

Case Studies Paper VIII (404)  
Sem.IV  
M.Com.Part II  
Patter 2008 Wef from June 2009

**Case Studies :**

There will be a paper of case studies for external students. The paper will be set for 80 marks to be converted to 100 marks. In the question paper 04 cases are given. It will be covered, each carrying 20 marks.

**Note :** The paper of case studies will be offered only by external students only..

**CASE No.1 :**

‘X’ Limited of India, is the leading company, in manufacturing and distributing computers through out the country. The company obtained the ‘Internet Vendor’s website’ in United States of America. The server is located in United States of America. The website is mainly used for identifying the customers and selling computers through the globe. A buyer from any part of the world can go through the details of computers on the website, and decide which type of computers should be bought.

After having decided, the buyer can place an order for computer by visiting the website and by providing the information requested to enter the transaction. At the same time the buyer’s authorization and credit card number is routed on the digital highway to the bank. After closing the deal the digital information will generate physical distribution order to transport the computer to the address of the buyer. The buyer acknowledges the physical delivery of the computers.

Your are required to discuss the issue as to

a) the fixed place of business.

b) does the server constitute a place of business ?

c) what would happen if the vendor’s server is in the state of the

buyer ?

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## CASE 2

In an E-trade agreement, signature is based exclusively on asymmetric methods or techniques. It has been described as a special door, which can be opened with a four key lock. The two keys are on every side of the door, and each of these two keys belong to a single party. Both the parties stand respectively on each side of the door and both of them have different keys. One of them is coincidental with the key possessed by the other party, since they have agreed on the shape and notches in the key (public key). However, the other party is not, and none of the parties knows exactly, what kind of notches the other key will have. The only thing is sure that the door can only be opened when the four keys are in it. Once both the parties have locked the keys into the door it is possible to open it and for the parties to be sure that they can negotiate through that open door safely without being afraid that an outsider might interfere in their business.

Discuss with reference to authentication of electronic records using digital signatures.

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CASE No.3.

Mr.C.H.CHOTE installed a website “chahooindia.com”. This is resembling the another renowned website – “chahoo.com”. The services rendered by Mr.C.H.CHOTE are similar to the services rendered by the “chahoo.com”.  
(plaintiff)

M/s C.H.Bade and Company, which had installed “chahoo.com”, claimed that they are global internet media, rendering services under the domain name “chahoo.com” which was registered with the “Net work solution Incorporation”, since 2000. An application for registration of trademark ‘chahoo’ was pending in India.

M/s C.H.Bade and company, further, claimed that they are the first in the field to have a domain name ‘chahoo’, and also to start web directory and provide search services. In June 2000,such directory was named ‘chahoo’.

Mr.C.H.Chote adopted the domain name ‘chahooindia.com’ which is closely resembling to the renowned name ‘chahoo.com’.It was found that the internet users, who wanted to use ‘chahoo.com’ may reach to the ‘chahooindia com.’ Hence, they claimed that the act of Mr.C.H.Chote is dishonest and was tantamount to ‘cyber squatting’.

Mr.C.H.Chote claims that-

1. Plaintiffs trademark was not registered in India, therefore, there could not be any action for infringement of registered trade mark.
2. There could not be an action of passing off as the defendants were not offering goods but services.
3. The persons using internet and seeking to reach the internet site were all technically educated and literate persons. As such there is no chance of deception and confusion.

Discuss the claims of the parties and their legal rights with reference to Cyber Laws and I.T. Act.

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#### CASE NO.4.

Mr.X an industrialist, manufacturer of pens, chalks, dusters and other education materials. There has been a persistent complaint from the customers that the chalks manufactured by him, have a lot of dust and it is troublesome to clean the board after writing. The Research and Development division of Mr.X came up with an innovative chalks. The chalks are absolutely dust free and the writing of the chalks gets vanished automatically after certain time.

Mr. X applied for registration of the patent for this product and has got the patent. Subsequent to the patent granted, he continued with the production for five years after which he stopped the production. The reason was the lack of demand because of the heavy cost of the product.

Mr. Y a College lecturer independently made research on the similar type of chalks and came out with the same quality chalks with much less cost. He applied for patents which was objected by Mr.X on the ground that-

- \* Patent for the same product is registered in his name.
- \* The product developed by Mr.Y is not an innovative but it is the imitation of his patented product.

Mr.Y claimed that-

- \* The product patented by Mr.X is not in use as he has stopped the production.
- \* The product invented by Mr.Y is different than that of Mr.X's product in many respects such as shape, quality, cost, etc.
- \* Mr.Y who is a lecturer in a Government college, has carried out the research on this product as a part of his academic work.
- \* He wants to produce the chalks exclusively for the Government colleges.

Discuss the rights of Mr.X and Mr. Y as per the provisions of Patents Act 1970.

