

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

1) Which of the following are features of the Australian copyright protection system in relation to Part 111 of the *Copyright Act 1968*?

- A) An original work is automatically protected from the date the work is created.
- B) There is no copyright registration system.
- C) The first creator of an original work is protected.
- D) All of the above.
- E) A and B above only.

Answer: D

2) Which of the following criteria must be satisfied before a work can be protected by copyright?

- A) A work has been 'published' or 'made'.
- B) The creator is the first person to make or publish the work.
- C) The author (creator) must be 'qualified'.
- D) The work is original.
- E) All of the above.

Answer: E

3) Which of the following are tests for whether a copyright work has been substantially copied?

- A) How much did the defendant's work compete with that of the plaintiff?
- B) What was the defendant's purpose?
- C) Has there been a substantial reproduction of this copyright work?
- D) All of the above.
- E) A and B only.

Answer: D

4) The following items are original creations which have not previously been subject to a copyright claim. Which of these items would probably not be recognised as a literary work under Part 111 of the *Copyright Act 1968*?

- A) A title of a book.
- B) A program for a school musical program that includes a list of the main cast members and their hobbies.
- C) A computer program.
- D) A list of winning lotto numbers.
- E) All of the above.

Answer: A

5) Which of the following statements about Part IV Copyright is not true?

- A) Copyright usually runs for 70 years from when the Part IV material is first published or broadcast.
- B) A motel owner who transmits a video movie to a guest's room is probably screening it to the public.
- C) The product must be the first to be made or published in Australia.
- D) Copyright holders are usually creative individuals, such as writers, directors and inventors.

Answer: D

- 6) Which of the following statements is true in regard to the duration of copyright?
- A) Copyright in Part III work usually runs for 70 years plus the lifetime of the publisher and in a Part IV work for 70 years from the date of the author's death.
 - B) Copyright in a Part III work usually runs for 70 years from the year of the author's death and in a Part IV work for 70 years from the date of publication.
 - C) Copyright in Part III and Part IV works usually runs for 70 years from the date of publication.
 - D) Copyright in Part III and Part IV works usually runs for 70 years from the date of the first commercial payment received from the publisher.

Answer: B

- 7) Under Part 111 of the *Copyright Act 1968*, copyright in a film script written in 2006 will run for:
- A) as long as the author's children are alive.
 - B) 70 years from the year of the author's death.
 - C) one year.
 - D) 70 years from the date the script is published.

Answer: B

- 8) A copyright owner cannot legally assign (transfer) copyright unless the assignment is made by:
- A) a sworn affidavit executed with the benefit of independent legal advice.
 - B) a verbal agreement with adequate consideration.
 - C) a written signed agreement.
 - D) a verbal agreement.

Answer: C

- 9) You do not require the permission of a person who owns copyright in material if you:
- A) copy up to about 10 per cent percent for research, study or news reporting.
 - B) copy all of the material purely for the personal use by yourself and your close friends.
 - C) use it in a public performance for a school or charity.
 - D) make the material available on the Internet for free.

Answer: A

- 10) The minister responsible for the All Saints Church Hall allowed it to be used for a performance of the musical 'Jesus Christ Superstar'. The producers did not have copyright permission to present the musical. Which of the following defences would protect the minister and the church from an action for infringement of copyright?
- A) The producers of the musical charged only \$1 per ticket.
 - B) The minister reasonably suspected the performance would not infringe copyright.
 - C) The minister honestly believed the performance would not infringe copyright.
 - D) A or B above.

Answer: B

- 11) Persons who use copyright material without the owner's permission will not infringe copyright if they use it for:
- A) public performances at premises where people reside or sleep.
 - B) multiple photocopying and they represent an educational institution.
 - C) copying artistic works on permanent display.
 - D) 'fair dealing' purposes, such as research and study.
 - E) all of the above.

Answer: E

- 12) In an intellectual property action the remedy of an 'account of profits' gives a successful plaintiff the right to:
- A) the net (and sometimes the gross) profits that were made by an infringer.
 - B) the net profits that were made by an infringer.
 - C) examine the accounts of the infringer and claim 15 per cent of any profit made.
 - D) examine the accounts of the infringer and claim 50 per cent of any profit made.

