

TRIPS AND IP REGIME IN INDIA

TIME: 3 HOURS

MAXIMUM MARKS: 50

Answer ALL questions. Each question carries TEN marks.

(5 x 10 = 50)

- I. (a). "Intellectual property rights may be justified on the ground that they shield from appropriation or modification artefacts through which authors and artists have expressed their wills or on the ground that they create social and economic conditions conducive to creative intellectual activity, which in turn is important to human flourishing". Do you agree with this statement? Substantiate your answer with special reference to the theories of intellectual property rights.

OR

(b). Give an account of the various international instruments that sought to institutionalise uniform patent standards across the world. In your opinion, have the individual rights of inventors been unified optimally through the global implementation of such instruments.

- II. (a). "About 95 percent of the world's trade is governed by the rules and regulations of WTO". Explain this statement with special reference to the impact of WTO on the national standards of protection of intellectual property rights.

OR

(b). "The intersection between human rights and intellectual property points to a new development- the need to articulate 'maximum standards' of protection of intellectual property rights". Do you agree? Substantiate your answer with relevant authorities.

- III. (a). Trace the evolution of the law relating to patents in India. In your opinion, does Indian law reflect the TRIPS standards of protection of patents? Strengthen your argument with the help of statutory provisions as well as relevant case laws.

OR

(b). "Patients benefit from the innovation funded by pharmaceutical companies when those companies discover life -changing drugs, but they will be harmed if patents are never allowed to expire so that low cost generics can enter the market. On the other hand, if patents are not granted on their products, pharmaceutical companies lose years of monopoly profits and are not able to fund the research and development necessary for innovation. The patent balance seeks to find a compromise." Clarify.

(Turn over)

IV. (a). Are computer related inventions patentable in India? Or, are they protected by means of copyright? With particular reference to the laws that exist in this domain, compare and contrast with judgements from other TRIPS- compliant jurisdiction and determine whether India's position compares favourably with the global standards of protection of computer related inventions.

OR

(b). "Governmental regulation of Geographical Indications (GIs) protect producers' hard earned reputation from free-riding and reassures consumers that a product's origin is accurately represented". In your view, how far has the legal protection afforded to GIs by international instruments been successful? Elucidate how the Indian government has fared in its role as a regulator and protector of GIs.

V. (a). "Intellectual property is a power tool for economic development and wealth creation that is not yet being used to optimal effect in all countries, particularly in the developing world". Do you agree with this statement? Substantiate your position with particular reference to India and its stand on intellectual property rights.

OR

(b). "Excessive IPR protection is likely to lead to an inadequate dissemination of new knowledge, which in itself could slow growth to the extent that access to existing technology is necessary to induce further innovation. Weak IPR protection has actually stimulated R & D activity in many countries by encouraging knowledge spill-overs from transnational corporations and other domestic firms." Comment.
