

GIRLS' HIGH SCHOOL & COLLEGE , PRAYAGRAJ

SESSION – 2020- 2021

CLASS – 12 -D

WORKSHEET -4

LEGAL STUDIES

CHAPTER – Intellectual Property

TOPIC – Geographical Indication of Goods and Design Act 2000

NOTE- Parents please ensure that your ward refers to the Websites to read the topic.

WEBSITES-

<http://www.un.org/United>

<http://www.wipo.int>

www.ipindia.nic.in

www.legalserviceindia.com

Chapter in brief-

Geographical Indication of goods- Certain goods, whether naturally found ,agriculturally cultivated or manufactured in a particular territory of a country or a region or locality have specific characteristics with regard to taste, aroma or quality .These goods are marked on the basis of their appellation of origin or geographical indication.

International Perspective of Geographical Indication-

- 1) Paris Convention- The Paris convention for the protection of industrial property refers the said protection not as geographical indication but as “indication of source or appellation of origin”. Articles 9 and 10 deals with geographical indication, as the former deals with seizure on importation of goods that unlawfully bear a mark or name, while the latter is more categorical when it provides that the provisions of the former shall apply in cases of direct or indirect use of a false indication of the source of the goods or the identity of the producer, manufacturer or a merchant.
- 2) Madrid Agreement- Article 1(i) of this agreement provides that any product bearing a false and deceptive indication by which one of the member countries of this agreement ,or a place situated within the territory of that member, is directly or indirectly indicated as the country or place of origin must be seized on importation into any member country of the agreement.

- 3) Lisbon Agreement-Article 2(1) of this Agreement defines the term “appellation of origin “ as geographical name of the country ,region or locality which serves to designate a product originating therein , the quality and characteristics of which are due exclusively or essential to the geographical environment including natural and human factor
- 4) TRIPS Agreement-Section 3 of this Agreement deals exclusively with the geographical indication under Article 22 to 24. Members are expected to provide legal names for interested parties to prevent false use, or any other use of the geographical indication , which may be regarded as unfair competition.

Registration of Geographical Indications- Registration of Geographical Indication is necessary to claim protection against infringement. Since it is a public property the mode and manner of its registration has been specifically laid down in the Act.

Who can file Application- The application shall mention the following details-

- a) A statement as to how the geographical indication serves to designate the goods as originating from the concerned territory of the country or region or locality in the country , as the case may be, in respect of specific quality ,reputation or other characteristics which are due , exclusively or essentially , to the geographical environment ,with its inherent natural and human factors , and the production ,processing or preparation of which takes place in such territory ,region or locality ,as the case be;
- b) The class of goods to which the geographical indication shall apply;
- c) The geographical map of the territory of the country or region or locality in the country in which the goods originate or are being manufactured;
- d) The particulars regarding the appearance of the geographical indication as to whether it is comprised of the words or figurative elements or both.
- e) Such other particulars as may be prescribed.

Effect of Registration- Registration confers right to institute legal proceedings against infringement .In case of unregistered geographical indication right to institute legal proceedings and recover damages is not available. However the right of action against any person for passing off goods as goods of another person is expressly saved in the Act .

When Geographical Indication is infringed (Section – 22)- A registered geographical indication is infringed by a person who, not being an authorized user thereof-

- a) Uses such geographical indication by any means in the designation or presentation of goods that indicates or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which misleads the persons as to the geographical origin of such goods ;or
- b) Uses any geographical indication in such manner which constitute an act of unfair competition including passing off in respect of registered geographical indication.

Remedies Against Infringement (section 67)- The court may grant following relief in any suit for infringement or for passing off good:

- i) Injunction
- ii) Damages or account of profit and/ or
- iii) Delivery up of the infringing labels and indication for destruction or erasure.

Designs Act 2000- Products which are artistically designed immediately attract the attention of customers . A design gives aesthetic sense and appearance to the product. When people go for selecting goods for their purchase may it be textile , electronic items, utensils, cosmetic items , jewellery etc, they get attracted by the shape and designs or goods or its container.

