

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW
BACHELOR OF LAWS DEGREE EXAMINATION, YEAR IV- 2020

Intellectual Property Law

(Three Hours)

Total number of questions: 07

Answer any **FOUR (04)** questions and **no more**.

(Candidates will be penalized for illegible handwriting.)

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1. Advise the parties in each case on the legal issues that arise in the following situations, based on the law of copyright in Sri Lanka:
- a. Dr. Kumara writes a book titled “Life after Coronavirus: How to Remain Healthy.” He publishes it in August 2020. In September 2020 he learns that sales of his book are low because there is another book in the market titled “Practical Ways to stay Healthy after a Pandemic” authored by a Yoga instructor named Priya. When he goes through the book he finds that there are several paragraphs taken directly from his book. When he confronts Priya, she replies that these paragraphs are available in all the major websites on the Coronavirus, and that her book is totally different to his as it contains many pictures of yoga positions in addition to text.
 - b. Ashani is a singer who is asked by Sanda TV to do a recording of the song “Nagitimu Api” written specially for her. She does the recording along with a dance sequence created by her choreographer. Later on she notices that Sanda TV has got several other singers to sing the same song and copied the choreography and is now airing these alternative versions instead of hers.
 - c. Ramesh is a photographer who previously worked for Saman Studio. He now wishes to operate as a free-lance photographer. He creates a website on which he posts pictures taken by him when he was working for Saman Studio. He puts a

disclaimer on the bottom of the screen stating that these pictures are only to indicate the quality of his work, and that they were taken while he was employed at Saman Studio.

(25 Marks)

2. Roy, an automobile engineer and young inventor, motivated by the increasing demand for autonomous driving technologies during this challenging time, developed a prototype of a self-driving robot-taxi to help with disinfection, delivery and transport of goods. In view of the fact that the new coronavirus is likely to keep spreading for at least a few more years, he explored an innovative solution and developed this intelligent vehicle as a response to many Covid-19 related problems faced by the global community. Roy believes that the robot-taxi with self-disinfecting capabilities can save many lives when it is commercially available to the public. As several start-up companies have shown keen interest on this invention, Roy now wishes to obtain patent protection for his self-driving robot-taxi in Sri Lanka and abroad.

Advise Roy on the patentability of his invention in Sri Lanka and possible legal hurdles that he might face in the registration process. You are also expected to enlighten him regarding the most appropriate strategy for securing patent protection in other jurisdictions. Support your advice referring to the relevant legal provisions and case law jurisprudence.

(25 Marks)

3. Assume that you are a trademark examiner attached to the National Intellectual Property Office of Sri Lanka. Give your reasoned opinion on the registrability of the following applications received by the office:
 - a. A mark consisting of a picture of a garden, a lime tree and the sun and sky with the words "super lime cordial" for marketing lime cordial. There is an existing registered trademark consisting of a picture of a waterfall, a lime tree and a rainbow and sky with the words "super lime crush" for marketing a lime-flavoured fizzy drink.

- b. A mark consisting of the words “Ruhunu Curd” submitted for registration by a curd manufacturer from the Southern region of Sri Lanka.
- c. A mark consisting of the words “Cold-pressed, hand-made coconut oil by Madhu” for marketing a brand of coconut oil.

Would your opinion be different if the oil was made using a machine?

- d. A mark by the name of “ETV” for a television channel marketing educational television programmes. A similar, unregistered mark that is well-known throughout the European Union and the United States of America is being used to market entertainment television.

(25 Marks)

4. The Tort of Passing off covers a great deal of the territory which in many jurisdictions is considered to fall within the general area of Unfair Competition Law. However, it does not encompass a remedy for ‘unjust enrichment’.

In light of the above statement, critically discuss the law relating to the protection against Unfair Competition and the Passing-off action in Sri Lanka. Substantiate your answer with the relevant legal provisions and case law jurisprudence.

(25 Marks)

5. Assume that you are invited to speak at a webinar organized by the World Intellectual Property Academy entitled “Legal Protection of Trade Secrets in Sri Lanka: Prospects, Challenges and the Way Forward.” Your presentation should specifically focus on the scope of trade secret protection, the current Sri Lankan legal regime and its international obligations, the value of trade secret protection for businesses of all sizes, and legislative reforms, if any. Draft your presentation.

(25 Marks)

6. Answer EITHER (a) OR (b):

a. The obligations in the Trade-Related Intellectual Property Rights Agreement (TRIPs) of the World Trade Organisation (WTO) are not onerous, in many cases being lower than those of other international treaties and conventions. However, they have placed a burden, especially on developing countries. Discuss with suitable examples, the manner in which this has happened, and what options remain available to developing nations to safeguard their interests.

OR

b. The law relating to Industrial Designs has grown, from being a part of copyright law, to a special and unique system that caters to a sophisticated market. Analyse the key features of the law relating to Industrial Designs and evaluate its usefulness to the types of intellectual property it seeks to protect.

(25 Marks)

7. The problems associated with the law relating to Geographical Indications (GIs) in Sri Lanka have resulted in the number of GIs currently protected in Sri Lanka being extremely low. Through an analysis of the current protection system, identify reasons for these problems and make recommendations as to how and why the law in this area can and should be amended.

(25 Marks)
