

Syllabus for LL.M. IPR

Paper – IV

Subject: Nature, Emergence and Development of IPR

L4 RTDA2 C5

Paper Code: IPR 107

UNIT – I: Introduction to Intellectual Property

(Lectures 10)

- a. Concept & Meaning of Intellectual Property
- b. Nature and Characteristics of Intellectual Property
- c. Origin and Development of Intellectual Property
- d. Kinds of Intellectual Property

UNIT –II: Theories of Intellectual Property

(Lectures 10)

- a. Justification and Rationale for Protecting Intellectual Property
- b. Balancing the Protection of IPR and Public Policy Objective
- c. Theories of IPR:-
 - i. Natural Theory
 - ii. Hegelian Philosophy (Personality Theory)
 - iii. Lockes' Theory of Property (Labour Theory)
 - iv. Social Contract Theory
 - v. Social Planning Theory
 - vi. Incentive Theory
 - vii. Reward Theory
 - viii. Prospect Theory
 - ix. Schumpeterian Theory
 - x. Economic Theory

UNIT – III: International Institutions and Basic International Conventions

(Lectures 10)

- a. Paris Convention for the Protection of Industrial property, 1883
- b. The Berne Convention, 1886
- c. TRIPS Agreement, 1994
- d. International Institutions Concerned with Intellectual Property

UNIT – IV: Contemporary Issues in IPR

(Lectures 10)

- a. Interface between IPR and Human Rights
- b. Interface between IPR and Competition Law
- c. IPR and sustainable development
- d. The Impact of Internet on IPR
- e. IPR Issues in Biotechnology
- f. E-Commerce and IPR issues

Text Books:

1. David I. Bainbridge, *Intellectual Property*, Longman, 9th Edition, 2012

2. Peter Groves, *Sourcebook on Intellectual Property Law*, Routledge-Cavendish, 1997.

References:

1. Susan K Sell, Private Power, *Public Law: The Globalization of Intellectual Property Rights*, Cambridge University Press, 2003
2. N.S. Gopalakrishnan & T.G. Ajitha, *Principles of Intellectual Property*, Eastern Book Company, 2nd Edition , 2014
3. Jayashree Watal, *Intellectual Property Rights in the WTO and Developing Countries*, Oxford University Press, 2001
4. Lionel Bently & Brad Sherman, *Intellectual Property Law*, Oxford University Press, 3rd Edition, 2008
5. Peter Drahos, *A Philosophy of Intellectual Property*, Dartmouth Pub Co, 1996
6. Duggal Pavan, *Legal Framework on Electronic Commerce & Intellectual Property Rights*, Universal Publishing House, 2014
7. Paul Torremans, *Intellectual Property And Human Rights*, Kluwer Law International, 2008
8. Steven D Anderman, *Interface Between Intellectual Property Rights and Competition Policy*, Cambridge University Press, 2007.
9. Philippe Cullet, *Intellectual Property Protection and Sustainable Development*, Lexis Nexis, 2005

UNIT – I: Introduction to Copyright (Lectures 10)

- a. Introduction**
- i. Evolution of Copyright Law in India
 - ii. Nature and Scope of Copyright
 - iii. Pre-requisites for Copyright
 - iv. Copyright and its relationship with other IPRs
- b. International Conventions and Treaties**
- i. Berne Convention for the Protection of Literary and Artistic Works, 1883
 - ii. Universal Copyright Convention, 1952
 - iii. TRIPS Agreement, 1994
 - iv. WIPO Copyright Treaty, 1996
 - v. International Copyright Order, 1999

UNIT –II: Subject Matters of Copyright (Lectures 10)

- a. Work in which Copyright Subsists
- b. Authorship *vis- a vis* Ownership
- c. Copyrights: Economic and Moral Rights
- d. Duration of Copyright
- e. Copyright Issues in Digital Environment
- f. Assignment and Licensing

UNIT – III: Limitations, Infringement & Enforcement of Copyright (Lectures 10)

- a. Limitation and Exceptions of Copyright
- b. Infringement
- c. Remedies
- d. Enforcement of Copyright at National and International Level

UNIT – IV: Neighboring Rights (Lectures 10)

- a. Origin and Development
- b. Rationale for Protection
- c. Copyright vis-a vis Neighboring rights
- d. International Treaties:
 - i. Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations 1961

