

Name:	
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, May 2019

Course: Digital Copyright Law & Data Protection
Programme: LL.M.

Semester: II

Time: 03 hrs.

Max. Marks: 100

Instructions:

SECTION A

S. No.	Short notes	Marks	CO
Q. 1	Discuss the importance of fixation in the copyright of original expressions.	2.5	CO1
Q. 2	Discuss the reasons for limited duration of copyrighted works.	2.5	CO1
Q. 3	Define the subject matter of Copyright.	2.5	CO1
Q. 4	Differentiate between originality and creativity in copyright law.	2.5	CO1

SECTION B

Q. 5	Discuss the Concept of Idea Expression Dichotomy.	10	CO2
Q. 6	Define 'Computer Program' as mentioned under the Copyright Act, 1957. With the help of cases analyze how far the Copyright Act, 1957 provides Protection for Computer Program'?	10	CO2

SECTION-C

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Q. 7	Analyze the nature of ‘Infringement of Digital Content’ in the era of Information and Communication Technology. Explain various Tests to determine infringements with landmark case laws.	10	CO3
Q. 8	Critically analyze the philosophy of copyright law.	10	CO3

SECTION-D

Q. 9	<p>Case Study/Problem:</p> <p>Glenn operates a printing business in western Mumbai. He runs the business with his brother, Brian, through a company known as ‘Western Mumbai Printing Pty Ltd’ (“WSP”). Both Glenn and Brian are directors of that company. Glenn and Brian have worked in the printing business for over twenty years, having inherited the business from their father in the late 1990s, shortly before their father’s death. Glenn is a lot smarter than Brian, and so Glenn has been in charge of managing the business’s finances and operations, whereas Brian has concentrated on managing the printing press and the staff who operate it. Glenn and Brian know a great deal about printing but do not know much outside that industry as they have been required to work at least six days a week in running their company.</p> <p>Most of the printing work which Glenn and Brian have done through their company over the years has been in producing local community newspapers (which are up to 100 pages in size) and brochures and advertising materials for local businesses. In the printing industry, this type of printing work is traditionally done by smaller printing businesses such as that which is run by Glenn and Brian.</p> <p>About two years ago, Glenn and Brian decided to employ a Business Development and Marketing Manager whose role was to consider how WSP’s business could be expanded. Glenn and Brian employed Simon in this role. Simon appealed to them because he could ‘talk the talk’, and they found that customers liked dealing with him very much. In his role, Simon travelled around India visiting potential new clients, and discussed with them using WSP as their printer of choice.</p>	30	CO4
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As a consequence of Simon's efforts, a new line of business recently opened up for WSP by printing catalogues for DVD films. WSP had never printed these sorts of catalogues before. The catalogues depict the front and back covers of DVD film boxes. These covers are known as 'slicks' in the entertainment industry. 'Slicks' consist of a combination of materials including, but not limited to: a title (i.e. the film title), photographs and written text providing details of the nature of the film contained on the disc inside a DVD box.

The new client which Simon obtained for WSP (for the printing of DVD catalogues) was Shappelle. Shappelle has just started a business importing DVD films into India. When Simon discussed with Shappelle her printing requirements, she informed him that the DVDs she imports into India have been made in Asia (she did not say precisely where) and were then packaged by her into boxes when they arrived here. She informed Simon that WSP would be required to print a catalogue of the DVDs comprising her product range to be distributed in India. The catalogue was to show the 'slicks' (front and back covers) for each DVD film she imports. Simon was curious about the origins of Shappelle's DVDs, but decided it was not any of his business (or WSP's business) to enquire further. Simon did not pass on to either Glenn or Brian any information about Shappelle's business as Glenn and Brian were only interested in knowing whether or not Simon had managed to secure a new client and how much new work that might entail.

About a month ago, after being provided by Shappelle with a sample catalogue, WSP printed 50,000 copies of Shappelle's catalogue for her DVD business. The catalogue is about fifteen pages long and depicts the slicks of around eighty DVD films. Shappelle collected the catalogues from WSP's premises, and has since distributed most of them to her customers as part of her 'mail order' business.

