

LL.M. 2ND SEMESTER

LAW REGARDING INTELLECTUAL PROPERTY RIGHTS

PROTECTION AND REGULATION OF TRADEMARKS AND GEOGRAPHICAL INDICATIONS IN INDIA

Paper: 203 - A

Max. Marks: 100

Credits: 5

Time: 3 Hours

Note:

1. There shall be total Five Units in the question paper.
2. Unit-I shall contain one compulsory question having four parts of five marks each. This question shall be spread over the entire syllabus.
3. There shall be two questions in each Unit i.e. Unit-II to Unit-V.
4. The student is required to attempt four questions by selecting one question from each Unit i.e. Unit-II to Unit-V. Each question shall carry twenty marks.

COURSE OBJECTIVES

- To help students grasp the foundational international agreements and conventions related to Trademarks and Geographical Indications
- To familiarize students with the core provisions of the Trade Marks Act, 1999
- To understand the relative grounds for refusal, passing off, infringement, and the exceptions to infringement actions
- To gain insights into the Geographical Indications of Goods (Registration and Protection) Act, 1999, focusing on definitions, registration procedures, infringements, and conflicts with trademarks
- To equip students with the knowledge to differentiate, interpret, and apply the legal provisions concerning trademarks and geographical indications in real-world scenarios

UNIT-I

Introduction to the Legal Regime

- Paris Convention for the Protection of Industrial Property, 1883
- Madrid Agreement, 1891
- Lisbon Agreement, 1966
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, 1989

- The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), 1995

UNIT-II

Grounds for Registration and Refusal of Trademarks in India

- Fundamentals of Trademark Law.
- Trademark Registration Process and Procedure
- Grounds for Trademark Refusal and Rectification
- Distinctiveness and Acquired Distinctive Character
- Trademark Use and Protection Measures

UNIT-III

Trademark Rights and Concurrent Usage

- Well-Known Trademarks and Earlier Trademarks
- Prior Rights and Concurrent Use
- Passing Off vs. Infringement: Understanding the Distinction
- Exceptions to Trademark Infringement

UNIT-IV

Law and Practice of Geographical Indications in India

- Fundamentals of Geographical Indications (GIs)
- Concept and Scope of Indication of Source
- Registration Procedures and Grounds for Refusal
- Infringement, Penalties, and Remedies
- Conflict Resolution: GIs vs. Trademarks

COURSE OUTCOMES:

- Students will possess a thorough understanding of the international agreements, national acts, and legal provisions related to trademarks and geographical indications
- Students will be able to interpret and apply the provisions of the Trade Marks Act, 1999, concerning registration, refusals, and infringements
- Students will be proficient in understanding the registration procedures, protections, and conflicts concerning geographical indications
- Students will develop the ability to analyze scenarios involving trademarks and geographical indications, identifying potential legal issues, and proposing solutions

- Students will understand the importance of compliance with trademark and geographical indication regulations and the consequences of non-compliance

SUGGESTED READINGS:

1. W.R. Cornish : Intellectual Property: Patent, Copyright, Trademarks and Allied Rights.
2. D.P. Mittal : Trademarks, Passing Off & Geographical Indications of Goods, Law and Procedure. (2002)
3. V. Vashisth : Law and Practice of Intellectual Property in India (1999)
4. B.L. Wadhera : Law Relating to Patents, Trademarks, Copyrights, Designs & Geographic Indications.
5. Susan K. Sell : Private Power, Public Law: The Globalization of Intellectual Property Rights (2003).
6. N.S. Gopalakrishnan & T.G. Ajitha : Principles of Intellectual Property (2014)