- ii. Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms Phonograms Convention, 1971
- iii. Brussels Satellites Convention, 1974
- iv. TRIPS Agreement, 1994
- v. WIPO Performances and Phonograms Treaty, 1996
- vi. Beijing Treaty on Audiovisual Performances, 2012
- e. Performers Rights
- f. Broadcasting organizations rights
- g. Rights of the Producers of Phonograms
- h. Economic and Moral Rights
- i. Exceptions
- j. Infringement and Remedies

Text Books:

1. Kevin Garnett, Jonathan Rayner James, Gillian, *Copinger and Skone James on Copyright*, Sweet & Maxwell, London, 2013
2. P. Narayanan, *Copyright and Industrial Designs*, Third Edition, Eastern Law House, New Delhi, 2007

References:

1. David Nimmer, *Nimmer on Copyright*, Lexis Nexis, 2010
2. W R Cornish, *Intellectual Property: Patents Copyright Trademarks and allied rights*, Sweet & Maxwell, London, 2010.
3. S. Sivakumar & Lisa P. Lukose, *Broadcasting Reproduction Right in India: Copyright and Neighbouring Right Issues*, ILI, New Delhi, 2013
4. A.K. Kaul & V.K.Ahuja, *Law of Copyright: From Gutenberg's Invention to Internet*, University of Delhi, Delhi, 2001.
5. Ananth Padmanabhan, *Intellectual Property Rights Infringement and Remedies*, Lexis Nexis, 2012
6. Mira Sundara Rajan, *Moral Rights: Principles, Practice, and New Technology*, Oxford University Press, 2011
7. Neil Weinstock Netanel, *Copyright's Paradox*, Oxford University Press, 2008.
8. Robert A Gorman, Jane C. Ginsburg, *Copyright Cases and Materials*, Foundation Press, 2011
9. Paul Goldstein, *International Copyright: Principles, Law, and Practice*, Oxford University Press, 2012

Paper – VI
Subject: Law of Patents

L4 RTDA2 C5
Paper Code: IPR 102

UNIT – I: Introduction (Lectures 10)

- a. Evolution of Patents in India
- b. International Treaties on Patents
 - i. Paris Convention
 - ii. TRIPS
 - iii. Budapest Treaty
 - iv. PCT

UNIT – II: Patentability and Procedures for Grant of Patents (Lectures 10)

- a. Patentable and Non Patentable Inventions
- b. Pre-requisites – Novelty, Inventive Step, Industrial Application
- c. Prior Art, Anticipation, & Person Skilled in the Art
- d. Procedures for Filing Application
- e. Specifications – Provisional and Complete Specifications
- f. Priority dates
- g. Pre-Grant and Post Grant Opposition
- h. Grant and sealing of Patents
- i. Rights of Patentee
- j. Term of Patent
- k. Surrender and Revocation of patents
- l. Restoration

UNIT – III: Limitations, Exceptions & Infringements (Lectures 10)

- a. Licencing – Voluntary & Non –Voluntary
- b. Assignment
- c. Fair Use
- d. Use and acquisition of inventions by Central Government
- e. Parallel Imports
- f. Claim Interpretations and Constructions
- g. Infringements & Remedies

UNIT – IV: Patent Authorities, Patent Agents & Emerging Issues (Lectures 10)

- a. Controller General of Patents
- b. Patent Examiners
- c. Patent Agents
- d. IPAB
- e. Emerging Issues

- i. Patents & Computer Programs
- ii. Business Methods & Utility Patents
- iii. Bio-Informatics Patents
- iv. Patent and Human Right Issues

Text Books:

1. Feroz Ali Khader, *The Law of Patents-With a Special Focus on Pharmaceuticals in India*, LexisNexis, 2nd Edition, 2011
2. Elizabeth Verkey, *Law of Patents*, Eastern Book Company, 2nd Edition, 2012

References:

1. Richard Miller, Guy Burkill, Hon Judge Birss, Douglas Campbell, *Terrell on the Law of Patents*, Sweet and Maxwell, 2010
2. Feroz Ali Khader, *The Touchstone Effect: The Impact Of Pre-Grant Opposition On Patents*, Lexis Nexis, 2009
3. Donald S Chisum, *Chisum on Patents* (17 Volumes), Lexis Nexis, 2012
4. Janice M. Mueller, *Patent Law*, Wolters Kluwer, 2013
5. Martin J. Adelman et al., *Patent Law in a Nutshell*, West, 2013
6. Amy L. Landers, *Understanding Patent Law*, Lexis Nexis, 2012.
7. Ananth Padmanabhan, *Intellectual Property Rights Infringement and Remedies*, Lexis Nexis, 2012

