

(27) All - CAP ✓

Model Answer
MAHARASHTRA AGRICULTURAL UNIVERSITIES EXAMINATION BOARD, PUNE
SEMESTER END EXAMINATION

B. Sc. (Hons.) Agriculture

SEMESTER : V (NEW)

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COURSE NO : BOT 353

TITLE: Intellectual Property Rights

CREDITS : 1= (1 + 0)

TOTAL MARKS : 40

DAY AND DATE :

TIME :

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- NOTE**
1. Solve ANY EIGHT questions from SECTION "A"
 2. All questions from SECTION "B" are compulsory.
 3. All questions carry equal marks
 4. Draw neat diagrams wherever necessary.
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SECTION "A"

Q.1 Define patent and what are types and main requirements of patent?

Ans: Patent

(1)

Patent is an exclusive right granted by the government to the owner of the invention for a limited period to make, use, manufacture and market the invention.

Types of patent

(1.5)

- **Utility patent:-** May be granted any new or improved, useful and non obvious machine, manufactured article, process or composition of matter
Pen with scanner, Steel kidneys, Life-saving invention
- **Design patent:-** may be granted on any new original and ornamental design for a useful article.
ornamental designs on jewelry, automobiles or furniture,
- **Plant patent-** may be granted on any new and distinct variety of plant

Patent requirements

(1.5)

For granting a patent the main requirements are

- **Novelty:** The invention must be new and should not be already known to public.
 - **Inventiveness:** The invention should represent an innovation.
 - **Industrial Application & Usefulness:** The patent must have an industrial application should be useful to the society/nation.
- ❖ Patent protection must be available for both **products and processes**, in all fields of technology.

Q.2 Discuss the objectives of PPV & FR Act, 2001 in detail.

(4)

Ans. Following are the key objectives of this act:

1. To protect exclusive rights of the plant breeders for development of plant varieties.
2. To protect the right of farmers for developing crop varieties and to save, use, sow, resow, exchange, share or sell his farm produce including seed.
3. To protect rights of researchers to use registered variety for experiment and research purpose, an initial sources variety for developing other new variety.
4. To recognize the contributions of farmers or their communities for conservation, improvement and preservation of genetic resources of economic plants.
5. To encourage and facilitate the growth of seed industry so as to make quality seeds available to the farmers.
6. To stimulate investment for research and development of new varieties.

Q 3. Discuss in detail about TRIPS.

(2)

Ans:

The TRIPS agreement is the most comprehensive International Agreement on Intellectual property to date. The TRIPS Agreement is covered in an elaborate-comprising 73 articles in 7 parts, namely, (I) General provisions and basic principles, (II) Standards concerning availability, scope and use of IPRS (III) Enforcement of IPR, (IV) Acquisition and Maintenance of IPR and related interprets procedures, (V) Dispute prevention and settlement, (VI) Transitional arrangements, and (VII) Institutional arrangements.

Major Provision in TRIPS

(2)

1. TRIPS Article 27.3 (b) requires countries to grant patent protection to micro-organism, non biological and microbiological processes.
2. WTO members must also protect plant varieties either through patents or through an effective *sui generis* system or a combination of both
3. Copyright terms must extend to 50 years after the death of the author, although films and photographs are only required to have fixed 50 and 254 years terms, respectively.
4. Copyright must be granted automatically.
5. Computer program must be regarded as "liberty works" under copyright law and receive the same terms of protection.
6. National exception to copy right (such as fair use in the United States) must be tightly constrained.

Q.4 What do you mean by GI? Explain in brief about GI ?

Ans: Definition:

(1)

A geographical Indication (GI) is a name or sign used on certain products which corresponds to specific geographical location or origin. (e.g. a town, region or country) The application must be filed at the Office of the GI Registry located at Chennai.

Process of Registration in India:

Procedure dealing with following three categories can apply

- i) Agricultural Goods: Includes production, processing,
- ii) Agricultural Goods: Includes exploiting, dealing or trading.
- ii) Handicrafts or Agricultural Goods: Includes making, manufacturing and dealing or trading.

Application Includes

(3)

- Geographical Signification of the Indication
- Class of goods
- Geographical area
- Details of appearance
- Particulars of procedures
- Affidavit deposing the Applicants right to become the Registrant
- The Registrar will have the Application examined
- Published in GI Journal
- Notice of Opposition within a maximum period of four months of publication in the Journal.
- If the Registrar accepts the application then a certificate of registration issued.