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## CASE NO.5.

Hindustan Level Limited (Plaintiff) is the leading manufacturer of various kinds of soaps, detergents, chemicals, etc. The different products of the company are sold under the brand names and the company enjoys considerable good will and reputation in the market.

Godrej Soaps Limited (Respondent) also a manufacturer of the various brands of soaps and detergent and is one of the competitors of the plaintiff company.

The plaintiff company holds and owns more than 171 active patents granted by the Government of India under the Patents Act. The company claims that the respondent has access to the specification of Patent number 170171 and they have wrongfully and illegally copied and materially utilized the patented information resulting infringement of the said patent of the petitioner.

It is further claimed by the petitioner that – The toilet soap of the Respondent has been sold under the trade mark VIGIL has a wrapper bearing the words “ALL NEW” “LONGER LASTING SOAP” . This misleads and make the trade and public believe that the toilet soap is an improved product. Such wrongful and illegal acts of the Respondent cause to the Petitioner company an irreparable loss, damage and injury.

The Respondent company claims that-

- \* It is a multinational company and a pioneer in the field of manufacturing of toilet soaps in India for the last 60 years.
- \* The respondent company has been utilizing various admixtures of various soaps They did not apply for patent for such admixture, as the substance obtained is not an invention.
- \* The patent in question is a new one, the validity of which is under serious dispute of challenge.
- \* If the plaintiff is granted an injunction at this stage then, it would enable the plaintiff to appropriate a large chunk of the soap industry to itself and would adversely affect the healthy competition. Discuss the case with reference to the Patents Act.

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## CASE NO.6.

Copyright is a beneficial interest in movable property in the actual or constructive possession of the owner thereof. The right to copy and distribute commercially such material may be transferred or assigned to any other party with certain returns called as royalty. The intention of the parties whether it was an assignment or a grant of permission to use in the normal course, be gathered from the writing itself and the words used therein.

Gramophone Company of India Limited the plaintiff, entered into an agreement with Shanti Films Corporation, a film producer. According to the agreement the copyright in the soundtrack of a film produced by the Shanti Film Corporation (Defendant) was assigned by it to the plaintiff. The plaintiff by the agreement got the exclusive right to produce records, tapes etc. of the film and sold the copies thereof.

However, it was found that Shanti Film Corporation has been selling the copies of the soundtrack and of the films. Hence, the plaintiff filed a suit against defendant for permanent injunction against the infringement of the copy right and also filed an application for temporary injunction.

The plaintiff claimed that the agreement prima –facie reveals that there is an assignment of copyright of the soundtrack in its favour. There are no restrictions to use the copyright. Therefore, the publication of soundtrack of the film in question or reproduction of records without its authority, will prima facie be infringement of copyright. However the defendant denied the claim stating that it is their own production and hence, no one can stop them for reproduction.

Discuss the issue with reference to the relevant provisions of the Copyright Act.1957.

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## CASE NO.7

Chair India Limited is a leading and renowned manufacturer of chairs. The company has a registered trade-mark in Part A of the Register. The company has cross the turnover of Rupees. 5.00 crores. However, during the last five years it has been observed that the sale has started declining sharply. Hence, the company recently initiated a market research to find the causes for the decline in the sales.

It was found that two companies – one is at Pune itself and another at Hyderabad, are selling their products under the same trade mark. This type of sale of these two companies has directly affected sale in these two regions.

The management is thinking to take a legal action. Advise the management of Chair India Limited as to their rights and remedies along with the provisions in respect on offences and penalties under the Trade and Merchandise Marks Act.1958.

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## CASE NO.8

World Trade Organisation many a time is called by many people as a Wrong Trade Organisation. The same feeling was demonstrated by many organizations particularly labour organisations.

It is said that it is a Wrong Trade Organisation because it involved in itself with trade which spoilt the environment and promoted unacceptable working conditions for labourers in the poor countries. It is felt that, World Trade Organisation causes greater damage to the global environment. The main claim of the demonstration at Seattle was that World Trade Organisation is not doing anything to ensure that the products produced in adverse working conditions in different countries do not enter into the stream of globally traded items. The question is whether it is that the World Trade Organisation should get involved itself with the labour and environment aspects of production and trade ?

There are some who argue that the effort to involve World Trade Organisation with labour and environmental aspect of trade and production is actually a part of larger effort by some developed countries. The obvious reason is that the poor countries have lower production cost because of cheap labour and not very high quality working conditions. This enables the poor countries to lead the global market over the rich countries.

If both these claims are said to be correct then, World Trade Organisation is deemed to be influenced and controlled by the wrong people.

### **Discuss in detail-**

1. The basic limitations of World Trade Organisation ;
2. to what extent the World Trade Organisation should and can interfere with the working conditions ?
3. is it fair to call World Trade Organisation as a Wrong Trade Organisation ?

