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**LL.M. (Intellectual Property Rights)
Group C-1
Academic Year 2005-2006**

(A) Objectives of the Course:

21st Century is the century of knowledge. Today knowledge is the power. Knowledge acquired by one by investing one's labour, skill and creativity becomes one's intellectual property. The most valuable property to be stolen is the intellectual property. But very few of us know and understand the potential of knowledge as a property. Time has come to understand and protect this property rights.

After the emergence of WTO, it has become imperative for all nations to protect the intellectual property rights of their citizens and to make suitable laws in this regard.

It is the most emerging and challenging field for the law makers to protect the interests of the citizens in the ambient of globalisation under WTO regime, where there is a specific agreement on "Trade Related Intellectual Property Rights".

The UGC Model Curricula 2001 (Law) has emphasized that to-day all knowledge is interdisciplinary and it has also further observed that the UGC Model Curriculum has been provided to the Universities only to serve as base and to facilitate the whole exercise of updating the Curriculum. (Page No.-3 forward of UGC CDC report - 2001)

The CDC in its reports has also emphasized that the academic institutions must be allowed enough autonomy and freedom of action to frame courses according to specific needs.

Keeping this in view, the Faculty of Law, Gujarat University has realized the importance of this branch of Law and adopted a two year LL.M. programme in Intellectual Property Rights, Group C-1.

(B) Subject and Curriculum Contents:

Introduction:

The present course is divided into following two parts. In Part - I apart from the two compulsory papers, two specific papers on IPRs will be taught and in Part - II besides one compulsory paper three specific papers on IPRs will be taught.

LL.M. Part-I

Paper - I	Indian Constitutional Law : The New Challenges and Judicial Process Section 1 : Indian Constitutional Law: (Marks 50) The New Challenges Section 2 : Judicial Process (Marks 50)	Marks: 100
Paper - II	Legal Education and Research Methodology	Marks: 100
Practicals:	Continued to LL.M. Part II	Marks 75
Dissertation:	Continued to LL.M. Part II	Written work : 100 Marks Viva-voce : 25 Marks
		→ Marks:125
Paper - III	General Principles of Law of Intellectual Property Rights	Marks: 100
Paper - IV	The Law of Intellectual Property Rights : Copyrights and Trademarks	Marks: 100
Section : I	Copyrights and Neighbouring Rights	Marks: 50
Section: II	Trademarks	Marks: 50

Part - II

Paper V	Law and Social Transformation in India.	Marks: 100
Paper VI	Law of Intellectual Property Rights : Patents, Industrial Design, and Layout-design of Integrated Circuits	Marks: 100
Paper VII	Intellectual Property Rights and Emerging Area	Marks: 100
Paper VIII	International Intellectual Property Law	Marks: 100

Considering Model Curriculum as prescribed by the Curriculum Development Committee of UGC, the foundation courses are covered in the paper I, II and V of the syllabus. These are the compulsory papers as referred above.

The present course, LL.M. (IPR)- Group C-1 will be at par with the other courses which were adopted by the University in the academic year 2003-2004 and therefore the examination/practicals/dissertations and viva-voce of the students of IPR course will be conducted as per the rules and regulations applicable to the groups B, C and E, in all respect.

**LL.M. (Intellectual Property Rights)
Group C-I
Part - I**

Subject and Curriculum Content

- | | |
|---|------------|
| ❖ Paper - I Indian Constitutional Law:
The New Challenges and Judicial Process | Marks: 100 |
| Section - I Indian Constitutional Law:
The New Challenges | Marks: 50 |
| Section - II Judicial Process | Marks: 50 |
| ❖ Paper - II Legal Education and Research:
Methodology | Marks: 100 |
| Practical: Continued to LL.M. Part : II | Marks: 75 |
| Dissertation: Continued to LL.M. Part : II | Marks: 125 |
| Written work : 100 Marks | |
| Viva-Voce : 25 Marks | |
| ❖ Paper - III General Principles of Law of Intellectual
Property Rights | Marks: 100 |

1 - Concept of Property

- (A) Philosophical Justification of Intellectual Property Western Theories on Private and IP
- Locke's Labour Theory of Property
 - Hegel's Personality Theory of Property
 - Marxian Theory on Private Property and IP.
- (B) Indian Theory on Private Property
- Constitutional Aspects of Property
 - Constitutional Protection of Property and IP

2 - Introduction to Intellectual Property

- Concept of Intellectual Property
- Kinds of Intellectual Property
- Economic importance of Intellectual Property

3 - International Scenario

Introduction to the leading international instruments concerning intellectual property rights: the Berne Convention, Universal Copyright Convention, the Paris Convention, TRIPS, the World Intellectual Property Rights Organization (WIPO) and the UNESCO

4 - Economic Development and IPR Protection

5 - WTO and Intellectual Property Rights

❖ **Paper IV - The Law of Intellectual Property :
Copyrights and Trademarks** Marks: 100

Section - I Copyrights and Neighbouring Rights Marks: 50

- Introduction to Copyright
- Conceptual basis
- International Conventions/Treaties on Copyrights

Copyright

1. Introduction to Copyright :

- a. overview:
- b. Concepts:
 - i. Idea- Expression dichotomy.
 - ii. Originality.
 - iii. Fixation.

