

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

BACHELOR OF LAWS DEGREE EXAMINATION, YEAR-IV (Online)- 2021

Intellectual Property Law

(Three Hours)

Total number of questions: 06

Answer any **THREE (03)** 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. Priya is a singer who shot to fame after singing the song “Lassana Mage Rata.” While the entire song has over 50 lines, there are two lines in the chorus that become very popular. Priya finds out that another singer named Maya has recorded another song titled “Sundara Mage Rata” which contains the exact two lines from the chorus of “Lassana Mage Rata,” even though the other 48 lines are all different. When Priya confronts Maya about this, she maintains that what is similar is a very small part, and that it does not constitute a copyright violation.
 - b. During the pandemic, Kamal, a university student, got used to watching films in his spare time, but found that it was very expensive to get access to them. Together with a group of friends, he started an internet site where people could simply log in and watch the films, which came from the private collection of himself and his friends, for free. He did not make any money out of this activity.
 - c. Nadira is an architect who is paid a large sum of money to design an eco-friendly luxury resort hotel for her client, on the undertaking that the design is unique. Six

months after the hotel, which is named “Kurulu Villas” is built, the client finds out that another hotel that looks exactly like “Kurulu Villas” has been constructed close to the location.

(100 Marks)

2. As a part of university response to the Covid-19 pandemic, a research team headed by a Professor in the Department of Chemistry of the University of Seylana, has, after months of extensive research, developed an environmentally-friendly, bio-degradable, low-cost and re-usable face mask to repel and destroy any aerosol particles containing the virus, blood or any other water-based stains. When compared with other face masks available in the market, this multifunctional face mask, reduces both the waste burden and the impact on the environment. Given the critical need to make this product available to the public on a commercial scale, the research team wishes to obtain patent protection for this invention.

Assume that you are a patent attorney in Sri Lanka and the research team has approached you. Advise the researchers on the patentability of this invention both in Sri Lanka and abroad appraising possible legal bottlenecks that they might face patent registration process. Support your advice referring to the relevant legal provisions and case law.

(100 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 you:
 - a. A mark consisting of a picture of a woman riding a white horse on a beach, with the words “Adventurous” for marketing mens’ deoderant. There is an existing registered trademark consisting of a picture of a man riding a black horse on a beach, with the words “Adventure” for marketing mens’ perfume.

- b. A mark consisting of the words “Dumbara Village Mats” submitted by a manufacturer of woven mats from the Central region of Sri Lanka.
- c. A mark consisting of an exclamation mark to market a brand of toothpaste.
- d. A mark by the name of “Tike” for sports shoes. A similar, registered mark that is well-known throughout the Middle East is being used to market bicycles.

(100 Marks)

4. Assume that you are an in-house legal counsel attached to an innovative software firm in Colombo. In view of the fact that the trade secret theft and litigation is on the rise, the top management of the firm has requested you to make a presentation to the software developers of the firm on the topic of “legal protection of trade secrets in Sri Lanka.” You are requested to address the following specific aspects during your presentation:

- (a) Definition, scope and importance of trade secret protection;
- (b) International and national legal protection mechanism;
- (c) Steps to be taken to protect trade secrets; and
- (d) Pros and cons associated with trade secret protection.

Your presentation should be substantiated referring with reference to relevant legal provisions, case law and practical examples.

(100 Marks)

5. ‘Geographical indications are understood by consumers to denote the origin and the quality of products. Many of them have acquired valuable reputations which, if not adequately protected, may be misrepresented by dishonest commercial operators. False use of geographical indications by unauthorized parties is detrimental to consumers and legitimate producers’

Do you agree with the above statement? critically examine the relevant provisions relating to protection of Geographical Indications in Sri Lanka, and analyse how the existing legal provisions may be amended to promote the use of Geographical Indications.

(100 Marks)

6. A careful perusal of the case law jurisprudence reveals that both the protection against unfair competition and passing off action have been recognized in Sri Lanka. It is also evident that the Common law concept of 'passing off' applies to acts of misrepresentations, while the broad concept of unfair competition accords protection against misappropriation.

In light of the above statement, critically discuss the application of law relating to the protection against unfair competition and passing off in Sri Lanka. Substantiate your answer with the relevant legal principles, statutory provisions and case law jurisprudence.

(100 Marks)
