

NLUA
NATIONAL LAW UNIVERSITY, ASSAM
B.A.,LL.B.(Hons.): IV-Year, VII-Semester: Academic Year: 2015-2016
End Semester Examination (December, 2015)
7.2 CONFLICT OF LAWS

Time: **2:30 Hrs.**
Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper. It will be treated as malpractice.

Answer five questions from the following. Question No. 1 is compulsory. All questions carry equal marks.

1. French buyers instructed Santander bank, a top English bank, to issue a letter of credit in favour of English sellers with an office in London. The credit also provided that it should be advised to the seller through HSBC France bank, also a French bank, at its London branch. HSBC France bank confirmed the credit and paid the sellers in England. Santander bank withdrew its authorisation to HSBC France bank to claim reimbursement from Santander bank before the due date, whereon HSBC France bank sought permission to serve notice to Santander bank out of the jurisdiction on the ground, *inter alia*, that the contract between the two banks was governed by English law. Decide this legal dispute with the help of case laws and various relevant provisions.
2. "In an action before an English court, a party who relies on the rules of a foreign system of law must plead and prove them." Explain this statement with proof and exceptions of foreign law with specific reference to Indian legal position.
3. "*Parens Patriae* role is a doctrine that grants the inherent power and authority to the state to protect persons who are legally unable to act on their own behalf." Elaborate on the bases of jurisdiction for ascertaining parental responsibility under Brussels IIa Regulation with Indian laws.
4. "Essential basis of putative marriage is the belief in existence of valid marriage". Discuss the doctrine of putative marriage with decided case laws.
5. While deciding a legal dispute arising out of breach of international contracts, what measures shall be taken into account by the plaintiff. Explain in terms of law governing choice of law in international contracts with case laws.
6. Domicile and nationality are inter-related concepts, yet different in its application. Elaborate the rules, classification in the light of decided Indian cases.

* * * * *

NLUA
NATIONAL LAW UNIVERSITY, ASSAM
B.A.,LL.B.(Hons.): IV-Year, VII-Semester: Academic Year: 2015-2016
End Semester Examination (December, 2015)
7.2 CONFLICT OF LAWS (RE-REGISTERED)

Time: **2:30 Hrs.**
Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
-

Answer any five questions from the following. All questions carry equal marks.

1. Briefly outline the Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility (The Brussels IIa Regulation).
2. Explain the concept of Domicile. Discuss the differences between Domicile of Origin and Domicile of Choice with general rules and decided cases.
3. Give a summary of the International Conventions dealing with Jurisdiction of Courts and Choice of Law governing Commercial Contracts.
4. Explain Formalities of marriage and Capacity to marry under private international law with the theories.
5. "Essential basis of putative marriage is the belief in existence of valid marriage". Discuss the doctrine of putative marriage with decided case laws.
6. Explain the criteria for inter-country adoption of a child with special reference to Indian position.

* * * * *

NLUA
NATIONAL LAW UNIVERSITY, ASSAM
B.A.,LL.B.(Hons.): IV-Year, VII-Semester: Academic Year: 2015-2016
End Semester Examination (December, 2015)
7.3 DRAFTING, PLEADING AND CONVEYANCING

Time: 2:30 Hrs.
Total Marks: 70

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
-

Answer any five questions from the following. All questions carry equal marks.