2. Works protected under Copyright law:
 - a. Literary Works, including Computer Software
 - b. Dramatic Works
 - c. Musical Works.
 - d. Artistic Works
 - e. Sound Recordings
 - f. Cinematograph Films

3. Authorship and ownership:
 - a. author.
 - b. Contract of service-work for hire
 - c. Joint authorship

4. Rights conferred on copyright owners.
 - a. to reproduce
 - b. to communicate the work in the public
 - c. to issue copies to the public
 - d. to make any adaptation of the work
 - e. to include in any cinematograph work.
 - f. to assign and license

5. Moral Rights

6. Performer's Rights

7. Broadcasting Rights

8. Infringement of Copyright
 - Tests for determining infringement

9. Defences:
 - a. Fair Use
 - b. Other defences.

10. Basic Principles of International Copyright Law

1. The Berne Convention
2. Rome Convention
3. The TRIPS Agreement.
- 4 . Universal Copyright Convention.
- 5 . WIPO Internet Treaties
6. Pending Issues on the International Agenda
 - a. Audiovisual Performers' Rights
 - b. Database Treaty
 - c. Electronic Copyright Management Systems.

Section - II Trademarks

Marks: 50

- An Introduction to Trademarks

1. a. Historical development of the concept of trademark and trademark law-National and International -- Introduction to Trademarks
 - Need for Protection of Trademarks
 - Kinds of Trademarks
 - International Legal Instruments on Trademarks
- b. Function of Trademark
2. Meaning and content of Trademark:
 - a Spectrum of distinctiveness.-inherent and acquired distinctiveness.
 - b Marks that constitute trademarks.
 - c Well known Trademarks, Certification trademarks, collective marks, associated marks, Service Marks
 - d Shape of goods, packaging and combination of colours as trademarks.
3. Registration of trademarks: Grounds of refusal of registration
 - a. absolute grounds
 - b. Relative grounds.

4. Procedure for registration of Trademarks:
 - a. Application.-intent to use
 - b. Opposition
 - c. Registration
5. Rights of Registered trademark owners.
6. Assignment and licensing of Trademarks.
7. Infringement of Trademarks:
 - a. Likelihood of confusion.
 - b. Dilution of trademarks.
8. Passing Off:
 - a. Introduction.
 - b. Elements of passing off:
 - Reputation
 - Misrepresentation
 - Damage
9. Defences.
10. Remedies for Infringement and Passing Off:
 - a. Civil remedies.
 - b. Criminal remedies.
11. Domain Name: Issues and Concerns
 - a. Importance of domain names
 - b. Interface with trademark law.
 - c. Uniform Dispute resolution policy.
12. Geographical Indications
 - Concept of Appellations of Origin, Indication of Source and geographical Indication
 - International Convention/agreements
 - The Geographical Indications of Goods (Registration and Protection) Act, 2000
 - Procedure for Registration, Duration of Protection and Renewal
 - Infringement, Penalties and Remedies

13. Basic Principles of International Trademark Law
- a. The Paris Convention, (1967)
 - b. Madrid Agreement on Marks (1989) and Protocol - Registration of Domain name (1989)
 - c. The TRIPS Agreement
 - d. The Trademark Law Treaty

14. Indian Trademarks Law

- The Trade and Merchandise Marks Act, 1958
- Trademarks Act, 1999
- Procedural Requirements of Protection of Trademarks
- Content of The Rights and Exhaustion of Rights
- Assignment under Licensing
- Infringement, Rights of Goodwill, Passing Off
- Domain Names and Effects of New Technology (Internet)

Part - II

- ❖ **Paper - V Law and Social Transformation in India** Marks : 100
- ❖ **Paper - VI Law of Intellectual Property : Patents, Industrial Design, Layout-designs of Integrated circuits** Marks : 100

(A) Patents

1. Introduction to Patents:

- a. Overview
- b. Historical development
- c. Concepts:
 - i. Novelty
 - ii. Utility
 - iii. Inventiveness/Non-obviousness