Paper – VII
Subject: Law of Trademark

L4 RTDA2 C5
Paper Code: IPR 104

UNIT-I: Introduction

(Lectures-10)

- a. Evolution of Trademark in India
- b. Justification
- c. International Treaties:
 - i. Paris Convention
 - ii. Madrid Agreement and Protocol
 - iii. NICE Agreement
 - iv. Trademark Law Treaty
 - v. Singapore Law Treaty
 - vi. TRIPS
- d. Kinds of Trademarks: Registered and Unregistered Trademarks, Conventional & Non-Conventional Trademarks, Service Mark, Collective Marks, Certification Marks, Well Known Trademarks

UNIT-II: Registration of Trademarks

(Lectures-10)

- a. Pre-requisites
- b. Absolute and Relative Grounds for Refusal of Registration
- c. Concept of Deceptive Similarity and its Applicability in Registration
- d. Procedure for Registration
- e. National and International Registration

UNIT-III: Commercial Exploitation of Trademarks and IPAB

(Lectures-10)

- a. Rights of Proprietor
- b. Assignment, Licensing and Transmission of Trademark
- c. IPAB

UNIT-IV: Infringement and Passing off

(Lectures-10)

- a. Infringement
- b. Goodwill and Passing off
- c. Remedies
- d. Trademark Issues in Cyberspace

Text Books:

1. K C Kailasam and Ramu Vedaraman, *Law of Trademarks including International Registration under Madrid Protocol and Geographical Indications*, Lexis Nexis, 2013
2. A. K. Bansal, *Law of Trademark in India*, Thomson & Reuter, 2014

References:

1. David T Keeling, David Llewelyn, *Kerley's law of Trade Marks and Trade Names*, Sweet and Maxwell, 15th Edition , 2014.
2. Narayanan, *Trade Marks and Passing Off*, Eastern Law House, 2004
3. Ananth Padmanabhan, *Intellectual Property Rights Infringement and Remedies*, Lexis Nexis, 2012
4. Christopher Wadlow, *The Law of Passing Off: Unfair Competition by Misrepresentation*, Sweet and Maxwell, 2011.
5. David Lindsay, *International Domain Name Laws*, Hart Publishing, 2007.

Paper – VIII
Subject: Law of Designs, Layout Designs and
Geographical Indications

L4 RTDA2 C5
Paper Code: IPR 106

UNIT-I: Industrial Designs

(Lectures-10)

- a. Introduction
- b. Evolution
- c. Justification
- d. International Treaties
 - i. Paris Convention
 - ii. Hague Agreement
 - iii. Locarno Agreement
 - iv. TRIPS
- e. Industrial Design Act, 2000
- f. Interface Between Design, Copyrights and Trademarks

UNIT-II: Semiconductor and Layout Designs

(Lectures-10)

- a. Introduction
- b. Evolution
- c. Justification
- d. International Treaties:
 - i. Washington Treaty
 - ii. TRIPS
- e. Semiconductor Integrated Circuits Layout-Designs Act, 2000

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UNIT III: Geographical Indications-I

(Lectures-10)

- a. Introduction
- b. Evolution
- c. Justification
- d. International Treaties:
 - i. Paris Convention
 - ii. Madrid Agreement
 - iii. Lisbon Agreement
 - iv. TRIPS Agreement

UNIT-IV: Geographical Indications-II

(Lectures-10)

- a. Protection of GI at National Level
- b. Geographical Indication of Goods (Protection & Registration) Act, 1999
- c. Higher Level of Protection of GIs and TRIPS, Article 23 Controversy
- d. Genericides of Geographical Indications

Text Books:

1. Ashwani Kumar Bansal, Design Law, Universal Law Publishing Company, 2012.
2. Latha R Nair & Rajendra Kumar, *Geographical Indications: A Search For Identity*, Lexis Nexis, 2005

References:

1. Tapan Kumar (Ed.), *WTO, TRIPS and GIs*, New Century Publications, 2014
2. Dev Gangjee, *Relocating the Law of GI*, Cambridge University Press, 2012
3. K C Kailasam and Ramu Vedaraman, *Law of Trademarks including International Registration under Madrid Protocol and Geographical Indications*, Lexis Nexis, 2013

Paper – IX

Subject: Protection of Plant Varieties & Traditional Knowledge

L4 RTDA2 C5

Paper Code: IPR 106

UNIT – I: Introduction

Lectures-10)

