**CHAPTER 28-INTELLECTUAL PROPERTY**

**TRUE/FALSE**

1. A patent is available for an idea as well as a tangible application.

2. A copyright is valid for 28 years after it is obtained and can be renewed for another 28 years.

3. Provisional patents are good for one year.

4. A patent must be novel, nonobvious and useful..

5. Trademark owner and Famous people have the right to sue to get a their name which has been registered as a domain name which was registered in bad faith.

6. The first person to use a mark in trade, owns it.

7. Unlike with patents, the ideas underlying copyrighted material need not be novel.

8. Under the "fair use doctrine," instructors cannot be liable for copyright violations.

9. Southern Bar-B-Q owns a special, secret recipe for sauce which it guards because it gives the restaurant a competitive advantage. If Mort willfully misappropriates the recipe, a court may hold him liable to Southern for double damages.

10. The name “Johnson” cannot be a trademark because a surname is already being used and other people have the right to continue to use the name.

11. The Patent and Trade Office will register even lewd and pornographic images.

12. Christy and Sylvester trade movies by downloading each other’s movie files. If the copyrighted material has a retail value greater than $1,000, Christy and Sylvester are subject to criminal penalties under the No Electronic Theft Act, even if they had no profit motive in reproducing the movies.

13. If a trademarked name acquires a generic meaning, the owner of the trademark loses protection.

14. Anyone has the right to submit evidence that a patent is not novel.

15. A color cannot be trademarked since it cannot be kept from use by other businesses.

**MULTIPLE CHOICE**

1. The requirements for a patent include all EXCEPT:

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| a. | the invention must be novel. |
| b. | the invention must be nonobvious. |
| c. | the invention must be commercially valuable. |
| d. | the invention must be useful. |

2. The advantages of trademark registration include all EXCEPT:

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| a. | potential damages are higher. |
| b. | after five years the mark becomes almost impossible to challenge. |
| c. | it allows the trademark owner to use the TM symbol to put others on notice of the protection. |
| d. | the mark is valid nationally. |

3. Which of the following is correct?

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| a. | A copyright can be renewed once it expires. |
| b. | A patent can be renewed once it expires. |
| c. | A trademark can be renewed as long as the mark is still in use. |
| d. | None of the above. |

4. In order for a copyright holder to collect money damages from a person who used copyrighted material, it must be proven that:

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| a. | the infringement was intentional. |
| b. | the copyright holder sustained more than $500 in actual damages. |
| c. | the copyrighted material contained the copyright symbol, name of the copyright holder, and the year of copyright. |
| d. | None of the above. |

5. Janice wrote a song called "Feelings of Love." She wrote the piano score and lyrics for a class she was taking at college and turned it into her professor.

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| a. | Janice's song was automatically copyrighted when she wrote it down on paper. |
| b. | If Janice wishes to enforce her copyright, she must first register her song with the Copyright Office. |
| c. | Both of the above are correct. |
| d. | Neither a nor b. |

6. In *Lapin v. Seinfeld* the issue was whether:

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| a. | a vaguely similar approach could be used as copyright infringement. |
| b. | the use of macaroni and cheese was a copyright infringement |
| c. | The name of two books had to be substantially |
| d. | whether a paperback and a hardcover were the same category in copyright law |

7. Nike’s “Just do it” is an example of a:

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| --- | --- |
| a. | trademark. |
| b. | patent |
| c. | copyright |
| d. | domain name |

8. Which of the following words could be registered as a trademark?

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| a. | Crunchy peanut butter. |
| b. | Low-fat peanut butter. |
| c. | Green peas. |
| d. | yStar peanuts. |

9. Intellectual property:

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| --- | --- |
| a. | producers are likely to be adequately paid in the free market. |
| b. | production is not subsidized by the government. |
| c. | typically is expensive to produce but cheap to reproduce and transmit. |
| d. | typically is expensive to produce, copy, and transmit. |

10. Richard wrote a song called "College Days." He copyrighted the composition and had it professionally printed. A couple years later he was attending a business meeting about 1500 miles from his home. While sitting in a nightclub, he heard a small local band perform a song called "College Memories." The music and words were extremely similar to his song. The composer of "College Memories" claims he never heard of Richard's song and that she is offended he would accuse her of stealing his work. If Richard wishes to sue for copyright infringement, he must prove:

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| a. | only that his song and the infringer's song are substantially the same. |
| b. | that his work was original, and the infringer actually copied his work or that the infringer had access to his song and that the two works are substantially the same. |
| c. | that he sustained money damages as a result of the infringement. |
| d. | that he registered the song for a copyright. |

11. If you buy a CD you do not like you are entitled to:

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| --- | --- |
| a. | Financial damages |
| b. | Sell it to anyone you want |
| c. | Copy it to your hard drive and then sell the physical CD. |
| d. | None of the answers are correct |

12. The law that protects Jack’s secret sauce is:

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| a. | America Invents Act |
| b. | Uniform Trade Secrets Act |
| c. | Anticybersquatting Consumer Protection Act |
| d. | The Lanham Act |

13. What is the name of the treaty that allows American patents to be recognized and enforced in member countries?

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| --- | --- |
| a. | The Paris Convention for the Protection of Industrial Property. |
| b. | The International Treaty of Trademarks and Patents. |
| c. | The World Agreement of London. |
| d. | The Berne Convention. |

14. Jack goes to Fast Copy Center and pays to have 40 copies of a textbook made. Jack then sells the photocopied versions of the book to fellow students for $60 a copy (as opposed to the $95 textbook price). The textbook author learns of this and sues Jack and the copy center. Which statement is correct?

