

ROLL NO. \_\_\_\_\_

**TRADE MARKS AGENT EXAMINATION, 2023**  
**[Under Rule 148 of the Trade Marks Rules, 2017]**

**PAPER - II**

**TIME: 02.30 p.m. to 05.30 p.m. (Three Hrs.)**

**Max Marks 100**

**Instructions:**

1. This paper consists of 3 parts – Part A (20 Marks), Part B (30 Marks) and Part C (50 Marks).
2. All questions are compulsory.
3. Candidates should read the questions carefully before answering.
4. No clarification will be provided during the examination on any technical/ legal matter.
5. All references to "Act" and "Rules" may be read as the Trade Marks Act, 1999 and the Trade Marks Rules, 2017 respectively, as amended until now and their related applications.
6. Candidate is expected to quote relevant sections and rules as well as prescribed fees and forms in the answer, wherever required.

**PART A**

**4 questions X 5 marks = 20 marks**

- Q1. Discuss SIPP Scheme of the Trade Marks Registry and Role of facilitators with a view to support Startups.
- Q2. Mr. Sunil Bajaj is using his mark **BAJAJ** since 12.10.1992 and he has filed an application for registration of said mark on 15.02.2004. After publication of the mark in the Trade Marks Journal No. 2317, the proprietor of Well Known Trade Mark **BAJAJ** opposed the registration. Suppose you are the Trade Mark Agent for Mr. Sunil Bajaj how will you defend your client?
- Q3. Mr. Akhilesh applies for the trade mark '**ZIFFY**' for the manufacturing of bicycles in the state of Haryana. In its examination report an objection was raised under Section 11 of the Trade Marks Act, 1999 and the identical mark '**ZIFFY**' was cited. The cited mark is registered for the manufacturing of spare parts of the bicycles and its area of business is restricted to the state of Tamil Nadu and Karnataka. Whether the mark of Mr. Akhilesh can be registered? If yes, under what circumstances? Support your answer with relevant provisions of the Act and Rules.

Q4. Mr. Ajay approaches you for the registration of a word mark 'Whisquer' in class 33. What will you advise your client about its registrability in the applied class being his Trade Marks Agent?

**Part B**

**3 questions X 10 marks = 30 marks**

**orange<sup>TM</sup>**

Q5. M/s. Michel Pvt. Ltd. a company applied for a device mark for registration in class 25. During the examination stage, same is objected by the examiner under section 9(2)(a) and 11 of the Act. In the examination report, examiner cited word marks **ORANG** and **AURANGE**. Draft a reply to the examination report.

**GO  
SERVICES**

Q6. M/s. Aakash Pvt. Ltd. a company applied for a device mark for business management services in class 35. In the application, the company claimed to be the user of the applied trade mark since 01.08.2022. During the examination stage, same is objected by the examiner under section 9(1)(a) of the Act and called for a user affidavit. Draft a reply to the examination report alongwith the user affidavit.

Q7. M/s. Rakesh Pvt. Ltd. a company applied for a word mark **Kaveri** in class 29 for milk. During the examination stage, same is objected by the examiner under section 11 of the Act and cited in its report word mark **Kaweri** which is registered for Paneer in class 29. Draft a reply to the examination report with appropriate case laws.

Part C

2 questions X 25 marks = 50 marks

- Q8. The applicant Holvo Incorporation has filed the present application on 14.07.2016 for registration of the word mark '**HOLVO**' ("impugned trade mark") claiming use from 06.06.2016 for ' Door holder with catcher and hardware items being goods included in class 6', which was advertised before acceptance under proviso to section 20(1) of the Act in Trade Marks Journal No. 1077 on 01.10.2017 which was made available to the public on 16.11.2017.

**VOLVO**

The trade mark **VOLVO** was adopted by the Volvo Car Corporation (hereinafter referred to as opponent) on 05.05.1915. The opponent is the proprietor of the trade mark '**VOLVO**'. The trade mark '**VOLVO**' forms a key, essential and dominant part of the opponent's and its group of companies' corporate name and trading style and same is registered in India in various classes including class 6.

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Based on the given facts, draft a notice of opposition, and take all the possible pleas and assumptions in your pleadings to oppose the present application, also cite relevant sections and rules, if any.

- Q9. The applicant M/s. Polac India Private Limited, a company incorporated under the Companies Act, 1956 (hereinafter referred to as the applicant) filed an application for



registration of mark Polar Bear (Device) on 1<sup>st</sup> November, 2014 (hereinafter referred to as the application) in respect of 'Ice creams and other goods included in Class-30', claiming use of the mark since 30<sup>th</sup> September, 2012. The said application was examined and the mark was advertised before acceptance under proviso to section 20(1) of the Act subject to condition of 'No right to the words Ice cream

zone'. The said mark was published in Trade Mark Journal no. 1159 dated 15<sup>th</sup> April, 2015 and made available to the public on 2<sup>nd</sup> August, 2015.

The said application was opposed by M/s. Molar Private Limited (hereinafter referred to as opponent) who is engaged in the business of manufacture and trade of wide range of products like fans, water lifting pumps, wide range of home and kitchen appliances and lighting equipment. The opponent is the registered proprietor for device mark



under class 07, 11 and 21. In class 30 opponent's device mark POLAR is registered for the manufacturing of biscuits, tea, coffee, cakes, pastry and confectionery, bread. In its notice of opposition, it is contended that the applicant's mark is identical with and deceptively similar to the opponent's trade mark. Further, that the impugned goods are of same/ similar/ allied/ cognate description to the said goods and business of the opponent and the registration of applicant's mark would cause confusion and deception in the market and trade, and injury to the opponent's said trade and business. It may create an impression in the minds of trade and public that they are opponent's licensees in India or that they are in some way associated with the opponent. Further that the business activity of the applicant and the opponent are same, similar or that right of the opponent also extend to the business activity of the applicant which are allied and cognate in nature to that of the opponent. Hence, the opponent prays that the registration of the applicant's mark should be refused under section 9, 11 and 18 of the Act.

Based on the given facts, draft a counter statement, and take all the possible pleas and assumptions in your pleadings to rebut the arguments of the opponent, also cite relevant sections and rules, if any.

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