

**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**  
**End Semester Examination, May 2020**

**Course: Law of Patents**  
**Program: LL.M**  
**Course Code: CLLT7009**

**Semester: II**  
**Time: 03 hrs.**  
**Max. Marks: 100**

**SECTION –A (6X5=30)**  
**(Word limit-30-50)**

**1. Write short notes:**

- i) Exclusive License
- ii) Natural Theory
- iii) National Treatment
- iv) Surrender of Patent
- v) Utility of the patent system other than securing legal rights
- vi) Doctrine of Equivalence

**SECTION-B (5X10=50)**  
**(Q.no. 2 to Q.no.5 COMPULSORY)**  
**(Word limit-100-150)**

- 2. Trace the historical development of Patent Law in India. CO1**
- 3. Define new invention. What inventions are considered not patentable as per Sections 3 and 4 of Indian Patent Act? Explain. CO1**
- 4. “Patent by its very nature is a transferable property, and can be transferred from original patentee to any other person.” Explain. CO1**
- 5. “He who first communicates it to the public is the true inventor”. In the light of the above statement, explain the procedure followed in India for obtaining a patent. CO2**
- 6. Define compulsory license. What is the basic utility of compulsory license? Explain the practical limitations in invoking compulsory licenses. CO1**

**OR**

7. The justification for the patent system is that it provides an incentive for investment in new ideas, without which technological development would be much slower and more difficult. Do you agree to this view? Substantiate. **CO2**

**SECTION-C (2X10=20)**  
**(Word limit 100-150)**

8. Symed, a Hyderabad based company that manufactures Active Pharmaceutical Ingredients (API) and offers chemistry related services holds two patents, IN213062 (Title: Novel intermediates for linezolid and related compounds; Filed on 20-07-2004) and IN213063 (Title: A novel process for the preparation of linezolid and related compounds; Filed on 19-04-2004) that cover the process of manufacturing linezolid. Linezolid is a synthetic antibiotic that acts as a bacteriostatic agent against Gram-positive bacteria and is used for treating infections caused by these bacteria.

On April 2013, Symed sued Glenmark for infringement of the above-mentioned two patents seeking interim injunctions to restrain Glenmark from producing Linezolid. In turn, Glenmark had filed a counterclaim for invalidating Symed's patents on the ground of lack of novelty. Symed alleged that Glenmark had infringed its patented process for making linezolid since, in a random survey; it found traces of markers/ intermediates that are characteristic of its patented process in the linezolid products produced by Glenmark. CHFA, PHPFMA and Zodiac-4 are the markers/intermediates that were alleged to be found in the linezolid products of Glenmark. CHFA is an intermediate covered by claims 18 and 19 of IN213063, PHPFMA is an intermediate covered by claims 23, 24 and 25 of IN213062 and Zodiac-4 is a carbonylated form of CHFA. Symed claimed that the presence of these markers/intermediates is indicative of the use of the patented process. Subsequently, the Delhi high court awarded interim injunction restraining Glenmark from making linezolid in its 19th January order.

It is worthwhile to note that other than Glenmark, Symed had sued Optimus Pharma, Alkem Laboratories Ltd., Mankind Pharma Ltd. and Sharon Bio-medicine Ltd. for infringement of the above-mentioned patents seeking interim injunctions as relief.

**a) Whether the patent granted is infringed? Explain the remedies if any available against infringement.**

**b) Can a patent once granted be revoked? Explain.**

**CO2**

**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**  
**End Semester Examination, May 2020**

**Course: Law of Patents**  
**Program: LL.M**  
**Course Code: CLLT7009**

**Semester: II**  
**Time: 03 hrs.**  
**Max. Marks: 100**

**SECTION –A (6X5=30)**  
**(Word limit 30-50)**

**1. Write short note:**

**CO 1**

- i) Equitable Assignment
- ii) Utilitarian Theory
- iii) Importance of priority date
- iv) Patent as monopoly right
- v) Natural treatment provision under Paris Convention 1883
- vi) Literal Infringement

**SECTION-B (5X10=50)**  
**(Q.no. 2 to Q.no.5 COMPULSORY)**  
**(Word limit 100-150)**

**2.**What is compulsory licensing? How is it implemented in India? Explain its practical limitations. **CO1**

**3.**“An invention may satisfy the condition of novelty, inventiveness and usefulness but it may not qualify for a patent”. Explain. **CO2**

**4.**‘The object of patent law is to encourage scientific research, new technology and industrial progress’. Analyze this statement in the light present day competition. **CO2**

**5.** “A patent is considered as a transferrable property that can be transferred from the original patentee to any other person by assignment or by operation of law”. Elucidate. **CO2**

**6.** Patent Co-operation Treaty 1970 is considered to be the milestone development with regard to the growth of patent law. Justify this statement. **CO1**

**OR**

7. What is opposition under the Indian Patents Act 1970? What are the grounds for opposition?  
Explain. CO1

**SECTION-C (2X10=20)**

**(Word limit 100-150)**

8. MSD Pharmaceuticals Pvt. Ltd. obtained Patent no. 209816 on 6th September, 2007  
Patent no. 209816 has 20 claims and is covered by claims 1 to 3, 5 to 10, 14 to 17 and Claim 19  
of the suit patent specifically claims Sitagliptin.

Keeping in mind, the public interest “Januvia” was launched in India with a price tag of Rs.43 per  
pill, which is roughly one-fifth of its price in the USA.

Bulk packs of “Januvia” are imported from Italy and are sold by MSD Pharmaceuticals Pvt. Ltd.  
MSD Pharmaceuticals Pvt. Ltd. have also launched patient access program under the name “MSD  
Sparsh Helpline” which is the first of its kind in India.

Objectives of this program is to facilitate optimal and comprehensive management of patients with  
Type II diabetes mellitus by improving patient’s understanding of the disease and its management;  
patient’s adherence and compliance to prescribed therapy and patient’s self-involvement in the  
disease management process.

Glenmark manufactures, sells, offers for sale and advertises the pharmaceutical compositions,  
Sitagliptin Phosphate Monohydrate under the brand “ZITA” and Sit gliptin Phosphate Monohydrate  
and Metformin Hydrochloride under the brand name “ZITA –MET”. These are the generic  
versions of “Januvia” and “Janumet”.

**a) Whether the patent granted is infringed? Decide the remedy if any available against  
infringement.**

**b) Can a patent once granted be revoked? Explain.**

**CO 2**