

**DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD**

**P.G.DIPLOMA IN PATENTS LAW
2019 – 2020**

Take Home - Annual Exams (August, 2020) (Old Syllabus)

**PAPER III - Patenting In India and International treaties and conventions
on IPR (Covering Modules 2 & 4)**

TOTAL MARKS: 100

INSTRUCTIONS TO CANDIDATES

- a) Please mention your name, ID No. and Subject name on the Answer Sheet.*
- b) Only typewritten answers will be accepted.*
- c) Clearly indicate the question numbers while answering them.*
- d) Answer all the questions given below. Each question is for 25 Marks.*
- e) Every answer should be ideally within 1000 words only. The word limit is mentioned to give an approximate idea about the length of the answer.*
- f) Cut and paste of any material either from reading material or from internet will result in rejection of answer-sheet, which means a failure with zero marks. No plagiarism.*
- g) If the answers of two students are similar, it will be presumed that both the students consulted each other and two answer sheets will be cancelled.*

Answer the following questions:

1. While explaining the basic features of TRIPS Agreement discuss the reasons for having an agreement like TRIPS when major IP treaties like Berne and Paris were already in existence. Also answer if the following is TRIPS compliant:

Worried about its capacity to respond to pandemics like Covid, a country, signatory to TRIPS agreement, decides to allow patents on vaccines only if those vaccines are manufactured in that member country.

Having seen massive farmer protests against the need to pay royalties to multinational corporations holding IP rights to new plant varieties country X, a signatory to TRIPS agreement, decides to deny patent protection to the new plant varieties.

2. What is the role played by section 3 of the Patents Act 1970 in the patent law jurisprudence in India? Do you agree or disagree with the various provisions of section 3? Give reasons.

(10 Marks)

Would the following be patentable in India (give reasons):

1) an apparatus for injecting opium into human body for faster absorption **(5 Marks)**

2) a method of increasing yield by maintaining particular moisture levels in the soil

(5 Marks)

3) a new method of remembering passwords **(5 Marks)**

3. What is the difference between the novelty and non-obviousness analysis? **(10 Marks)**

You are also required to do the NUNS analysis of the following hypothetical problem.

(15 Marks)

Mr. X invents a treadmill with folding base, allowing the base to swivel into an upright storage position. He files for a patent with the following Claim:

1) A treadmill comprising:

A gas spring connected between the tread base and the upright structure to assist in stably retaining said tread base in said second position relative to said upright structure with said tread base in said second position.

The prior art includes an advertisement by Y International advertising a folding treadmill; it also includes patent 123's disclosure of gas springs. Patent 123 describes a bed that folds up into a cabinet or recess. It purports to improve upon prior art counterbalancing mechanisms by using a novel dual action spring rather than the prior single actions springs. Single actions springs provide a force pushing the bed closed at all times. Patent 123 dual action spring, on the other hand, reverses its force as the mechanism passes a neutral position; the neutral position in Patent 123 occurs when the centre of gravity of the bed aligns vertically with the pivot point. As the bed moves past the neutral position to the closed position the mechanism opposes continued motion. The bed moves into the closed position under the pull of gravity. When fully closed, therefore, the mechanism in Patent 123 provides an opening force, but not one sufficient to counteract the force of gravity. Essentially, Patent 123 dual action spring partially supports the weight of the bed in both the closed and open positions. This provides the benefit of reducing the force required to open the bed from the closed position, while still reducing the force required to lift the bed from the open position.

4. Company X has a patent over drug ABC which is used for treating hypertension. Company Y files a compulsory licensing application. Company X in its defence argues the following points: the company Y has failed to highlight the comparative requirement in relation to other drugs in the market, that Y was not offering to sell the drug at a significantly lower price, that all the other drugs in the market were in the same price range. While discussing the law of compulsory licensing in India comment on each of the above arguments presented by Company X?