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FOR CS EXECUTIVE EXAM PREPARATION

CS Executive 2024 Question Paper · Economic, Commercial and Intellectual Property Laws

EXAM	YEAR	TYPE
CS Executive	2024	Question Paper

SUBJECT
Economic, Commercial and Intellectual Property Laws

DATE
June 2024

NEW SYLLABUS

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Roll No. .....

Time allowed : 3 hours ***Maximum marks : 100***

Total number of questions : 6 ***Total number of printed pages : 8***

NOTE : *Answer* ***ALL*** *Questions.*

PART–I

1. ''Shardha Heights,'' a duly registered welfare society, took the proactive step of filing an application with the District Consumer Disputes Redressal Commission. The application was on behalf of 12 allottees who had encountered significant issues with Shobha Ltd. a real estate developer. These allottees alleged that despite booking units with Shobha Ltd. on various dates and making substantial payments towards the purchase, they had yet to receive possession of their properties.

However, the District Commission took a decisive stance, rejecting the complaint lodged by Shardha Heights. Their decision rested on the assertion that Shardha Heights lacked the necessary legal standing, or locus standi, to file such a complaint. 'The Commission reasoned that Shardha Heights did not qualify as either a 'Consumer' or a 'Recognised' consumer association' under the applicable regulations. In light of this setback, Shardha Heights is now seeking to appeal against the District Commission's ruling.

Considering the above statements, answer the following questions :

(*i*) Define Recognised Consumer Association as per Consumer Protection Act, 2019 ?

(*2 marks*)

(*ii*) Whether Shardha Heights is a 'Recognised Consumer Association' as per Consumer Protection Act, 2019 ? Explain.

(*2 marks*)

(*iii*) What is the Manner of filing Complaint to District Consumer Disputes Redressal Commission under Section 35 of the Consumer Protection Act, 2019 ?

(*3 marks*)

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(*iv*) Can complaint be filed before Consumer Commission online ? Explain.

(*2 marks*)

(*v*) To whom an Appeal can be filed by Shardha Heights against the order of District Consumer Disputes Redressal Commission and what is limitation period for doing so ?

(*2 marks*)

(*vi*) What are the restrictions on filing an appeal against the order of District Consumer Disputes Redressal Commission ?

(*2 marks*)

(*vii*) State the constitution of the District Consumer Disputes Redressal Commission.

(*2 marks*)

2. (*a*) ABC Bearing Limited along with other four companies, who are the key Competitors in the market decided among themselves to revise the prices to be quoted to Original Equipment Manufacturers (OEMs). Discuss whether this act amounts to Cartelisation under the Competition Act, 2002 ?

(*b*) Vinesh is a person resident outside India. He wishes to acquire the Immovable property in India for carrying on a permitted activity. Explain whether Vinesh can do so under Section 6(5) of the Foreign Exchange and Management Act, 1999 ?

(*c*) Mukesh is a manufacturer of 'Jaggry Powder' and brings this product into the market in the pre-packaged form but the Retail price and Quantity has not been mentioned on the Packet. Is it an offence under the Legal Metrology Act, 2009 ? If yes, what are the penalties for this offence ?

Will your answer be different if Mukesh mentions the wrong quantity on pre-packaged 'Jaggry Powder' ?

(*5 marks each*)

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3. (*a*) Rajeev booked a Flat in a housing scheme named 'Alpha Tower' Launched by Alpha Pvt. Ltd. by paying the booking amount and executing the 'Buyer's Agreement'. As per the Buyer's Agreement', Flat was to be delivered with 3 years of the Agreement but the promoters of the Company failed to deliver the Flat even after 5 years. Rajeev wants to withdraw from the project and wants the refund of amount paid. Discuss as per the provisions of Real Estate Regulation and Development Law whether Rajeev can withdraw from the Project ?

What is the remedy available to Rajeev, if he does not wish to withdraw from the project ?

(*b*) XYZ Ltd. has been granted approval by the Board of Approval for foreign collaborations and foreign direct investments (including investments by a person resident outside India) in the Special Economic Zone for its development, operation and maintenance. XYZ Ltd. has persistently defaulted in complying with the directions of the Board. What action can be taken by the Board of Approval against XYZ Ltd. under Section 10 of the Special Economic Zones Act, 2005 ?

(*c*) Gama is resident in India and citizen of India. He is going to receive the foreign contribution from US. Explain the foreign contribution and conditions under which he can receive such foreign contribution under Foreign Contribution (Regulation) Act, 2010 ?

(*5 marks each*)

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Attempt all parts of either Q. No. 4 or Q. No. 4A

4. (*a*) Discuss the power of survey by director under law relating to Fugitive Economic Offenders Act, 2018 ?

(*b*) What is the meaning of ''Deemed Exports'' for the purpose of Foreign Trade Policy (FTP) and Goods and Service Tax (GST). What are the benefits for Deemed Exports ?

(*c*) What is meant by ''Regulated Entities'' (REs) under the Prevention of Money-Laundering Act, 2002 ?

(*5 marks each*)

OR (Alternate question to Q. No. 4)

4A. (*i*) What is meant by Overseas Direct Investment (ODI) and Overseas Portfolio Investment (OPI) under Overseas Direct Investment ?

(*ii*) How is the Management of properties confiscated under the Law relating to Benami Transactions and Prohibition ?

