UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

BACHELOR LAWS DEGREE EXAMINATION - 2017

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.)

1. Assume that you are invited to present a paper at the Sri Lanka Economic Forum 2017 whose theme is titled: "Transforming the Economy through Technology and Innovation". Your paper is required to focus on "Legal Protection of Trade Secrets for Economic Development in Sri Lanka".

   Your presentation should incorporate the Sri Lanka's regime governing trade secret, its international obligations, its opportunities and challenges, recommendations for legislative reforms, if any, to create a better environment for trade and development.

   Draft your paper with reference to relevant legal provisions and decided cases.

2. "Provisions in the Intellectual Property Act No. 36 of 2003 relating to Geographical Indications (GI) do not seem to attract many stakeholders to benefit from them; it may be due to various reasons."

   Critically evaluate the above statement with reference to suggestions for reform of the law to make the protection of Geographical Indications more attractive to the people.

3. "The protection against unfair competition does not require a consumer to be deceived or confused by the existence of a look-alike product since the very fact that the look-alike imitates intentionally the original product. However, the requirements for seeking protection under the tort of passing off are different."

   In light of the above statement, critically analyse the rationale, scope, salient features, strengths and weaknesses of the afore-mentioned regimes under the Sri Lankan IP law. Substantiate your answer with the relevant legal provisions and case law jurisprudence.

4. As a trademark examiner attached to the National Intellectual Property Office of Sri Lanka, discuss, with reasons, the registrability of the following applications received by you:

   a. A mark consisting of the picture of a glass of milk and the words "fresh milk" for marketing pasteurized liquid cow milk coming from the hill country.

   b. A mark consisting of the words "Ambalangoda Masks" as a collective mark by a group of seven mask makers from the Ambalangoda area.

   c. A mark by the name of "Cooray" for marketing furniture by Saman Cooray.

      Saman's uncle Vikum Cooray owns a well-established furniture company registered as "Cooray Furniture."

   d. A mark by the name of "Dilly Melder" for marketing shoes. A similar, well-known, unregistered mark is being used to market clothes in Colombo.

5. Abiy, an engineer, invents an apparatus called 'Smoke Automated Fire-Steam Wildfire Extinguisher' (SARS-WE), which could innovatively douse wildfire. The working prototype of this device is operated by thermal energy harnessed from the fire itself. Moreover, the SARS-WE is best adaptable for wildlife prone areas with least human involvement for firefighting. The present invention is significantly different from the prior art already disclosed in the prevailing wildfire extinguishing technologies across the world.

   Assume that you are an associate who handles IP matters in a leading law firm and you have been approached by the inventor who requests you to file a Sri Lankan patent application and foreign patent applications in different jurisdictions, including Australia, the USA, Canada and Europe.

   Advise him on the patentability and commercialization prospects of SARS-WE in Sri Lanka and abroad. Support your advice with reference to the relevant legal provisions and case law.

6. Answer EITHER a) OR b):

   a) As a legal expert attached to the National Intellectual Property Office of Sri Lanka, you are required to submit a report to the Director-General on the impact of the Trade-Related Intellectual Property Rights Agreement (TRIPs) of the World Trade Organisation (WTO) on Sri Lanka, focusing on the exceptions granted to developing nations. Prepare your report.

OR

b) "The law of industrial design has evolved out of a need to provide patent-type protection to essentially copyrightable matter."

Critique this statement, with reasons.

7. Analyse, with reference to the relevant statutory provisions and case law, the rights of the parties under the Intellectual Property Act of 2003 in the following circumstances:

a) Pothgula Publishers engaged the services of Mayo to write a text book for the Science and Technology Textbook for Grade 7 in Sinhala. Mayo wrote a new text book and due to its standard and creative presentation, the textbook is welcomed by all stakeholders including the Ministry of Education. Even though the publisher requested Mayo to assign his copyright in the textbook the request was not acceded to. Now, Mayo learns that the publisher has published the textbook in Tamil and English after getting it translated into these languages and they were supplied to the Ministry of Education in terms of the agreement the publisher entered with the Ministry.

b) Vishva, a renowned artist and sculptor in Sri Lanka, created a mural to be displayed in the lobby of Colombo Convention Centre (CCC), a premier convention hall of the country. In July this year, he came to know that the mural that he created at CCC was removed from the place and was relocated in a less prominent place in the city for public view. This was done without Vishva's prior consent or permission.

c) 'Andu' is a veteran actor cum singer who is very popular as a comedy artist for his unique performances. He recently observed that a new artist named 'Sandu' is imitating him and has been engaged in producing and recording his performances in various roles in tele-dramas and films. Moreover, some of his popular songs are sung by Sandu distorting the original versions. These are done without getting Andu's permission.

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