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| --- | --- |
| a. | Jack and the copy center are both liable to the author. |
| b. | Jack is liable to the author but the copy center is not. |
| c. | The copy center is liable to the author but Jack is not. |
| d. | Neither the copy center nor Jack is liable to the author. |

15. A college professor copies seven chapters from a book called "How to Get Better Grades—A Creative Approach to College Success!" There are ten chapters in the book. She incorporates this material into a packet of material that is printed in her college's copy center. The packet is then placed in the local book store and is placed on the required materials list for students to purchase. The author of the book on getting better grades believes the professor has violated his copyright.

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| a. | The author is right. The professor should not have copied the chapters and placed them for sale in the bookstore. |
| b. | The author is technically correct. However, even though an infringement occurred, he cannot sue the professor since educational personnel are exempt from liability under copyright law. |
| c. | The author is not correct. Under the "fair use doctrine" a college professor can copy material and distribute it to students for educational purposes. |
| d. | The author is not correct. It does not appear that the professor actually made any money from the alleged copyright infringement. |

16. Monic, a college professor, makes 30 photocopies of a magazine article and passes the article out to her students. The students are assigned to read the article and write an opinion paper about it. Has Monic violated copyright law?

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| --- | --- |
| a. | Yes. Though the author will probably not enforce his or her rights under this situation, Monic has technically violated federal copyright law. |
| b. | Yes. Though educators have a right under the "fair use doctrine" to make limited use of copyrighted materials, Monic violated the law when she made photocopies of an entire article and distributed them to her students. |
| c. | No. Monic has acted within the fair use doctrine. |
| d. | No, as up to 50 photocopies of articles are always permissible. |

17. Ernest invents a novel, useful, nonobvious product. He:

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| --- | --- |
| a. | must apply for a patent within one year of selling the product commercially. |
| b. | is entitled to a patent over someone else who invents the same product if he is the first to file an application. |
| c. | may receive patent protection for two years by filing a simpler, shorter, cheaper provisional patent application while he is working on his complex, regular patent application. |
| d. | may sell his product for up to five years to see how well it sells before going through the complex process of filing a patent application with the PTO Office. |

18. In the first decade of this century, music sales at American record labels declined by:

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| a. | 58% |
| b. | 3% |
| c. | 75% |
| d. | 20% |

19. The law that protects financial services from being infringed on is:

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| --- | --- |
| a. | America Invents Act |
| b. | Uniform Trade Secrets Act |
| c. | Anticybersquatting Consumer Protection Act |
| d. | The Lanham Act |

20. International copyright protection:

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| a. | is automatic for works created in member countries of the Berne Convention. |
| b. | is granted for the life of the author plus 70 years under the Berne Convention. |
| c. | is not yet available for computer programs. |
| d. | lacks any enforcement capability for overseas infringement of works authored in the United States. |

21. The Digital Millennium Copyright Act:

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| a. | It is illegal to delete copyright information from an article |
| b. | It is illegal to circumvent encryption or scrambling devices that protect copyrighted works |
| c. | It is illegal to distribute tools and technologies used to circumvent encryption devices |
| d. | all of these answers are correct |

22. Victoria registered a trademark under the Lanham Act. Six years later Don noticed Victoria's trademark and filed a lawsuit to enjoin her from using it. He proved he had registered the mark in several states more than ten years before Victoria obtained her trademark. Will Don prevail?

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| a. | Yes. Don did not have to register the trademark to enforce it. |
| b. | Federal law specifically states a federal trademark is not valid for any lawful owner of the same mark under state law. |
| c. | No. Don will not prevail and Victoria can continue to use the mark. |
| d. | None of the above. |

23. Which of the following started out as a trademark name?

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| --- | --- |
| a. | Zipper. |
| b. | Linoleum. |
| c. | Nylon. |
| d. | All the above. |

24. A company's trade secret lasts for:

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| --- | --- |
| a. | 20 years after the application is filed. |
| b. | 70 years after the death of the creator. |
| c. | 10 years, but it can be renewed for an unlimited number of terms as long as it is used. |
| d. | as long as it is kept confidential. |

25. A trademark lasts for:

|  |  |
| --- | --- |
| a. | 20 years after the application is filed. |
| b. | 70 years after the death of the creator. |
| c. | 10 years, but it can be renewed for an unlimited number of terms as long as it is used. |
| d. | as long as it is kept confidential. |

**ESSAY**

1. Rick wrote a song entitled "Wonderful." At the bottom of the first page of music he wrote "© 1990 by Rick Reed." Four months later a local band was playing his song at a bar. Rick felt that the bar was an inappropriate setting for his music. What is his remedy?

2. Explain what a domain name is. Discuss if and how a domain name can be registered as a trademark or if a trademark can be registered as a domain name.

3. Identify the main provisions of the Digital Millennium Copyright Act and two arguments opponents of the Act raise.

4. Briefly discuss a patent, copyright, and trademark.

5. Derrick buys a CD, but after listening to it, decides he doesn’t like the music. May he legally sell the CD to someone else? If he thinks his cousin would enjoy the music, may he legally copy the CD for her?