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CASE NO. 9 :

Tata Oil Mills Company Limited (TOMCO) and Hindustan Lever Limited (H.L.L.) which is a subsidiary of Unilever (U.L.)-a multi-national company – are the manufacturers of soaps, detergents etc. TOMCO was incurring losses from 1990-91 and as such was graded as a sick company. The Board of Directors of TOMCO decided to amalgamate their company with H.L.L. which was a more prosperous company in the same field of activities.

### Case 10

Shri Sameer Sonar, scientist involved in space research discusses a scientific principle with his colleague. The colleague Shri P.C.Sharma uses the principle and invents working device based on the principle. A third colleague, Shri A.K Bhat who was instrumental in suggesting the manner of putting in place the arrangement of the mechanical devices claims himself to be the true and first inventor and applies for the patent.

#### Questions

- a) Discuss the relevant provisions in relation to this case.
- b) Is he entitled to apply for the patent?  
If not, who out of the three, can apply for the patent?

### Case -11

Dr.P.M Desai, a Doctor in All India Institute of Medical Sciences invents a machine which can deliver glucose to a patient through the skin by causing the pores of the skin to absorb glucose and deliver it to the blood stream. The claim of the doctor of such an invention is rebuked by the medical community as being highly improbable and useless in invention. However, when the invention is put to demonstration it is found to be indeed effective and is claimed by the doctors to be a highly useful method of treatment of diabetes by regulating the amount of glucose supply to the blood. Now that the invention has been hailed by the medical community, as being a new useful and non-obvious method of treatment.

#### Questions

- a) Discuss the relevant provisions in relation to this case as per Patent law.
- b) Can the doctor claim a Patent in the invention?

## Trade Marks

### CASE-12

NOTE- A mark which is 100% distinctive has a right to registration.

Shri S.P.Morgan started using the mark CONTAINER as a trade mark for freight containers. He spent huge amounts on advertisement. His freight containers become very popular in the market after ten years he applied for registration on the ground of acquired hundred percent distinctiveness in respect of his goods. The registrar refused registration of the trade mark objecting that the trade mark was a descriptive word directly indicating the nature and character of the goods of the trader

#### Questions

- a) Discuss the trade mark and provisions necessary for registration of trade marks.
- b) Can the trader oppose the registrar's objections in this case?

### Case –13

Two parties applied for registration of Trade mark. Shri Ghanashyam and Shri Dhanashyam applied for registration of trade mark . They were both rivals. The trade used by these rivals were “Mathura Ghee and Mathurang Ghee” respectively.

Shri Dhanashyam started using ‘Mathurang’ after lapse of five years from the use of trade mark ‘Mathura Ghee’ by Shri Ghanashyam. Shri Ghanashyam has polarized the trade mark ‘Mathura Ghee’ by investing huge amounts on advertisement. The two trade names were phonetically similar. There was not much difference in pictorial and monogram that is the trade mark of the rivals. The only difference was the word ‘G’ registration was granted to neither.

#### Questions

- a) Discuss in the light of Trade mark provisions in this case
- b) Suggest the plaintiff regarding use of trade mark

## Copyright

### Case –14

Shri Anand wrote a play entitled 'Hum Hindustani' in 1983. The play was enacted in the next few years in Delhi and Mumbai. It got good reviews in newspapers the play was based on the theme of provincialism & its baneful and divisive effects on the society. A film maker, Mr. Mohan Sehgal become interested in making a film based on the play. He heard the play from Shri Anand in his office. Shri Mohan did not receive further communication from Mr. Sehgal. There after, Mr Sehgal announced the production of a film 'New Delhi'. The picture was released in September 1986. From comments in the press Shri Anand felt that the film was very much like his play, 'Hum Hindustani'. Thereafter, Shri Anand himself saw the picture & felt that the film was entirely based on his play. He felt that Shri Sehgal had dishonestly imitated the play in the film & violated his copyright. He therefore moved the court.

Mr. Sehgal (Relux films) claimed that they had communicated to Shri Anand that the play might have been all right for the amateur stage but it was too inadequate for the purposes of making a full length commercial motion picture. The key arguments of Relux Films was that they could be no copyright on the subject or idea of provincialism. Any one can adopt to in his own way. They claimed that the motion picture was quite different from the play 'Hum Hindustani' in its content, spirit & climax. Some similarities could be explained by the fact that both were based on the idea of provincialism.

Questions

- A) Discuss on the above case in the right of provisions of the copy right law.
- B) Shri Anand wants to take action in court of law Advice Shri Anand.

OR

- C) If you are judge, how will you treat these case.

### **CASE-15**

A public library gets a copy of a book authored by a foreign author published abroad. Due to high price of the book the library gets 6 copies of the books made.