- a. Introduction to Plant Varieties – Law & Science
- b. Evolution of Plant Patents & Plant Varieties Protection
- c. Justification for IP Protection
- d. UPOV
- e. Essential Requirements- NDUS
- f. Kinds of Varieties
- g. Registration of Varieties

UNIT – II: Rights, Limitations & Infringement

(Lectures-10)

- a. Exclusive Rights
- b. Breeders' Rights v. Farmers' Rights
- c. Researcher's Rights; Farmers' rights and Rights of Communities
- d. Compulsory Licence
- e. Benefit Sharing
- f. Infringement & Remedies

UNIT – III: Traditional Knowledge (TK)

(Lectures-10)

- a. Meaning, Nature and Characteristics
- b. Need for protection of TK
 - i. Equity Considerations
 - ii. Conservation Motive
 - iii. Preservation of Traditional Practices and Cultures
 - iv. For Indigenous Peoples' Participation in Development Process
 - v. To Facilitate Access
 - vi. For the Conservation of Environment and Management of Bio Diversity
- c. International Initiatives on TK Protection
 - i. Rio Declaration on Environment and Development (1992)
 - ii. The Convention on Biological Diversity, 1992

- iii. Bonn Guidelines on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising out of their Utilization, 2002
 - iv. International Treaty on Plant Genetic Resources for Food and Agriculture, 2001
 - v. The FAO International Code of Conduct for Plant Germplasm Collecting and Transfer, 1993
 - vi. Convention Concerning Indigenous Peoples in Independent Countries, 1986
 - vii. Declaration of Principles of the World Council of Indigenous Peoples, 1984
 - viii. Kari-Oca Declaration and the Indigenous Peoples' Earth Charter, 1992
 - ix. The Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples, 1993
 - x. Doha Ministerial Declaration, 2001
 - xi. UN Declaration on the Rights of Indigenous Peoples, 2007
 - xii. The Nagoya Protocol, 2010
 - xiii. Other TRIPS Plus initiatives
- d. International bodies and Institutions responsible for the Protection of TK

UNIT – IV: Traditional Knowledge and IPR

(Lectures -10)

- a. Interface between IPR & TK
 - i. Protection of Traditional Knowledge under the Existing Modes of Intellectual Property and Issues thereof
 - ii. Concepts of Prior Informed Consent (PIC) and Agreement to benefit sharing (ABS)
- b. National Initiatives
 - i. Defensive protection of TK through legislative efforts: Constitutional Provisions, The Biological Diversity Act, 2002; Protection of Plant Varieties and Farmers' Rights Act, 2001; The Patent Amendment Acts 2002 and 2005; The Geographical Indications of Goods (Registration and Protection) Act, 1999 ;The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 etc.
 - ii. TKDL
 - iii. Need for a *sui generis* protection

Text Books:

1. Elizabeth Verkey, *Law of Plant Varieties Protection*, Eastern Book Company, 2007

References:

1. Anthony J. Stenson and Tim S. Gray, *The Politics of Genetic Resource Control*, Macmillan Press Ltd., London, 1999
2. Brush S.B & D. Stabinsky (ed.), *Valuing Local Knowledge- Indigenous people and Intellectual Property Rights*, Island Press, Covelo, California, 1996

3. Carlos M Correa, *Traditional knowledge and Intellectual Property, Issues and Options Surrounding the Protection of Traditional Knowledge*, Quaker United Nations Office, Geneva, 2001
4. David Downes, *Using Intellectual Property as a Tool to Protect Traditional Knowledge: Recommendations for Next Steps*, Center for International Environmental Law, Washington, DC, 1997
5. P. Drahos and M. Blakeney (ed.), *Perspectives on Intellectual Property: IP in Biodiversity and Agriculture*, Sweet and Maxwell, London, 2001
6. Vandana Shiva, *Biopiracy: The Plunder of Nature and Knowledge*, South Press, 1997
7. Vandana Shiva, *Protect or Plunder: Understanding Intellectual Property Rights*, Zed Books Ltd., London, 2001
8. S. K. Verma & Raman Mitttal (ed.), *Intellectual Property Rights a Global Vision*, Indian Law Institute, New Delhi, 2004

Paper – X
Subject: Dissertation

C 10
Paper Code: GEN 110

The evaluation of the Dissertation and Viva Voce will be conducted by a Board of Examiners comprising of Dean, Supervisor and senior most faculty member and an External Examiner with the approval of the Hon'ble Vice Chancellor.