Examples: Dargiling Tea, Kolhapuri Chappal etc

Q.5 Define IP and give the key forms of IPR.

Ans. Definition: Intellectual Property is property that arises from the human intellect. In is product of human creation.

(1)

Key Forms of IPR

(3)

- Patent
- Copyrights
- Trademarks
- Trade Secret
- Industrial design
- Integrated Circuit layout Design
- Geographical Indications of Goods
- Biological Diversity
- Pant Variety and Farmer Rights

Q.6 What is Plant Breeder Rights and which criteria / requirement should meet for granting PBR under the rules established by UPOV, 1991?

Ans. Definition

(1)

Plant Breeder Rights granted by government to plant breeder, originator of a variety to exclude others from producing or commercializing the propagating material of variety for minimum period of 15-20 years.

Requirements of PBR

(3)

Under provisions of UPOV 1991 act a plant variety must satisfy following four criteria for protection

- **New or Novelty:-** variety must not have been sold or otherwise disposed of in the territory of member of union for more than one year prior to the application of breeders right and more than four years in other territory
- **Distinctness:-** Variety should be distinct from existing variety morphological, physiological, or other characteristics under UPOV Qualitative and Quantitative characters such as leaf shape, stem length, colour
- **Uniformity or homogeneous:-** Variety should sufficiently homogenous, variation should be limited assessment of distinctness and to ensure stability
- **Stability:-** Essential characteristics of variety are homogenous or uniform over time. The variety should be stable in appearance and its Clonal characteristics over successive generations under specified environment

Q.7 Define trademark write in detail its types.

Ans. Definition :

(1)

It is visual symbol which may be a word signature, name, device, label, numerals or combination of colours used by one Undertaking on goods or services or other articles of commerce to distinguish it from other similar goods or services originating from a different undertaking.

Types of trade

(3)

1. Any name (including personal or surname of the applicant or predecessor in business or in signature of the person), which is not unusual for trade to adopt as mark.
2. An invented word or any arbitrary dictionary word or words, not being directly descriptive of the character or quality of the goods/service.
3. Letters or numerals or any combination thereof.
4. The right to proprietorship of trade mark may be acquired by either registration under the Act or by use in relation to particular goods or service.

5. Devices, including fancy devices or symbols
6. Monograms
7. Combination of colours or even a single colour in combination with a word or device.
8. Shape of goods and their packaging
9. Marks constituting a 3-dimensional sign
10. Should marks when represented in conventional notation or described in words by being graphically represented

Q.8 What is Biological Diversity? What are objectives and salient features of Indian Biological Diversity Act, 2002?

Ans. Definition:

(1)

“Biological Diversity” means the variability among the living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the Ecological complexes of which they are part; this includes diversity within species and ecosystems.

Objectives of BD Act, 2002

(3)

- a. To provide for conservation of biological diversity
- b. To provide for sustainable use of it's components; and
- c. To provide for fair and equitable sharing of the benefits arising out of the use of biological resources
- d. To regulate access of genetic resources.

Salient features

- a. To involve local **self government** for implementation of schemes made by government
- b. To **involve indigenous people** at every stage for protection and improvement of environment.
- c. There is also provision for **protection of traditional rights** since the knowledge of the local people regarding the biodiversity should be protected.
- d. There is provision **for conservation and development of those areas** which are important from biological diversity point of view. Authorities under the Act
 - a. **National Biodiversity Authority:** The act has constituted a National Biodiversity Authority at Chennai, consisting of 15 members and 1 chairman who shall be an eminent person in the fields of conservation and sustainable use of biodiversity. The board shall advise the central government in matters relating to conservation of biodiversity, its sustainable use and equitable share of benefits. It shall advise the state government in the selection of the areas of biodiversity importance.
 - b. **State Biodiversity Board:** The state government also establish State Biodiversity Boards which shall be corporate. The function of state boards shall be to advise the state government in matters relating to the conservation of biodiversity, its sustainable use and equitable share of benefits; regulating the granting of approvals or requests for commercial utilization or bio survey or bio utilization of any biological resources by

Indians; other necessary functions to carry out the provisions of the Act. The state Government are also authorized to notify the areas of biodiversity importance as biodiversity heritage site.

- c. **Biodiversity Management Committee:** Every local body shall constitute a "Biodiversity Management Committee" within its areas for the conservation, sustainable use and documentation of biological diversity including preservation of habitat, conservation of landraces, folk varieties and cultivars etc. the State Govt. shall also provide local biodiversity funds.