A copy of Shappelle's catalogue has come to the attention of the organisation known as the 'Association of Indian Film Producers' ("AIFP"). This organisation represents the main film producers in India, and is concerned to take action against film piracy whenever it is uncovered in India. AIFP considers that the 'slicks' used on Shappelle's DVD boxes (and which appear in Shappelle's catalogue) are the same as those which

	<p>appear on ‘authorised’ DVDs distributed in India by Indian film production companies.</p> <p>AIFP seeks your advice in relation to the following:</p> <p>Is copyright able to subsist in the ‘slicks’ used in the DVD boxes distributed by the Indian film production companies? In answering this question you are required to identify the legal requirements which must be satisfied to establish copyright (including ownership) in the ‘slicks’. You are <u>not</u> required to consider the question of copyright in respect of the films contained on the discs in DVD boxes. (15 Marks)</p> <p>Irrespective of your answer to (a) above, assume that copyright subsists in the ‘slicks’. In light of that assumption, could Glenn, Brian or Simon be personally liable for infringement of copyright by WSP’s production of catalogues for Shappelle? (15 Marks)</p>		
<p>Q. 10</p>	<p>Barry is the owner of ‘Big Barry’s Hauling’, which is a business specialising in the development and construction of containers for bulk transport and storage. Barry calls his range of bulk containers ‘Barry’s Mighty Bigs’. There are about fifty different types of bulk containers in the Barry’s Mighty Bigs range. Some are able to be used for freight transport by rail, and others for freight transport by truck. Barry has been selling the Barry’s Mighty Bigs in India for the last two years or so. In doing so, Barry has sold about five hundred containers nationally to a variety of transport companies and organisations.</p> <p>In the last year, Barry has developed a new type of bulk container which is different in design to the existing range of Barry’s Mighty Bigs. The design of this container incorporates a new shape in that rather than being fundamentally rectangular in shape, it has curved side walls which protrude outwards. The side walls are supported by vertical support beams located along the perimeter of the container. Barry calls this new container design the ‘Revolution Mk I’. The ‘Revolution Mk I’ is designed especially for transporting materials such as grain and sand by rail. Because of its shape, the ‘Revolution Mk I’ can transport a greater amount of product than the previous ‘rectangular’ design used for Barry’s Mighty Bigs. The curved shape of the</p>	<p>20</p>	<p>CO5</p>

side walls is something which Barry saw used for containers transporting liquid nitrogen by rail in South Africa when he visited there on holiday about two years ago. He prepared drawings for the new design on his return to India, which were then re-drawn and improved for the purpose of producing a prototype container.

Unfortunately, the 'Revolution Mk I' is a difficult product to build. It takes a lot of extra workers to cut the sheets for the panels, manipulate them into a concave shape, and then form the container by combining all the pieces and adding, in the last phase of construction, the vertical support beams. Barry estimates that it takes at least three weeks to build each 'Revolution Mk I' container. Barry has not yet sold any of the 'Revolution Mk I' containers in the Indian marketplace.

Barry seeks your advice in relation to the following:

Assume that Barry decides not to seek registration for the design of the 'Revolution Mk I', and then makes and sells thirty-seven of the 'Revolution Mk I' containers to customers in India. To what extent (if any) can Barry rely on the provisions of the Copyright Act 1957 to restrain a competitor from selling a competing bulk container which is identical to the 'Revolution Mk I'? In providing your answer you should identify the relevant legal principles and state your conclusion.

Set-II

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Max. Marks: 100

Instructions:

SECTION A

S. No.	Short notes	Marks	CO
Q. 1	Discuss the importance of registration of copyright	2.5	CO1
Q. 2	Discuss the conflict between traditional property rights and copyright	2.5	CO1
Q. 3	Define the meaning of Copyright as per the Copyright Act 1975	2.5	CO1
Q. 4	Discuss the importance and standards of originality in copyright law.	2.5	CO1

SECTION B

Q. 5	It is the expression not the idea what matter in copyright: Critically analyse	10	CO2
Q. 6	What is copyright liability of Intermediaries and Search Engines? Critically evaluate	10	CO2

