

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

**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**  
**End Semester Examination, December 2021**

<b>Course: IP Litigation</b> <b>Program: BTECHLLB(H)</b> <b>Course Code: LLBL653</b> <b>Instructions: All questions are compulsory.</b>	<b>Semester: XI</b> <b>Time: 03 hrs.</b> <b>Max. Marks: 100</b>
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<b>SECTION-A</b>			
1. Each Question will carry 2 Marks			
Q1	Luxury Marks. Define.	2	CO1
Q2	Do the courts/government bodies deal with infringement and invalidity simultaneously or must invalidity actions be brought in separate proceedings?	2	CO1
Q3	How is the liability of intermediaries, such as internet service providers treated in India	2	CO1
Q4	State a difference between idea and expression of Idea under copyright	2	CO1
Q5	Where IP laws Compulsory Licensing provided?	2	CO1
<b>SECTION-B</b>			
S. No.	1. Each Question will carry 5 Marks	<b>Marks</b>	<b>CO</b>
Q1	Under what conditions, if any, can an alleged infringer bring proceedings to obtain a declaratory judgment of non-infringement?	5	CO2
Q2	Explain how patent infringement is assessed.	5	CO2
Q3	Define the concept of Plagiarism and Copyright.	5	CO2
Q4	Explain the well-known marks protection at pre-registration and post grant of Registration stages.	5	CO2
<b>SECTION-C</b>			
Each question will carry 10 marks. Instruction: Write short / brief notes			
Q1.	In India, there are no specific laws granting copyright protection to tattoos but its stand can be understood from the incident where the Indian Copyright Office granted copyright registration to Shahrukh Khan for his tattoo portrayed in Don 2. The tattoo was later used on several merchandises sold during and after the success of the movie. Comment whether IP protection can be granted for protection of tattoos on human flesh.	<b>10</b>	<b>CO3</b>

Q2.	The existence of commercial courts to deal with IP disputes proves to be a significant step, considering IP litigation in India is at nascent stage of development. Critically analyze the above statement.	10	CO3
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	<b>SECTION-D</b> 1. Each Questions carries 25 Marks 2. Write Long Answers		
Q1	<p>The suit was instituted before the Allahabad High Court in August 2012 by three of the foremost publishers of scholarly, general and reference books in all disciplines of academia, namely, the Oxford University Press, the Cambridge University Press and the Taylor &amp; Francis Group (“Plaintiff-Publishers”) for permanent injunction against infringement of copyright in their publications by the University of Lucknow (“Lucknow University” or “Defendant No. 2”) and a photocopy shop named Xavier Photocopy Service (“Defendant No. 1”) operating in the University under a license from it. The Plaintiff-Publishers alleged that the Defendants had been photocopying substantial excerpts from their publications that were part of the prescribed syllabus and issuing/selling unauthorized compilations of them in the form of course packs or anthologies, thereby infringing their copyright in those publications under Section 51 r/w Section 14 of the Copyright Act. They argued that Lucknow University seek a license from the Indian Reprographic Rights Organization (“IRRO”), a copyright society registered under the Act, that permits only up to 15% of a copyrighted work to be reproduced (in a course pack or otherwise).</p> <p>The suit came up for the first hearing before the court on August 14, 2012. The court appointed a Local Commissioner to visit the premises of Defendant No. 1 without prior notice and seize all allegedly infringing copies of the Plaintiff-Publishers’ works made by it after making an inventory of the same.</p> <p>Thereafter, the Defendants contested the suit by arguing, inter alia, that their actions constituted fair use of the Plaintiff-Publishers’ works under sections 52(1)(i), 52(1)(a) and 52(1)(h) of the Act and therefore did not amount to copyright infringement.</p>		<b>CO4</b>
1.	Explain the “statement copyright as an exclusive right” highlighting the concept of compulsory licensing.	10	
2	Decide the case providing for practical implications and relevant suggestions.	15	
Q2	Is Abolishment Of IP Appellate Board A Right Decision By Government? Comment and provide way forward	25	CO 4