2. Patentable subject-matter

- a. Patent Act 1970 – amendments of 1999, 2000, 2002 and 2005
- b. Pharmaceutical products and process and patent protection
- c. Software Patents
- d. Business Method
- e. Protection of Plant Varieties and Farmers' Rights Act, 2001
- f. Patenting of Micro-organism

3. Procedure for Obtaining of Patents:

- a. Contents of a Patent Application.
- b. Specification:
 - i. Provisional
 - ii. Complete
- c. Disclosure aspects
- d. Claims:
 - i. Principal
 - ii. Dependant
 - iii. Omnibus
- e. Examination of application.
- f. Opposition of Application
- g. Sealing of Patents

4. Opposition of Patents

5. Revocation of Patents.

6. Commercialization of Inventions

- a. Licence- Terms of License Agreement
- b. Assignment of patents

7. Working of Patents – Compulsory License

8. Infringement

- a. What Is Infringement?
- b. How Is Infringement Determined?
- c. Who Is an Infringer?
- d. Direct, Contributory, and Induced

9. Defences to Infringement

- research exemption, invalidity, misuse, failure to mark, laches and estoppel, and first sale doctrine.

10. International Protection of Patents:

- a. The Paris Convention: Exploitation of the Patented Invention
- b. Patent Co-operation treaty
- c. The TRIPS Agreement
- d. Strasbourg Agreement Concerning The International Patent Classification, 1971
- e. Budapest Treaty

(B) Industrial Designs and Layout-designs of Integrated Circuits

- Industrial Designs

- Need for Protection of Industrial Designs
- Subject Matter of Protection and Requirements
- The Designs Act, 2000
- Procedure for obtaining Design Protection
- Revocation, Infringement and Remedies

- Layout - Designs of Integrated Circuits

- The Semiconductor Integrated Circuits Layout-Design Act, 2000
- Conditions and Procedure for Registration
- Duration and Effect of Registration
- Assignment and Transmission

❖ **Paper - VII Intellectual Property Rights and Emerging Area** Marks: 100

Section - I Marks 50

1. Law of Sustainable Development
2. Agriculture, Genetic engineering, food Security and IPR - Plant Breeders' and Farmers Rights
3. Protection of Plant Varieties and Farmers' Rights
4. Protection of Traditional Knowledge and IPR
5. IPR and Human Rights related issues.

Section - II Marks 50

1. Bio safety and IPR
2. Biotechnology and the State of Global Negotiations
3. "Equitable Sharing" of Benefits of Biodiversity
4. Bioethical Implication of IPR on Public Healthcare.
5. IPR and Environment Related Issues
6. IPR and issues of technology transfer

❖ **Paper - VIII - International Intellectual Property Law** Marks : 100

(A) International Law in General

1. Nature, Origin and Basis of International Law
2. The relation between International Law and State Law
3. The Law and practice as to treaties/conventions

(B) International Treaties/Conventions on IPR

1. Agreement Between the World Intellectual Property Organization and the World Trade Organization, 1995
2. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) 1994
3. Paris Convention for the Protection of Industrial Property, 1883

4. Berne Convention for the Protection of Literary and Artistic Works, 1986
5. Rome Convention, 1961
6. Provision of the Treaty on Intellectual Property in respect of Integrated Circuits (1989) Mentioned in the TRIPS Agreement
7. Provisions of the General Agreement on Tariffs and Trade 1994 (GATT 1994) mentioned in the TRIPS Agreement
8. WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (1994)
9. Patent cooperation Treaty, Done - 1970, Amended - 1979, Modified - 1984
10. WIPO Mediation Rules, 1994
11. WIPO Arbitration Rules, 1994
12. WIPO Expedited Arbitration Rules, 1994
13. Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, Done - 1977, Amended, - 1980
14. Universal Copyright Convention as Revised at Paris (1971)
15. International Copyright Order, 1991
16. Copyright (International Organisations) Order, 1958
17. WIPO Performances and Phonograms Treaty (1996)
18. WIPO Copyright Treaty (1996)
19. Madrid Agreement Concerning the International Registration of marks & Protocol, 1891
20. Convention on Biological Diversity
21. Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972

22. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 1970
23. UPOV. (Universal Protection of New Varieties of Plants)
24. Eurasian Patent Convention
25. Stockholm on Trade - Marks
26. Lisbon Agreement on Trade-Mark
27. Berne Convention on Copyright
28. Universal Copyright Convention
29. Rome Convention on Copyright
30. Geneva Convention on Copyright
31. Brussel Convention on Copyright
32. Geneva Treaty on Audio Visual Work
33. Treaty on Integrated Circuits
34. Hague Agreement (Industrial Design)
35. Locarno Agreement (Design)
36. WTO
37. North American Free Trade Agreement (NAFTA)