SECTION-C

Q. 7	Trace the relationship of the Copyright Act, 1957 and the Information Technology Act, 2000 (as amended in 2008) on this issue?	10	CO3
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Q. 8	Critically analyze the Jurisprudence and legal theories relevant to copyright law.	10	CO3
SECTION-D			
Q. 9	<p>A: You are counsel for Ramses Films, a film production company. Ramses wants to produce a feature science fiction and action movie starring Denzel Washington and Eva Longoria, about a vampire hunter in the year 2020. The film, entitled Tor, The Vampire Killer, is going to be based on a book written by famous writer Neil Gaiman, who has also written the script. Music for the film will include a soundtrack or original music written by Randy Newman and featuring current popular songs by such bands and artists as the Black Eyed Peas, Gwen Stefani, and Pink. The production company also wants to include some film clips from the well-known 1960's era television Star Trek.</p> <p>a. Ramses wants to acquire the rights to the book, script, soundtrack music, popular songs, and film clips. What Copyrights are involved in these items and what kind of agreement should Ramses seek to acquire those rights? (7.5 Marks)</p> <p>b. Assume that Tor, The Vampire Killer, is produced and the film has been released to great success. The Rip and Tear Company has made and is distributing online, unauthorized copies of the film. They have made two separate print runs of the film, consisting of 10,000 copies in each run. Both Ramses and Rip and Tear are based in Mumbai, India. Ramses asks you what can be done to stop Rip and Tear from continuing to copy and distribute these unauthorized copies, and how Ramses can recover the money it has lost from the sale of those copies. What is your advice? (7.5 Marks)</p> <p>B: The Richards Law Firm (RLF) has determined that lawyers waste a lot of time researching the same points of law in many different cases. In the good old days this just generated more billable hours. Now that clients are trying to control legal budgets and bidding out legal work, it no longer makes sense to waste time on duplicative research. RLF has set up an advanced research and brief bank (Bank) and requires all lawyers in the firm to check the Bank before doing any research, and to carefully update the research each time they do a new project. The information in the Bank is the product of standard legal research that could be duplicated by another law firm, but at considerable time and expense. The Bank has a detailed indexing system that is based on standard legal categories cross-referenced to the facts in each case. To prevent conflicts of interest between clients, the Bank does not contain any confidential client information or communications, only the research with any specific client information blanked out. Being a high tech firm, the Bank is only maintained electronically and can be searched with a WWW browser (Internet Explorer or Netscape). Access is carefully controlled with a username and password system. Each attorney has a unique username based on their last name and first initial, and they must select a password of not less than 6 characters. The passwords expire every month and the attorney must pick a new one before</p>	30	CO4

	<p>logging in after the password expires. RLF has a written secrecy policy that limits access to the Bank to attorneys in the firm and directs them to protect their passwords and to not share them with anyone, including other attorneys in the firm and office staff. The policy is posted in the lunch room and is displayed on the login screen for the Bank so that the attorneys see it every time they log in. It also says that the Bank contains trade secrets and the firm will prosecute anyone who misappropriates them. The firm uses the best available security on its network and WWW search system, and tracks all logins to the Bank and the materials that are viewed. During the weekly security audit, it is found that there has been an unusual amount of activity under one of the partner's names, which is especially suspicious because he is on vacation in Antarctica with no phones or Internet access. All the passwords are changed, but a few days later there is the same pattern of activity in another attorney's account, including access to briefs in many areas that the attorney claims he never checked. A month later, RLF receives a brief from opposing counsel that is identical to a brief in the RLF Bank. A professional security firm is hired to investigate the security system. It is found that several attorneys have trouble remembering their passwords so they put them on Post-It® notes on their computer monitors. It is found that the cleaning staff, who are hired from the local temporary employment agency, Winos-for-Rent, copy these passwords and sell them to a contract legal research firm.</p> <p>RLF is worried that some of their best briefs have been put on the Internet and that they will not be able to use trade secret protection to keep attorneys who have downloaded them from using them in court against RLF or otherwise benefiting from the high quality research and persuasive writing in the RLF briefs. They ask you to analyze whether they can claim copyright infringement in the briefs and enjoin other attorneys from using them. They are concerned that the briefs will be customized or paraphrased and want to know how that will affect infringement claims. Do not worry about possible damages and remedies; provide only their chance of establishing an infringement claim. (15 Marks)</p>		
Q. 10	<p>Fleetwood Corp. is a conglomerate that owns a number of hotel chains. Fleetwood is developing a new hotel chain for travelers seeking upscale accommodations with a modern flair, code named “Project Chic.” Developing a new hotel chain requires significant research into fashion and social trends, fabrics, room lighting, building costs and food choices.</p> <p>Fleetwood distills its research conclusions into “blueprints” for launching the new chain. The blueprints also teach other project employees how to negotiate with hotel building developers, train the new chain’s employees and conduct the marketing campaign.</p> <p>Smith, a Fleetwood employee, managed Project Chic for two years. He signed Fleetwood’s standard nondisclosure agreement restricting his use and disclosure of Fleetwood’s trade secrets. Prior to Fleetwood’s new hotel public launch, Chitlin—a hotel chain owner that competes with Fleetwood—hired Smith to lead Chitlin’s development of its own modern and upscale hotel chain. Unbeknownst to Chitlin,</p>	20	CO5

	<p>Smith took the Project Chic blueprints with him when he left Fleetwood. With the blueprints and his experience, Smith can avoid the inevitable errors associated with developing a new hotel chain; significantly reducing the time it will take for Chitlin to launch a new competing chain. To further accelerate the process, Smith has approached 7 of his former Fleetwood subordinate employees, trying to convince them to leave Fleetwood and become Chitlin employees. Discuss the relevant issues of copyright law.</p>		
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