Answer: A

- 13) A design is not eligible for registration if it:
- A) has features or a shape.
 - B) is applied to an article of manufacture.
 - C) is a method of construction.
 - D) is an adaptation of an old design.

Answer: C

- 14) What is the total period of time for which a design can be registered?
- A) 13 years.
 - B) 16 years.
 - C) 15 years.
 - D) 10 years.
 - E) none of the above.

Answer: D

- 15) An Australian artist has agreed to allow the Range Rover company to reproduce one of her paintings on the bodywork of a new Range Rover model. Which of the following statements is true regarding her intellectual property rights in relation to the painting?
- A) She has lost the right to control the use of the painting in relation to motor vehicle.
 - B) Under the Designs Act the artist is entitled to a yearly fee from Range Rover.
 - C) The artist has lost her copyright in relation to the painting.
 - D) Her copyright allows her to control any other use of the painting.

Answer: C

- 16) Which of the following statements is not true regarding standard patents?
- A) Standard patents can be used to protect pharmaceutical products.
 - B) Standard patents are used to protect major inventions.
 - C) An applicant for a standard patent must submit complete specifications to the Patents Office.
 - D) Standard patents run for up to six years.

Answer: D

- 17) A patent may be granted for an invention which:
- A) is a new manner of manufacture.
 - B) is new.
 - C) is useful.
 - D) satisfies all of the above features.
 - E) satisfies A and B.

Answer: D

- 18) Which of the following statements about patents is not true?
- A) An innovation patent can apply to virtually all types of inventions
 - B) A standard patent can 'run' for a maximum period of 20 years (25 for pharmaceutical products).
 - C) A standard patent cannot be granted if someone has previously patented, tried to patent or published details about the invention anywhere in the world.
 - D) An innovation patent can run for a maximum period of six years.

Answer: A

- 19) The owner of an original invention who has not yet applied for patent protection has demonstrated it to potential investors at two public meetings. Could the owner be denied a patent registration because of these demonstrations?
- A) Yes. It is illegal to make any fundraising efforts of any kind before the patent has been granted.
 - B) Yes. An invention that has been publicised in any way may be denied registration.
 - C) No, provided the owner did this within the grace period that is allowed prior to the filing of a complete application.
 - D) No, provided the demonstration did not involve any commercial purpose, such as selling the invention to consumers.

Answer: C

- 20) The main feature of a sole licence for the manufacture of an invention is that:
- A) the patent holder agrees to give the licensee exclusive rights but retains the personal right to exploit (use) the patent.
 - B) the patent holder agrees that only the licensee has the right to exploit the invention.
 - C) the licensee agrees that confidential reports on the progress of the manufacturing development will go solely to the patent holder.
 - D) the patent holder grants the licensee the sole rights to negotiate with retailers.

Answer: A

- 21) When the international symbol TM is placed next to a trademark this indicates that:
- A) someone is claiming intellectual property rights over that mark.
 - B) the mark has been officially registered as a trademark.
 - C) the mark will soon become a registered trademark.
 - D) all of the above.

Answer: A

- 22) Which of the following statements is true concerning the differences between a registered trademark and a registered business name?
- A) It is compulsory to register trademarks but not business names.
 - B) It is compulsory to register both trademarks and business names but a registered business name provides more protection.
 - C) A registered business name applies across Australia. A registered trade mark applies to one state or territory.
 - D) It is compulsory to register business names but not trademarks.

Answer: D

- 23) Which of the following 'signs' could be eligible for registration as a trade mark?
- A) a distinctive combination of colours.
 - B) a distinctive sound or sounds.
 - C) a distinctive shape.
 - D) a distinctive smell.
 - E) all of the above.

Answer: E

24) *Lycra* is a registered trademark. The company that is the registered proprietor of the mark encourages consumers to use the general term *Spandex* to describe the material used in *Lycra*. The company does this because:

- A) *Spandex* is an easier term for consumers to remember.
- B) The company has a registered copyright over the term *Spandex*.
- C) *Spandex* is a safer type of material.
- D) The company may lose its registration if *Lycra* becomes the common or generic term for the material.

Answer: D

25) What is the name of the case where the High Court decided that the words 'pressure pak' were not registrable as a trade mark because they were generally descriptive of the product to which they were applied?

