

## **Indian Institute of Technology Patna**

### **HS502 Introductory IPR**

**Time : 3 Hours**

**Marks: 50**

**Answer all the questions**

**Question1. Carefully read the information below and try to answer**

- A. What are the possible actions and the outcome related to developing a trade mark strategy when a firm is going for global business? (approx 100 words- 8 Marks)**
- B. What lesson a firm can learn from this particular case and what are the suggestions for future? (approx 100 words , 3+4 =7 Marks)**

**Background:** Croatian SME dealing with facility management, interior design and software development for related services has been present in the market since 2010. With a small team of three employees, the company has managed to position itself as a reliable provider of high level and efficient software services for their clients. Their presence in the domestic market is solid with a potential for growth in international markets.

**Problem Faced:** The Company had been active in the Croatian market with its own (unregistered) trade mark long before having started to look for opportunities abroad. After taking the decision of going international, the company then sought advice on the possible steps to be followed in terms of IP protection when expanding the business to international markets. It was then that the company knocked on the European IPR Helpdesk Ambassador's door in Croatia to get support on IP issues.

The European IPR Helpdesk's Ambassador helped the company to identify the products and services in relation to which the trade mark was being used as well as the classes according to the Nice Classification, being a necessary step in completing a trade mark application. The next step consisted of conducting a trade mark search based on the identified goods and services. At this stage, an issue arose: the results showed that although the Croatian SME's trade mark was available in Croatia, it was already registered as a European Union trade mark (EUTM, previously known as Community Trade Mark) for the same/similar products and services by a large electrical appliance manufacturer. Indeed, the problem was more complex than it seemed because at that time Croatia was six months away from becoming a European Union Member State, when all the European Union trademarks, including this large manufacturer's trade mark, would become valid in Croatia.

According to the EUTM Regulations, when a new country joins the EU, the EUTMs automatically extend to that country and the third parties' rights in the accession country—in this case Croatia—that pre-date the accession date are maintained and can be held against the use of the EUTMs in that country but cannot be relied upon to invalidate the EUTMs. This could have

turned out to be a critical issue for the Croatian SME if they continued to use their trade mark without a registration, as it could become an infringer once the large company's trade mark became valid in Croatia after its accession to the EU. (Source: European IPR Helpdesk,2017)

**Question2. Read the case carefully and answer the question below: (100-150 words)**

In 1980, the Police recorded the song *Don't Stand So Close to Me*. The song, written by Sting, earned the Police a Grammy Award in 1982 for Best Rock Performance by a Duo or Group with Vocals. In 1985, the band Dire Straits released the album *Brothers in Arms*, which contained the Grammy Award winning song *Money for Nothing*. Mark Knopfler is listed as the sole songwriter. When recording *Money for Nothing*, Mark Knopfler and Dire Straits invited Sting to sing the line "I want my MTV" as part of the song. That line uses the same melody as the line "Don't stand so close to me" from the Police's song *Don't Stand So Close to Me*. Lawyers from Sting's publishing company, A&M records (reportedly without Sting's support), claimed that, because of the use of the musical quotation, Sting should be given co-writing credit for the song.(Source: Oxford University Press).

**Do you think that the musical quotation was a violation of Sting's copyright or the musical quotation falls under any of the "fair use" exceptions? Explain your answer. (15 Marks)**

**Question 3 . Select the most appropriate option for each question: (5 Marks)**

- A. Piracy and sales are simultaneously related to each other: piracy crowd out legitimate sales from copyright owners, but sales determine the extent of piracy.
  - a. Counterfeiting, b. Correlate, c. Increases, d. Crowd out
- B. The knowledge based on traditional know how, practices, dexterities and skills, which passes from one generation to the other is known as.....traditional knowledge..
  - a. Plant variety, b. Copyright, c. Traditional knowledge (TK),d. Geographical indications
- C. Narrow copyright permits.....unauthorizeduse.
  - a. Authorized, b. Unauthorized, c. Both a & b d. None of the above
- D. Broad patent encourages.....original research
  - a. Duplicate research b. Original research, c. Basic research, d. None of the above
- E. ....The United Statesranks top in imposing maximum IP rights regime.
  - a. The European Union, b. The United States, c. Singapore, d. Switzerland
- F. Plant Breeders Rights are protected through International Union for the Protection of New Varieties of Plants (UPOV Convention) set up on 2 Dec, 1961 and revised in 1972, 1978 and 1991.
  - a. Copyrights ,b. Plant Breeders Rights, c. Patents, d. Geographical indications
- G. Which of the following is/are measure taken to reduce online piracy by the private sector?
  - a. The Copyright Alert System (CAS)

- b. The Trust Accountability Group's Brand Integrity Program Against Piracy (TAG Anti-Piracy Program)
  - c. In-house Software Asset Management (SAM) program
  - d. All
- H. In compulsory licensing the government permits third parties to manufacture the patented products without the approval of the owner of the patent.
- a. Quota system. Open general licensing, c. Compulsory licensing ,d. Patent system
- I. Knowledge over protected industries have been continuously dominating in market with different IPRs, which makes poor countries incapable to seek life-savings drugs.
- a. Under protected b. Over protected. C. Consumed d. Information
- J. Too much copyright protection leads to demand < supply
- a. Demand > supply ,b. Demand <supply, c. Demand=supply d. None of the above

**Question 4: Write short notes on any three (75 words on each, 3x5=15 Marks)**

- A. Madrid System
- B. TRIPs
- C. Azam's trademark in Tanzania
- D. India's Micromax Brand Protection
- E. Broad vs Narrow copyrights
- F. The controversy of WR Grace Neem Patent (No. 0426257 B)

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