(*iii*) What are the conditions for foreign investment in Limited Liability Partnerships (LLPs) ?

(*5 marks each*)

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PART–II

5. (*a*) India Tea Board owns the famous Geographical Indication ‘‘Darjeeling’’ and the logo of the woman holding the tea leaves, as well as the trademark ‘‘Darjeeling’’ under the Trademarks Act, regarding ‘‘tea’’.

ITC, Limited has used the ‘‘Darjeeling Lounge’’ as the name of its top lounge at its Kolkata hotel, ITC Sonar.

Tea Board of India filed a Lawsuit against ITC Ltd. that by using the word ‘‘Darjeeling’’ in one of its hotel resorts in Kolkata which is a breach of its landmark as well as well as a certificate mark as tea Board is the registered owner of the "Darjeeling" sign.

Tea Board of India moved an interlocutory application for temporary injunction for restraining the ITC Ltd. from using or conducting or making its business at the hotel by the name ‘‘Darjeeling Lounge’’. Application stated that usage of the word ‘‘Darjeeling’’ in the name and logo by defendants is passing off or attempting to pass off its business or services so as to discredit the fame of Darjeeling tea as a geographical indication and/or to mislead persons.

In light of the above, answer the following questions in the light of the Geographical Indications of Goods (Registration and Protection) Act, 1999 :

(*i*) Is the contention of the India Tea Board, that ITC Ltd. is engaging in Passing-off, correct ? Explain.

(*2 marks*)

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(*ii*) How a Geographical Indication is different from Trade Mark ?

(*2 marks*)

(*iii*) Can the Tea Board of India file a complaint against 'X' for selling tea varieties at the Railway station under the name 'Darjeeling Tea Stall' ?

(*2 marks*)

(*iv*) What if ITC Limited has been operating and using the 'Darjeeling Lounge' long before the enactment of the Act ?

(*2 marks*)

(*v*) What is punishment for applying false Geographical Indications ?

(*2 marks*)

(*b*) In the case of Bishwanath Prasad Radhey Shyam *Vs.* Hindustan Metal Industries, (1979) 2 SCC 511, it was held by the Hon'ble Supreme Court of India that the object of Patent law is to encourage scientific research, new technology and industrial progress. A limited-time grant of the only right to own, use, or sell a patented method or product encourages the development of new commercially useful inventions. The disclosure of the invention to the Patent Office, which becomes public domain after a predetermined duration of the monopoly, is the cost of the monopoly grant.

In Raj Prakash *Vs*. Mangat Ram Choudhary AIR 1978 Delhi l, it was held that inventive creation, as is notable, is to discover something or find something not found or found by anybody previously. It isn't essential that the invention ought to be anything confounded. The fundamental thing is that the creator was first to embrace it. The main issue in this manner, is that each basic creation is asserted, as in the form of novelty or new character, it will be considered as an invention and the cases & specifications must be perused in that light.

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Section 2(1) (ja) of the Patent Act, 1970 defines the term inventive step as to mean a feature of an invention that involves technical advance as compared to the existing knowledge or having economic significance or both that makes the invention not obvious to a person skilled in the art. Section 6 of the Act provides that who can make an application for a patent for an invention.

Consider the above statements, answer the questions :

(*i*) What are the criteria for patenting the invention ?

(*ii*) Are mathematical or business methods, computer programs per se, or algorithms patentable ? Explain.

(*iii*) What can be Patented ?

(*iv*) State any *two* advantages of patent.

(*v*) Ramchand invented a medicine and was about to apply for a patent. However, he passed away before applying. Can his legal representative apply for the patent ?

(*2 marks each*)

Attempt all parts of either Q. No. 6 or Q. No. 6A

6. (*a*) Amit, an Indian Resident, wants to make an application outside India for the grant of a patent for an invention. Explain whether he can apply outside India as provisions of the Patents Act, 1970 ? What will be your answer if the invention is relevant for defence purpose ?

(*5 marks*)

(*b*) Priya wants to start the trading of incense sticks (agarbattis, dhoops) and perfumeries as M/s Priya Perfumery. She made an application to the Registrar of Trade Marks to register a trade mark by name ‘‘RAMAYAN’’. State with reasons whether she will succeed in registering such a Trade Mark under the Trade Marks Act. 1999 ?

(*5 marks*)

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(*c*) Francis is a famous lyricist in India & world-wide. Sona, another lyricist copied a very catching phase from his song, there is likely to be infringement even if the phrase is very short. Mention the commonly known acts which are termed as infringement of copyright. Also discuss the penalties for infringement.

(*5 marks*)

(*d*) What are the absolute grounds for refusal of Registration of trade mark under Section 9(l) of the Trade Mark Act, 1999 ?

(*5 marks*)

OR (Alternate question to Q. No. 6)

6A. (*i*) What is the duration of the registration of a design ? Can it be extended ? How can the Registration of a Design be cancelled ?

(*ii*) What is meant by Trade Mark under the Intellectual Property Rights ?

(*iii*) ''Section 9 of the Geographical Indications of Goods (Registration and Protection Act, 1999 prohibits registration of certain geographical indications.'' Discuss.

(*iv*) ''The Registrar of Copyrights shall have the powers of a civil court when trying a suit under the Code of Civil Procedure, 1908''. Elaborate the statement in context with the Copyright Act, 1957.

(*5 marks each*)

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