patent law; the biggest of which was that prior to these changes, patents on products were not allowed, while afterwards they were, albeit with restrictions. In 2005, so Karvia’s patent application waited in a “mailbox” with others until then, under procedures that India instituted to manage the transition. India also passed certain amendments to its patent law in 2005, just before the laws came into effect, which played a key role in the rejection of the patent application.</p> <p>The patent application claimed the final form of Silivia (the beta crystalline form of imatinib mesylate). In 1993, during the time India did not allow patents on products, Novartis had patented imatinib, with salts vaguely specified, in many countries but could not patent it in India. The key differences between the two patent applications, were that the 1998 patent application specified the counterion (Silivia is a specific salt - imatinib mesylate) while the 1993 patent application did not claim any specific salts nor did it mention mesylate, and the 1998 patent application specified the solid form of Silivia - the way the individual molecules are packed together into a solid when the drug itself is manufactured (this is separate from processes by which the drug itself is formulated into pills or capsules) - while the 1993 patent application did not. The solid form of imatinib mesylate in Silivia is beta crystalline.</p> <p>As provided under the TRIPS agreement, Karvia applied for Exclusive Marketing Rights (EMR) for Silivia from the Indian Patent Office and the EMR were granted in November 2003. Karvia made use of the EMR to obtain orders against some generic manufacturers who had already launched Karvia in India. Karvia sets the price of Silivia at USD 2666 per patient per month; generic companies were selling their versions at USD 177 to 266 per patient per month</p> <p>When examination of Silivia' patent application began in 2005, it came under immediate attack from oppositions initiated by generic companies that were already selling Silivia in India and by advocacy groups. The application was rejected by the patent office and by an appeal board. The case is before the High Court.</p> <p>In the light of the abovementioned excerpts, answer the following questions:</p> <ol style="list-style-type: none"> <li>What is the true import of Section 3(d) of the Patents Act, 1970? How does it interplay with Clauses (j) and (ja) of Section 2(1)?</li> <li>Does the product for which the Appellant claims patent qualify as a “new product” which comes by through an invention that has a feature that involves technical advance over the existing knowledge and that makes the invention “not obvious” to a person skilled in the art? Answer explaining the essentials of patent.</li> <li>Whether patent protection is an exclusive right or monopoly right comment analyzing the above excerpts.</li> <li>Explain the procedure for filing of patent in India.</li> <li>Decide the case.</li> </ol>	<p>10X5</p>	<p>&amp; CO5</p>
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