Q.9 Explain the genesis of WTO along with its functions.

Ans: Genesis

(2)

1. After 2nd World War, restrictions on International Trade.
2. Major countries came together for establishment for common platform for trade in the world.
3. As a result GATT came in to existence in 1947.
4. After GATT, Eight round of negotiations among developed and developing countries (NTBS)
5. Arthur Dunkel-DG of GATT, package of proposal signed by all member countries.
6. Uruguay round-strengths world economy by more investment, employments and income.
7. Negotiations gave birth to WTO come in force from 1st Jan.1995 by replacing GATT.

Functions:

(2)

1. Adminstrating trade agreements.
2. Acting as a forum for trade negotiation.
3. Handling trade disputes.
4. Monitoring National Trade Policies.
5. Technical assistance and training for developing countries.
6. Cooperating with other International Organizations.

Q.10 Write short notes (Any two)

a. *Sui generis* system

(2)

Ans. *Sui generis* is a Latin word. It means "unique" or "special", leaving the *sui generis* system open to interpretation. *Sui generis* offers a unique type of intellectual property right (IPR), which is different from the classical IPR, as is the case with the patent. All *sui generis* models that could be tailored to the specific needs and circumstances of the Members are legally recognized systems. The plant varieties constitute the principal means of production and growth in agricultural productivity. It is also recognized that the specific needs and circumstances of agriculture in each country vary and in this respect the differences between the developing and the developed countries are very wide in several aspects. Therefore, it is obvious that a *sui generis* system of protection appropriate for a developing country may require certain modifications in another

developing country and these systems may not be even relevant to a developed country. These differences in ground realities and perceptions have made major contribution to the raging controversy on *sui generis* system. According to the TRIPs, the *sui generis* system should be "effective".

b. Traditional Knowledge and Role and Value of TK.

(2)

Traditional knowledge refers to the knowledge, innovations and practices of indigenous and local communities around the world. Developed from experience gained over the centuries and adapted to the local culture and environment, Traditional knowledge is transmitted orally from generation to generation.

TK Its role and value

- Traditional knowledge is valuable not only to those who depend on it in their daily lives, but to modern industry and agriculture as well.
- Many widely used products, such as plant-based medicines, health products and cosmetics, are derived from traditional knowledge.
- Other valuable products based on traditional knowledge include agricultural and non wood forest products as well as handicraft.
- Traditional knowledge can make a significant contribution to sustainable development.
- Their skills and techniques provide valuable information to the global community and a useful model for biodiversity policies.
- Indigenous and local communities are most directly involved with conservation and sustainable use.

C. Budapest treaty

(2)

Budapest conference was held from 14 April to 18 April 1977 at Budapest. India has become a member from December 17, 2001. The treaty was adopted April 28, 1977, 18 states signed the treaty. Working started From 19 August Now 80 contracting states. International depository Authorities (IDAs) are contributing treaty, all contracting states depositing **microorganism** with IDA. It is for the International recognition of the deposit of **microorganism** for the purpose of the patent procedure.

Deposit procedure:

1. IDA will accept the deposit after confirming requirement completion.
2. Delivery of receipt
3. Time limit given depend on National law
4. Storage at least 30 years

Advantage

1. Simplification & cost reduction of patent procedure
2. Research and Development promotion (R& D)
3. Promotion of Co-operation & exchange between IDAs
4. Documents available on the treaty
5. Avoid risk

SECTION "B"

Q.11 Define the following terms.

(4)

1. **Extant variety:** Varieties about which there is common knowledge, or any other variety that is in public domain.
2. **Copyright :** It is right given by the law to creators of literary, dramatic, musical, performances and artistic works and procedures of cinematograph films and sound recording.
3. **Essentially Derived Variety:** It is variety predominantly derived from another variety or initial variety or from a variety that predominantly derived from the Initial Variety, retaining the expression of the essential characteristics of the Initial Variety except for differences that result from the act of derivation.
4. **Farmers variety:** A variety which has traditionally cultivated and evolved by the farmers in their fields.

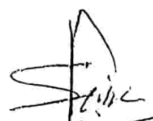
Q.12 Abbreviate the following terms.

(4)

1. **ICBD :** International Convention on Biological Diversity.
2. **UPOV :** International Union for the Protection of New Varieties of Plant.
3. **TRIPS :** Agreement on trade Related aspects of Intellectual Property Rights.
4. **PPVFRA :** Protection of Plant Varieties and Farmers' Right Act/ Authority.



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