

**UNIVERSITY OF COLOMBO, SRI LANKA**  
**FACULTY OF LAW**  
**BACHELOR OF LAWS DEGREE EXAMINATION - YEAR IV (Online) - 2022**

**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. Mahela is a creative designer attached to *Trend Designers*, a famous advertising firm in Sri Lanka. In view of the prevailing fuel crisis in the country, the administration of *Trend Designers* requested many of their employees including Mahela to work from home. According to his job description, Mahela has been engaged to produce literary, artistic, or audio-visual works that are capable of being used for advertising purposes. Mahela, while working from home, developed a creative story which can be used to create a 15–20-minute video clip, aiming to promote one of the local soap products in Sri Lanka. Mahela authorized a freelance producer who mainly engages in creating YouTube-based promotional programmes, to use it for another promotional programme for a considerable remuneration. When creating the story, Mahela used the laptop given to him by the company to create some sketches of the story that would help and guide any producer when creating an audio-visual work. After doing some modifications to the original story by the producer, it has now been developed into an attractive audio-visual work and is going viral on YouTube.
- During this work-from-home period, Mahela has also written some short stories. *Vidura Publishers*, a publication company in Sri Lanka, wants to publish these stories in their upcoming publication. Mahela authorizes the publishers to publish the stories. *Trend Designers* claims copyright ownership for both works created by Mahela during the work-from-home period.

Identify the legal issues in the given factual scenario and advise the parties concerned.

(100 marks)

2. Dr. Maya, is a scientist who works as a full-time employee attached to the Cardiology Research Unit of Rubi Pharmaceuticals Ltd., a well-reputed pharmaceutical research institute in Sri Lanka. Consequent to long-term research, she invented a chewable capsule consisting of some chemical substances as well as extracts of natural substances of *Monara Mal* and *Heen Bovitia* plants which can be used as an instant medicinal cure for Sudden Cardiac Arrest, Heart Muscle Disease, and Arterial Hypertension. She has already

named the chewable capsule as 'Bovitol'. The efficacy of Bovitol is unmatched by any other drug currently available in the market. Furthermore, in several clinical trials, doctors have been astounded by its effectiveness. Some medical experts opine that Bovitol is a major turning point in the whole medical field and it will increase the survival rate of many patients all around the world. The Director Board of Rubi Pharmaceuticals Ltd., after reviewing the progress of the significant outcomes of the research, decided to reward her with a special research allowance for four successive years. Dr. Maya now intends to secure Patent Protection for her invention in Sri Lanka. However, Rubi Pharmaceuticals Ltd. contends that they are entitled to demand the Patent Right to the invention. On the other hand, in a recent meeting with medical practitioners in Sri Lanka, authorities from the Ministry of Health emphasized the need to ensure people's access to affordable medicines.

Based on the information given above, answer the following questions.

- i. Assume that you are a leading Patent Attorney in Sri Lanka and Dr. Maya has approached you. Based on the relevant provisions of the Intellectual Property Act of Sri Lanka, advise her on the Patentability of her invention, highlighting the possible legal hurdles that she might face in the registration process.

(60 marks)

- ii. Orlando Group, a multi-national company is willing to commercialize the invention all over the world and manufacture Bovitol capsules on a large scale. *Heen Bovitia* is an endemic plant in Sri Lanka and is considered as one of the most endangered plants on the earth. Assume that you are the Legal Advisor appointed by the Orlando Group. Assist the Orlando group in identifying the prerequisites to commercialize the Bovitol capsules and in determining whether there is an impediment to commercializing Bovitol capsules all over the world while manufacturing them in their own factory situated in the USA.

(40 marks)

(100 Total Marks)

3. Answer **both** Part A and B.

(A) 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:

- i. An application has been filed by Sachini to register a mark consisting of the word 'SUNSUN' for mobile phones and tablet computers. However, the owner of the globally reputed brand -SUNSUN which has been selling its products for a long time in Sri Lanka, has not yet filed an application to register the mark -SUNSUN in Sri Lanka.

Would your answer be different if Sachini sought to register the mark 'SANSUN' for clothing items?

(30 Marks)

- ii. An application has been filed by Tehan to register the mark 'BABY-SOFT' for a baby soap product.

(20 marks)

(B) Roger is the owner of the registered mark TEZQUELLA FOOD. He has been using the said mark in Sri Lanka in relation to a food delivery service since 2015. Mihin started operating a restaurant service under the mark TEZQUILLO FOOD in January this year. Discuss the rights and remedies available to Roger based on the applicable laws in Sri Lanka.

(50 marks)

(100 Total Marks)

4. 'The law of patents and trade secrets can be viewed as alternative bodies of law for protecting certain types of inventions. Consequently, an inventor will often have to make a choice or election between the type of protection to rely on. Intellectual Property Act, No.36 of 2003 provides statutory protection for undisclosed information. However, the common law remedies remain unaffected by the statutory provision.'

Critically evaluate the above statement with reference to the relevant legal principles, statutory provisions, and case law. Your analysis should focus on the Sri Lankan legal regime governing trade secrets, international obligations, challenges, opportunities, and recommendations for legislative reforms if any.

(100 Marks)

5. Answer **both** Part **A** and **B**

(A) Nicholas works as a toy designer for a firm called Kiddies Rovella which designs and manufactures children's toys. Nicholas created a lotus-shaped toy brick (a building block) which has rows of studs on the petal faces of the brick. The studs have a cylindrical shape as such shape is necessary to ensure its capability of being assembled with other bricks of the set.

Advise Kiddies Rovella on the registrability of the toy brick design as an industrial design under the provisions of the Intellectual Property Act, No.36 of 2003.

(50 marks)

(B) Existing international legal instruments on Intellectual Property provide an important source of fundamental principles upon which national legal frameworks can be premised.

Discuss this statement in relation to international legal instruments governing **industrial designs**.

(50 marks)

(100 Total Marks)

6. Answer both Part **A** and **B**

(A) Assume that you are invited to present a research paper at the Sri Lankan Contemporary Consumer Welfare forum 2022. The title of your research paper is 'The protection against unfair competition inevitably diminishes the role of passing-off action in the legal landscape of Sri Lanka.'

Your presentation should focus on the rationale, scope, striking features, strengths, and weaknesses of the Sri Lankan legal regime governing the aforementioned areas of law. Draft your paper with reference to relevant legal provisions and case law jurisprudence.

(70 Marks)

(B) 'The rationale for protecting Geographical Indications (GIs) is found to be similar to that of the other Intellectual Property Rights, and is based on the public good properties of knowledge/information and the harm resulting from 'free riding' on reputation'.

Do you agree? Briefly evaluate the above statement with reference to the rationale for and importance of GIs protection. Support your answer with relevant legal principles and examples.

(30 Marks)

(100 Total Marks)

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