Questions

- A) Discuss in the light of above case the provisions of copy right law.
- B) If the library guilty of infringement? If yes? How & why? If no, why not?
- C) Can it avoid an action of infringement by reducing the number of copies? If so how many copies are the library authorized to keep without infringing the copyright of the author?

### **RTI-**

#### **CASE-16**

Shri S.D.Gore files an application & seeks following information about Shri M.D.Kale from Public Information Officer.

- A) What is the gross turnover of Shri M.D.Kale during the preceding 3 years?
- B) How much sales tax has been paid by him?
- C) What ingredients does he use in preparation of his products and in what ratio?

Questions-

- A) Discuss the sections of RTI & comment whether such information can be provided or not?
- B) Discuss which type of information can be given.

## RTI

### CASE-17

Mrs. Madhu Bhaduri filed a RTI with the Delhi Jal Board (DJB). Her mother lives in Hauz Khas, block K & has been complaining about a blocked sewer for a month. Mrs. Bhaduri spoke to the Junior Engineer (JE) to get the matter looked into as the block had started to stink & mosquitoes had become a big problem. The Engineer simply said he'd look into the matter & that the DJB was using very heavy machinery to rectify the problem, & then he did nothing.

Finally, when nothing else seemed to be working, Mrs. Bhaduri filed a RTI application in which she wrote:

For an entire month the sewerage system of blocked P& K has been blocked. On December 7, I spoke to the JE & was assured that the situation will improve and that the DJB has been using heavy machinery to rectify the problem.

So far no action has been taken. Our complaints have only been answered through false reassurances that the problem will be taken care of. As a result of the slack behavior, the residents are compelled to live in unhygienic conditions: our entire block smells and has become a breeding ground for mosquitoes.

Please provide the following information:

- a) What has been the daily progress made on our complaint made to the junior Engineer on December 7, 2009?
- b) Provide names & designations of officers in charge of handling my complaint.
- c) Provide copy of inspection report prepared on the complaint.
- d) What departmental action will be taken against defaulting officers?
- e) What is the stipulated time of responding to public grievances?
- f) What is/are the reason (s) for the sewer being blocked in our area? What are the steps taken to solve this problem?
- g) Provide names of officers who are responsible for the stink in our block as a result of the blocked sewer.

### Questions

- A. Discuss the provisions of RTI in relation to above case.
- B. Will the officers be responsible for health risks that the residents are being exposed to as a result of not acting on our complaint?

C. Will the DJB reimburse the medical bills for health problems caused to the residents for the month of December 2009? How? Please provide details of procedure.

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**M.Com. Part II-Sem. IV (Pattern 2008)**  
**w.e.f. 2009-10**  
**Subject – Project Work / Case Studies**  
**Paper VIII (404)**  
**Business Laws and practices**

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There will be a project work carrying 100 marks for internal student only. The students will have to select a subject from any area of the syllabi for commercial Laws & practices. The students will have to work under the guidance of concerned subject teacher. The project will carry 100 marks out of which sixty marks will be allotted for Project Report and 40 marks will be allotted for project Viva-Voce to be conducted by internal teacher and external teacher (examiner) appointed by the University.

The list of Project :

1. A study of efforts taken by the private agencies or Government agencies for export of agriculture produce and its impact.
2. A study of Impact of E-commerce on working of Pune Stock Exchange.
3. A study of Maharashtra State Agriculture Marketing Board, Pune in respect of export of agriculture produce.
4. A study of Patent Law and procedural aspect in the era of Globalization.
5. A study of Cyber crimes related issues With Special Reference to Pune City.
6. A study of Globalization and its effect on local industries.(Choose any specific factory or industrial unit).
7. A study of problems in respect of procedure and practices of registration of the patents.
8. A study of copyright awareness & causes of piracy in Pune City.
9. A study of Impact of E-commerce on the banking sector with special reference to some selected banks in Pune district.
10. A study of export procedure of Indian Agricultural product in WTO regime.
11. A study of Patent Act, 2005 with special reference to recent amendments.
12. A study of WTO and impact of HongKong ministerial conference on India.
13. The impact of WTO on Indian education.
14. A study of online trading of few selected broking companies in Pune.
15. A study of impact of WTO on international business.

16. A study of impact of trade marks on traders and consumers.
17. A study of general awareness of cyber cafe owners/occupiers about cyber law and cyber crime.
18. A critical analysis of the concept of 'Novelty' as an essential criteria of patentability: A study of UK, US and Indian position.
19. A study of concept of originality under copyright Law and judicial responses.
20. A study of working of Pune Police cyber cell.
21. A study of regulatory mechanism of foreign direct investment.
22. A study of benefits and limitations of internet banking.
23. A study of benefits and limitations of internet advertising.
24. A study of efforts of the government agencies in protection of bio-diversity.
25. A study of importance of protection of Intellectual property rights for Indian industries.
26. A study of RTI cases and its implementation.

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