

Total number of printed pages-6

21 (3) TCPD 3-5

2017

**TRADE MARK, COPYRIGHT,  
PATENT AND DESIGN**

Paper : 3-5

(Honours-1)

Full Marks : 80

Time : Three hours

**The figures in the margin indicate  
full marks for the questions.**

1. Fill in the blanks with appropriate answer :  
10×1=10

(a) An Intellectual Property system is one  
of the best ways of protecting and  
thereby preserving human \_\_\_\_\_.  
[discovery/creativity]

Contd.

(b) Traditionally, Intellectual Property is classified into two groups: Industrial Property and \_\_\_\_\_.

*[Immovable Property / Copyrights]*

(c) Trade Mark possesses \_\_\_\_\_ character for registration.

*[distinctive / new / fresh]*

(d) Intellectual Property is an asset like other forms of \_\_\_\_\_ property.

*[tangible / virtual / intangible]*

(e) The term 'Patent' refers to such a document that grants exclusive rights to an \_\_\_\_\_.

*[artist / industrialist / inventor]*

(f) Infringement of Copyright in a design is termed as \_\_\_\_\_ of registered design.

*[theft / piracy]*

(g) 'The trade marks which are devoid of any \_\_\_\_\_ shall not be registered except upon the evidence of 'acquired distinctiveness'.

*[Distinctive Character / Special Character]*

(h) A Trade Mark is literally a 'mark' that one business uses to distinguish its \_\_\_\_\_ or \_\_\_\_\_ from another.

*[finished product or manufactured product / product or services]*

(i) The underlying principle of Copyright Protection is that specific creative expressions are protected but not the \_\_\_\_\_ behind them.

*[human mind / ideas]*

(j) Design has to do with the \_\_\_\_\_ appearance of an article.

*[external, tangible / physical, visible]*

2. Write short answers : 2×5=10

(a) Any one Theories of Protection.

(b) Intellectual Property and Globalization.

(c) Protection of Domain Names as Trade Marks.

(d) Grounds for refusal of registration of Trade marks.

(e) Author's moral rights under sec. 57 of the Copyright Act, 1957.

3. What is the meaning of inherent or acquired distinctiveness in Trade Marks ? Explain with relevant provisions of the Trade Marks Act, 1999 and case law. 4+8=12

**Or**

Discuss the law relating to the registration of descriptive words as trade marks. What is a "well-known" trade mark under S.2(1)(2g) of the Trade Marks Act, 1999 ? 5+7=12

4. In considering whether a mark has reference to the character or quality of goods, the mark must be looked at, not in its grammatical significance, but as it would respect itself to the public at large.' In the light of the above statement, discuss the law relating to the registration of descriptive words as trade marks. 12

**Or**

Discuss the concept of deceptive similarity for refusal of registration of a trade mark. Discuss the tests propounded by the courts in deciding the issue of deceptive similarity in trade marks. Can the Registrar register identical or similar trade marks in the name of different persons under the Trade Marks Act of 1999 ? 12

5. Explain the concept of 'Originality' under Copyright Law. Is it necessary that all works must be original in order to be protected under Copyright Act, 1957 ? 8+4=12

**Or**

"A person who gives expression to the idea whether by means of a book, a picture or a play is the owner of the copyright in the work." Discuss in the light of the above statement the proper subject matter of the copyright under the Copyright Act, 1957. 12

6. Discuss the procedure for a grant of Patent in India. What are the non-patentable inventions under the Act ? Enumerate the rights of patentees. 8+4=12

**Or**

What constitutes Patent Infringement ? What are the methods or processes of manufacture which are patentable under the Patents (Amendment) Act, 2005 ? 4+8=12

7. Explain the definition of 'Design' under the Design Act, 2000. What are the requirements for registration of a design under the Design Act ? 6+6=12

Or

The protection given by the law relating to designs to those who produce new and original designs, is primarily to advance industries, and keep them at a high level of competitive progress. Elucidate indicating the relevant provisions under the Designs Act, 2000.

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