1. What do you understand by Deed? Illuminate its essential points/parts.
2. What is Drafting. Explain the Objective; and Do's and Don'ts of a Good Drafting.
3. What do you understand by Onerous Gift? Prepare a Deed of Onerous Gift, where the gift is made by a Hindu male banqueting his house located at Plot no 36, GS Road, Guwahati, out of Love and Affection in favour of her niece Sanjeevani aged about 16 years.
4. Mr. Ram Sunder Das, a male of about 70 years desire to execute a 'will' in favour of Mr. 'X' entire self-acquired property consisting of a House (House No 'Y', New Friends Colony, New Delhi), a Car (Tata Nano – DL 4 S ABCD) and all other property found in his above said house. Draft a Will for Mr. Das.
5. Write an application on behalf of Registrar, NLUA to Registrar General Supreme Court of India for allowing internship for 15 students of VII semester of your University.
6. Ms. Meena was married to Mr. Ramesh on 10th March 2015 according to Hindu Rites. On 10th October 2015, when Ms. Meena was visiting Hotel Taj, Mumbai for lunch with her college time friend, she saw her husband Mr. Ramesh coming out of swimming pool with a girl. Ms. Meena inquired from the hotel-reception and found that both of them have checked in at 11:00 A.M. on the same day, but did not reveal any further details. This incidence made Ms. Meena very sad and she filed a petition for Dissolution of Marriage on the ground of adultery. Draft a Written Statement on behalf of Mr. Ramesh in the above matter.

NLUA
NATIONAL LAW UNIVERSITY, ASSAM
B.A.,LL.B.(Hons.): IV-Year, VII-Semester: Academic Year: 2015-2016
End Semester Examination (December, 2015)
7.4 BL.1 INTERNATIONAL BUSINESS TRANSACTIONS

Time: **2:30 Hrs.**

Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
-

Answer any five questions from the following. All questions carry equal marks.

1. Focus on the journey of transmission from GATT to WTO. Discuss the principles of WTO.
2. Explain the nature and objectives of the Foreign Exchange Management Act, 1999. Focus on major differences between FERA and FEMA.
3. What are the basic indicators to establish the case of dumping? What measures are available for curbing the instances of dumping?
4. Explain the meaning and nature of Letters of Credit. How Letters of Credit works to protect the interest of buyers and sellers?
5. What do you mean by INCOTERMS? Explain various categories of INCOTERMS with their definitions and role of the parties therein.
6. Explain with the comparative approach among Hague rules, Hague-Visby rules and Hamburg rules.
7. Discuss the power and functions of the Director General of Foreign Trade under the Foreign Trade Regulation and Development Act, 1992.

* * * * *

NLUA
NATIONAL LAW UNIVERSITY, ASSAM
B.A.,LL.B.(Hons.): IV-Year, VII-Semester: Academic Year: 2015-2016
End Semester Examination (December, 2015)
7.4 CN.1 FEDERALISM AND CENTRE STATE RELATIONS

Time: **2:30 Hrs.**

Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
-

Answer five questions from the following. Q. No. 1 is compulsory. All questions carry equal marks.

1. The American federation evolved from a Confederation to a Federation strengthened by the Civil War (1860-1865). Compare the federal system of India with that of USA with a particular emphasis on the judicial interpretation of the federal Constitution.
2. The growth of coalition governments and regional parties in India since 1980s have had strong impact on federal Centre-State relations. Critically assess the position of States in this regard.
3. Discuss the role and significance of Governor under the federal constitution pertaining to Article 356. What measures do you suggest to bring more independence and impartiality in this constitutional position?
4. Power of Parliament to legislate can also extend to a matter in the State List. Explain by citing the relevant constitutional provisions on the point.
5. Financial relation between the Centre and State is an important component of federal structure of Indian Constitution. Critically examine the distribution of revenue powers between the Union and the States under the constitution.
6. Write short notes on any two of the following:-
 - (a) Cooperative federalism
 - (b) Doctrine of harmonious construction
 - (c) Sixth Schedule of the Constitution

NLUA
NATIONAL LAW UNIVERSITY, ASSAM
B.A.,LL.B.(Hons.): IV-Year, VII-Semester: Academic Year: 2015-2016
End Semester Examination (December, 2015)
7.4 IP. 1 LAW RELATING TO TRADEMARKS AND GEOGRAPHICAL
INDICATIONS

Time: **2:30 Hrs.**
Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper. It will be treated as malpractice.

Answer five of the following. Q. No. 1 is Compulsory. All questions carry equal marks.