- A) *Samuel Taylor v Registrar of Trade Marks*.
- B) *Re Dunn's Trade Marks*.
- C) *Louie the Fly Pty Ltd v Registrar of Trade Marks*.
- D) *Targets Pty Ltd v Target Australia Pty Ltd*.

Answer: A

26) Which of the following 'signs' will usually not be eligible for registration as a trade mark?

- A) A sign incorporating the word 'Royalty'.
- B) An unauthorised use of the Olympic rings symbol.
- C) A sign showing a drug user injecting heroin.
- D) All of the above.
- E) A and B only.

Answer: D

27) Harriett Hilton, an industrial designer, has produced a new range of sunglasses and is considering registering a trade mark for them. Which of the following marks is most likely to qualify for registration?

- A) Harriet's Glasses.
- B) Harriett's Sunglasses.
- C) Harriett's Sunsafe Sunnies.
- D) Harriett's Line.

Answer: D

28) Which of the following is an example of a defensive trade mark?

- A) The name 'Lotto' used in relation to gambling.
- B) The name 'Coca-Cola' used in relation to motor vehicles.
- C) The name 'Nike' used in relation to sporting equipment.
- D) The name 'McDonalds' used in regard to fast food.

Answer: B

29) 'Sportsgal' is an unregistered trade mark of a clothing company that has been operating for ten years in the town of Catherine in the Northern Territory. Another clothing company that has owned the registered trade mark 'Sportsgirl' since 2007 wants to open a store in Catherine. Which is the most likely legal outcome?

- A) 'Sportsgirl' must operate under a different name in Catharine.
- B) Both 'Sportsgal' and 'Sportsgirl' may operate in Catherine.
- C) Both 'Sportsgal' and 'Sportsgirl' will have to operate under different names in Catharine.
- D) 'Sportsgal' must operate under a different name in Catharine.

Answer: A

30) Which of the following types of intellectual property rights receive international protection?

- A) Patents.
- B) Copyright.
- C) Trademarks.
- D) All of the above.
- E) A and B only.

Answer: D

31) A plaintiff who relies on s 18 of the *Australian Consumer Law* when suing for infringement of intellectual property rights will gain which of the following advantages?

- A) The plaintiff is not required to prove the defendant intended to mislead the customer.
- B) The court has access to a wide range of penalties.
- C) The plaintiff is not required to prove the defendant's conduct caused actual loss or damage.
- D) All of the above.

Answer: D

32) Passing off is a tort action where persons wrongly claim that their goods or services:

- A) satisfies implied terms, such as being of merchantable quality.
- B) are associated with other goods or services with an established reputation.
- C) have been approved by statutory authorities.
- D) all of the above.

Answer: B

33) In the case of *Cadbury-Schweppes v Pub Squash Pty Ltd.*, a rival manufacturer of the soft drink 'Solo' used a similar:

- A) marketing campaign.
- B) soft drink can.
- C) brand name.
- D) all of the above.
- E) A and B only.

Answer: E

34) The courts found there had been passing off involving imaginary characters in which of the following case(s)?

- A) *Hogan v Koala Dundee Pty Ltd.*
- B) The '*Duff Beer*' case.
- C) *Pacific Dunlop v Paul Hogan.*
- D) All of the above.
- E) A and B only.

Answer: D

35) Which of the following types of statutory protection intellectual property are NOT protected by a registration system?

- A) Patents.
- B) Trademarks.
- C) Designs.
- D) Copyright.

Answer: D

36) To succeed in a common law action for breach of confidentiality (breach of confidential information), the plaintiff must satisfy several requirements. Which of the following is not one of those requirements?

- A) The information was the original property of the plaintiff.
- B) The defendant was under an obligation to keep the information confidential.
- C) There was unauthorised use of the information.
- D) The information involved an original idea expressed in a material form.

Answer: D

37) Manton has been sued for breaching confidential information which he was not authorised to release. He honestly but wrongly believed he had permission to release the information. What is the most probable legal outcome?

- A) Manton has a valid legal defence.
- B) Manton has a valid legal defence if he can also prove that the information was not recorded in a material form.
- C) Manton does not have a valid legal defence.
- D) Manton has a valid legal defence if he can also prove he did not receive any reward for releasing the information.

Answer: C