

**NATIONAL LAW UNIVERSITY, DELHI**  
**LL.M. (Professional), Semester-I, (Batch of 2020-21)**  
**End-Term Online Assessment-2020**

**Paper: Introduction to Intellectual Property Laws**

**Time: 6:00 Hours**

**Total Marks: 100**

**Instructions:**

1. Answer All the questions.
2. No clarification shall be sought on the question paper.

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Q.1. A prominent politician hires a ghost writer to write an auto-biography. The contractual arrangements require waiver of moral rights (and not assignment) granted to authors under section 57 of the Copyright Act, 1957. In a few years, the ghost writer discloses in public that she was the actual author of the politician's biography and claims authorship of the biography as the ghost writer. The politician sues the ghost writer for contractual violation. She argues that contracts that require waiver of moral rights are against her right to property (i.e. to assert authorship of a work) from a Hegelian perspective. What would be your advice to the ghost writer and the politician on the theoretical underpinnings of contractual waiver of moral rights in the context of ghost writing from a Hegelian perspective?  
**(30 Marks: 1500 Words Max)**

Q.2. As trials for Covid-19 vaccine progresses through various stages, Shana Inc., develops a genetically modified (GM) Ferret which is susceptible of developing Covid-19 symptoms right at the time of their birth of the Ferret. The lung system of a Ferret is similar to any human being and hence its value for Covid-19 research. The invention was patented in many countries, including India, and was a valuable to many Covid-19 researchers who did not have to catch many Ferrets and test them for Covid-19 for further testing their vaccines on such Ferrets. Shana Inc. declares on its website that they are willing to provide a licence to any research institute on non-exclusive basis and with a simple royalty of \$1 per Ferret produced under the licence.

Astra-Ox, a vaccine research company- starts reproducing the technology by coming out with GM Ferrets without any licence from Shana Inc. to further test the vaccines on them. However, it does not commercialise or sell them to others in the market. Shana Inc., sues for infringement. Astra-ox claims a defence of research exemption under Section 47(3) of the Patents Act, 1970.

Shana Inc., claims that research exemption cannot be conceptually and legally interpreted to allow Astra-Ox to make or reproduce the invention for testing Covid-19 vaccines. Instead, Shana Inc., claims that research exemption would apply if Astra-Ox had conducted research 'on' the genetically modified Ferret to improve it. It claims that John Locke's right to its fruit of the labour does not allow Astra-Ox to infringement in the only market for a licence available to Shana Inc. However, Astra-Ox claims that such an interpretation violates the John Lock's sufficiency, spoilage and charity proviso, which acts a limitation to Locke's theory. Prepare your arguments defence Shana Inc., and Astra-Ox in support of limiting and broadly interpreting the research exemption from a Lockean perspective, including the provisos articulated by John Locke.

**(30 Marks: 1500 words max)**

Q.3. In the light of flexibilities available in the TRIPS Agreement to deal with Public Health, what are the implications of the Request for Waiver of WTO- TRIPS Obligations jointly made by India and South Africa towards suspension of “implementation, application and enforcement of Sections 1, 4, 5, and 7 of Part II of the TRIPS Agreement in relation to prevention, containment or treatment of COVID-19”. Should such a waiver be agreed by WTO Members? The Waiver Request is attached with this question paper.

**(40 Marks: 2000 words max)**