Answers should be precise, supported by the relevant provisions and appropriate decisions. If the answer to a particular question depends on additional facts or foundations not provided, candidates must describe how they are related. Credit will be given for the reasoning for the decision than the decision itself.

1. Answer the following questions:

- a) The Connect India co., an Indian company has been manufacturing and selling smart phones, having obtained valid license on “**FRAND**” terms from the SEP holders for all patented components. They have a registered trademark, “**INMARS**”, which is popularized through extensive advertisement and marketing. The phones are sold by retailers by displaying them alongside the popular brands, Samsung and Apple phones. In one of its advertisements the brand ambassador is portrayed as holding ‘Samsung Galaxy’ and ‘Apple i-phone’ in one hand and “inmars” in the other hand saying that “Inmars” can match Galaxy and i-phone in terms of speed, efficiency and smartness. The advertisers says that ‘Desi’ stay with us and ‘Pardesi’ stay in ‘Pardes’ and throws off the two smartphones into sea. The Connect India co., has also purchased keywords in Google advertisement program as a result of which any user searching for Apple and Samsung phones will get a popup of India make advertisement.

Apple and Samsung have issued notice to the Connect India co., to desist from broadcasting the advertisement, change the distribution channels and withdraw from Google program. Will they succeed if they sue Connect India co. **DECIDE.**

- b) Comment on “**Shape & colors of goods**” as trademark with an emphasis on the requirement of overcoming functionality test.
2. Mr. Govardan files an application in UK and India for registration of the following as trademarks for his products:
- i. The shape of “sweet on sticks” for the confectionaries.
 - ii. The “Bone Shape” for his detergent soap bars,
 - iii. Barking dog sound” for all his veterinary products,
 - iv. “Shade of blue colour” for his fertiliser products.

Examine the possibility of registration of the same with help of *relevant provisions and case laws*.

3. IBM manufactures a high technology software product under the trademark '**avanta**'. The mark is unique to the high technology product of IBM. IBM also uses other marks to identify other products manufactured by it. Synergetic, an Indian company has started its production of hearing aids. It desires to market its product under the name '**Avantha**' and files an application for registration of trade marks. IBM files objection to its registration and also files a suit for trademark infringement since '**Avantha**' has been used on hearing aids of Synergetics. Synergetic approach to you for legal advice; and you are engaged in the law firm "IP Services & Co.," is leading full service Intellectual Property firm in Asia as an IP Attorney. What advice should you give? Will IMB succeed? Give your advice with help of *relevant legal provisions and case laws*.
4. The plaintiff (appellant) sold medicines under the brand name "**FALCIGO**". And "**FALCITAB**" by the respondent (Defendant). Both the medicines were used for the treatment of Falciparum malaria. The appellant's Falcigo contained Artisunate while defendant's Facitab contained Melfoquine Hydrochloride. Both drugs had the approval of the Durg Controller General (India) for the treatment of Falciparum malaria. The plaintiff files a case against the respondent for infringement of trademarks on ground that the respondent trademark is visual or phonetic similar in nature and creating confusion among the public. The respondent seeks advice on this matter and you are engaged with IP Services across the globe. Will plaintiff succeed? If no then give your *legal advice* with relevant provisions and case laws?
5. What is a "Well Known" trade mark? State the additional protection available to a well-known trade mark in relation to registration under Section 11 and Infringement in Section 29(4) of the Indian Trademark Act. How a trade mark is determined to be "well-known trade mark" under section 11? Write a comment on *Rolex SA v. Alex Jewwllery Pvt. Ltd.* 2009(41) PTC 284 (Del).
6. Answer the following Questions:
 - a) "Under international law, geographical indications mean indications which identify a product as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the product is essentially attributable to its geographical origin. Darjeeling tea is India's treasured Geographical Indication and forms a very important part of India's cultural and collective intellectual heritage. It is of considerable importance to the economy of India because of the international reputation and consumer recognition enjoyed by it." Comment.
 - b) Explain the defensive and positive protection of traditional knowledge.

* * * * *