Development of Design law in India- In India the first law on designs enacted during regime was Patents and Designs Act 1872. Later the Invention and Designs Act 1888 was enacted to protect invention and designs. Thereafter , following the British Patent and Design Act ,1907 the Indian Patent and Designs Act 1911 was enacted. When a separate Patent Act was enacted in 1970 the provisions relating to patents were repealed from Patent and Designs Act,1911 and the Act was renamed as Designs Act 1911. This Act continued to deal with designs till the new Designs Act enacted in the year 2000.

Salient features of Designs Act 2000- The salient features of the Designs Act of 2000 may be summarized hereunder-

- a) It enlarges the scope of definition of ‘ article’ and ‘design’ and introduces definition of ‘original’
- b) It amplifies the scope of ‘prior publication’
- c) It incorporates the provision for delegation of powers of the Controller to other officers and duties of examiners.
- d) It contains provisions for identification of non- registrable designs .
- e) It introduces internationally followed system of classification in the place of Indian classification.

Registration of Designs- Essential Requirements of Registration;

- i) Novelty and Originality
- ii) No prior publication of design
- iii) Application of Design to Article

Who is entitled to seek Registration-

- i) Author of the design;
- ii) Any person who has obtained a design from author for good consideration
- iii) Any person on whom the design has devolved from the original proprietor.

Effect of Registration- When the design is registered , the proprietor of the design will be entitled to the following rights:

- i) The right to exclusive use of the design.
- ii) The right to protect the design from piracy.

Semiconductor Layout Designs- We are living in an electronic era. Semi conductor integrated circuits having transistors and other circuitry elements constitute essential part of any electronic product .Layout design of integrated circuit has been recognized as intellectual property.

Important Definition- a) Semiconductor integrated Circuit (Section – 2(r)) “Semiconductor integrated circuit” means a product having transistor and other circuitry elements which are inseparably formed on semiconductor material or an insulating material or inside the semiconductor material and designed to perform an electronic circuitry function.

b) Layout Design [Section 2(h)]- “Layout design” means a layout of transistor and other circuitry elements and includes wire connecting such elements and expressed in any manner in a semi conductor integrated circuit.

Registration- a) Who can apply (section -8) Any person claiming to be the creator of a layout design ,who is desirous of registering it, shall apply in writing to the Registrar in the prescribed manner for the registration of his layout design .Every application shall be filed in the office of the Semiconductor Integrated Circuits Layout Design Registry .The Registrar may refuse the application or may accept it absolutely or subject to such amendments or modification ,as he thinks fit.

Prohibition of Registration of certain layout Designs (Section-7) (1) A layout design-

- a) Which is not original ;or
- b) Which has been commercially exploited anywhere in India or in a convention country ,or
- c) Which is not inherently capable of being distinguishable from any other registered layout design shall not be registered as a layout design.

Duration of Registration- section 15- The registration of a layout design shall be for a period of ten years counted from the date of filling of application or from the date of first commercial exploitation anywhere in India or in any country ,whichever is earlier.

I Answer briefly each of the following questions:

1. Discuss the salient features of the Geographical Indication Act ,1999?
2. Discuss the difference between-
 - a) Geographical Indication and Trade Mark?
3. Discuss the historical evolution of Design law in India?
4. What is Layout Design ?
5. Explain briefly the duration of Registration under Layout Design Act?
6. Define infringement of geographical indication ?
7. Give two differences between Industrial Design and Layout Design?
8. Explain briefly the prohibition of registration under the Geographical Indication Act?
9. Who is entitled to seek registration under Design Act 2000?

Answer the questions in detail-

- 1) Explain the procedure for registration of geographical indication. When their registration is prohibited?
- 2) When layout design is said to be infringed ? What is the remedy for infringement?
- 3) What are the essential requirements for the registration of design under the Design Act , 2000?

THE END