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Enrolment No:			
UNIVERSITY OF PETROLEUM AND ENERGY STUDIES End Semester Examination, December 2023			
Course: Trade Secret and Sui-Generis IP Rights Program: B.A;LL.B, B.B.A;LL.B, B.COM;LL.B, BSc.;LL.B hrs. Course Code: CLBS5006		Semester: IX Time: 03 Max. Marks: 100	
Instructions: All questions are compulsory.			
SECTION A (5Qx2M=10Marks)			
S. No.		Marks	CO
Q 1.	Which one of the following is true about trade secrets? a. Trade secrets are protected in India by a statute b. Trade secrets are the same as confidential information c. Trade secret is not a form of intellectual property d. Trade secrets need to be secret for a reasonable amount of time and may have actual or potential value to the business	2	CO1
Q2.	Geographical Indications can be registered in India for - a. Goods b. Services c. both goods and services d. none of the above	2	CO1
Q3.	Which of the following statements is incorrect? a. TK is distinctly associated with an indigenous or local community, which preserves and transmits it from generation to generation. b. TK is old and static. c. TK is generated, preserved and transmitted in a traditional and intergenerational context. d. TK is not limited to any specific technical field.	2	CO1
Q4.	Who all are the Ex-officio members in National Biodiversity Authority?	2	CO1
Q5.	Explain the TRIPS provisions relating to geographical indications.	2	CO1

SECTION B (4Qx5M= 20 Marks)			
Q 6.	Discuss with respect to the Geographical Indication Act, 1999: a) Effect of registration b) Powers and functions of Registrar.	5	CO2
Q 7.	What types of damages are available in the case of Trade Secrets under Indian Law and under what circumstances?	5	CO2
Q 8.	Explain the governing bodies under the Convention on Biological Diversity.	5	CO2
Q 9.	Salient features of Biological Diversity Act, 2002.	5	CO2
SECTION-C (2Qx10M=20 Marks)			
Q 10.	India has awakened to the necessity of protecting its geographical indications when it passes the Geographical Indications Goods Act, 1999. Explain this statement. Critically evaluate the essential provisions of this Act and refer to register geographical indication in India.	10	CO3
Q 11.	Using your own examples of what you learned about Traditional knowledge and Traditional Knowledge system, write a short note in which you deal with the following questions: i. How do patent rights affect traditional knowledge systems and traditional knowledge? ii. How does copyright affect traditional knowledge systems and traditional knowledge.	10	CO3
SECTION-D (2Qx25M=50 Marks)			

<p>Q 12.</p>	<p>On April 12, your client, Charles Dierkers, quit his job as World-Wide Marketing Manager at Pfizer Inc., and informed Pfizer’s CEO that he intended to begin work with Pfizer’s main competitor, Johnson & Johnson Company (J&J), on May 6. (J&J and Pfizer each earn over \$60 Billion on pharmaceutical sales annually.) Mr. Dierkers had been employed by Pfizer since 20014, having held his current position since January 20019. His new position at J&J will be International Marketing Manager. Both positions have essentially the same job duties: managing and coordinating all marketing and advertising efforts; conducting and analyzing research on customers, competitors, and market conditions; developing and implementing annual marketing plans; determining and managing the marketing budget; developing pricing strategies; and collaborating with the sales department. In taking the new position at J&J, Mr. Dierkers’ annual salary will increase from \$350,000 to \$500,000.</p> <p>When he began working for Pfizer, Mr. Dierkers signed an agreement not to disclose or use confidential information owned by the company. During his exit interview, Mr. Dierkers again agreed, in writing, that “I will not use or disclose any confidential or proprietary information of Pfizer in the performance of my position as the International Marketing Manager at J&J.” Pfizer has taken several additional steps to maintain the secrecy of its trade secrets and confidential information, including limiting physical and electronic access to those few employees with a need to know the information; using passwords and identification badges to restrict such access; marking confidential documents as such; and</p>	<p>25</p>	<p>CO4</p>
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	<p>providing employees with additional notice regarding the importance of trade secrets via a policy manual and quarterly trainings.</p> <p>Despite assurances from Mr. Dierkers and J&J that Pfizer’s trade secrets – namely, its pricing strategies, marketing plans, and market research – would not be used or disclosed, Pfizer sued Mr. Dierkers on April 16, claiming “actual or threatened use or disclosure of Pfizer’s trade secrets” is a violation of TRIPS Trade Secret Regulation (which, for purposes of this exam, should be considered in India as India is the signatory of TRIPS).</p> <p>Pfizer’s complaint did not include any examples of actual misappropriation. Rather, it essentially claims that the disclosure of its trade secrets is unavoidable because Mr. Dierkers will inevitably use them in his new position at J&J.</p> <p>In conjunction with the filing of the Complaint, J&J moved for a preliminary injunction to enjoin Mr. Dierkers from assuming his duties as International Marketing Manager at J&J.</p> <p>Mr. Dierkers hired you to represent him in this litigation. Based on the undisputed facts provided above, provide an objective analysis of the law and relevant facts, in addition to the likely outcome and procedure to be followed to keep the Trade Secret.</p>		
Q 13.	<p>Pochampally Ikat is fabric made of natural materials out of cotton or silk or a combination of both having design of the diffused diamond or ‘chowka’ design. This fabric is a traditional art practiced in and around the pochampally village in Warangal district of Andra Pradesh. So, GI holders of Pochampally Ikat have the production and marketing rights and legal right to initiate the infringement action.</p> <p>In May 2005 there was an incident happened where one company started using the GI under the name of ‘Hyco Pochampally’. Further with the investigation it was revealed that there was manufacturing and retailing of the sarees with the label ‘Hyco Pochampally’ which is visually and phonetically similar to the GI and product Pochampally Ikat.</p> <p>The board holding the GI of Pochampally Ikat has approached you for legal advice on the following issues:</p> <ol style="list-style-type: none"> (a) Whether there was an infringement of GI and what all are legal remedies available under the Geographical Indication of Goods (Registration and Protection) Act, 1999 (b) In the view of a developing country like India, which has in its possession a number of world-famous Geographical Indications. Is there necessity of creating more and more awareness among producers, manufacturers and use of goods that are covered under the Act in order to be effectively protected in the Country as well as outside? Explain. 	25	CO4