

Fundamentals of IP — Fall 2003

Quiz 1

Match each numbered item with its corresponding description; use each letter only once.
[These samples show correct answers, i.e. 1 is A; 2 is B....]

- | | |
|--|-------------------------|
| _____ 1. Machlup | _____ 6. Evans |
| _____ 2. Abramson | _____ 7. O'Reilly |
| _____ 3. Paper Bag | _____ 8. Tilghman |
| _____ 4. Scott Paper | _____ 9. Flick-Reedy |
| _____ 5. Wilson, Keeler & Talking Pictures | _____ 10. White & Festo |

- A. Patents were granted at least as early as the 1400s.
 - B. Quotes the patent and copyright clause of the Constitution.
 - C. U.S. patentees generally have no obligation to use or permit others to use their inventions.
 - D. Once a patent expires *anyone* is free to use the claimed technology.
 - E. Those who buy patented goods from an authorized seller may repair and resell them.
 - F. A patent that failed to distinguish unprotected technology was invalid.
 - G. A claim related to the electrical transmission of signals was too broad.
 - H. A chemical process claim was *not* too broad.
 - I. Valid patents must disclose information needed to practice the invention.
 - J. Patent claim scope is sometimes, but not always, liberally construed.
-

Quiz 2

- | | |
|----------------------------|--------------------------|
| _____ 1. Funk Bros. | _____ 6. Brenner |
| _____ 2. Chakrabarty | _____ 7. Fregeau |
| _____ 3. Diehr | _____ 8. 35 U.S.C. § 161 |
| _____ 4. Merrill Lynch | _____ 9. 35 U.S.C. § 112 |
| _____ 5. State Street Bank | _____ 10. CCPA |

- A. Held an aggregation of non-interacting components to be unpatentable.
- B. Regarded nearly anything “under the sun” as patentable.

- C. Did not regard newly discovered natural laws (or algorithms) to be part of the prior art.
 - D. Unlike the U.S. law, the British patent statute excludes specific subject matter.
 - E. Methods of doing business are patentable in the USA if they otherwise meet patent criteria.
 - F. A process for making something with no known use is unpatentable.
 - G. Inventions must perform as represented before they can be patented.
 - H. Permits patents for things that are found in nature.
 - I. Valid patents must disclose how to practice inventions and claim them precisely.
 - J. Predecessor to the Federal Circuit Court of Appeals.
-

Quiz 3

- | | |
|-------------------|------------------|
| ___ 1. Cortright | ___ 6. Group One |
| ___ 2. Juicy Whip | ___ 7. Eibel |
| ___ 3. Pennock | ___ 8. Graham |
| ___ 4. Digital | ___ 9. Adams |
| ___ 5. Pfaff | ___ 10. Oddzon |

- A. A patent was obtained for an invention of doubtful commercial value.
- B. Possible consumer deception does not make an invention unpatentable.
- C. An early case holding that inventors may lose rights for filing after commercialization.
- D. The PTO has limited ability to assess whether information was fraudulently withheld.
- E. The § 102(b) bar may apply even though the invention has never been made.
- F. Offers to assign rights in a patents differ from offers to sell inventions themselves.
- G. A patentable change in an old product need not be large if it is unobvious.
- H. The courts invalidated patents for obviousness before there was a statutory basis.
- I. Plaintiff's patent was valid because his battery offered unexpected advantages.
- J. Confidential information may sometimes qualify as prior art.

Quiz 4

- | | |
|-----------------------|--------------------------|
| _____ 1. Morton Salt | _____ 6. Kellogg |
| _____ 2. Mallinckrodt | _____ 7. Sears & Roebuck |
| _____ 3. Lifescan | _____ 8. Vornado |
| _____ 4. Jazz Photo | _____ 9. Traffix |
| _____ 5. Singer | _____ 10. Wheaton |

- A. Requiring use of unpatented products was patent misuse.
 - B. Purchasers do not always have the right to recondition patented products.
 - C. Requiring use of unpatented products was not patent misuse.
 - D. Foreign sales do not exhaust U.S. patent rights.
 - E. Plaintiff's company name was seen as the generic name for its product.
 - F. Plaintiff's mark for its cereal was seen as the generic name for the product.
 - G. State law may not be used to prevent competitors from copying unpatented goods.
 - H. Section 43(a) was not useful for preventing imitation of a previously patented fan.
 - I. Section 43(a) may be used to halt imitation of non-functional aspects of patented products.
 - J. Plaintiff's common law copyright ceased at the time his books were published.
-

Quiz 5

- | | |
|--------------------|---------------------------|
| _____ 1. Baker | _____ 6. Masquerade |
| _____ 2. Morrissey | _____ 7. Oddzon |
| _____ 3. Lotus | _____ 8. Br. Leyland |
| _____ 4. Bleistein | _____ 9. Feist |
| _____ 5. Mazer | _____ 10. 17 U.S.C. § 101 |

- A. A bookkeeping method was not protected by copyright.
- B. Even the way rules were expressed was not protected by copyright.
- C. A concurring opinion explained why keyboard organization is uncopyrightable.
- D. Posters are copyrightable despite being used for advertisement.

- E. That design patents are available does not mean that copyrights are not.
 - F. If an object's utility lies solely in its appearance, it is copyrightable.
 - G. A toy was uncopyrightable for lack of (copyrightable) originality.
 - H. Although drawings were not directly copied, copyright infringement was found.
 - I. Originality is a constitutional requirement.
 - J. Defines terms such as "children" and "fixed".
-

Quiz 6

- | | |
|-------------------------|---------------------|
| ___ 1. Bridgeman | ___ 6. Tasini cases |
| ___ 2. Morelli | ___ 7. ABKCO |
| ___ 3. Oddo | ___ 8. Benson |
| ___ 4. Konigsberg | ___ 9. Kisch |
| ___ 5. CCNV & Food Lion | ___ 10. Lipton |

- A. That a picture has been registered does not mean that it is copyrightable.
- B. The Copyright Office sometimes refuses to register works.
- C. Statutory damages are unavailable if registration does not satisfy § 412.
- D. Written agreements are usually needed to transfer copyright.
- E. The Restatement (Second) of Agency was cited as authority.
- F. Freelance articles may not be included in databases without authors' permission.
- G. Copying infringed even it was not deliberate.
- H. Proof of similarity and possible access were not strong enough to infer infringement.
- I. One may infringe copyright in an image by copying it indirectly (using its subject).
- J. Copying unauthorized copies has the same consequences as copying originals.

Quiz 7

- | | |
|-----------------------|--------------------|
| _____ 1. Mirage | _____ 6. Campbell |
| _____ 2. Lee | _____ 7. Princeton |
| _____ 3. Belcher | _____ 8. Ty |
| _____ 4. Keep Thomson | _____ 9. § 107 |
| _____ 5. Sony | _____ 10. § 109 |

- A. Reproduction of a work may be unnecessary for infringement.
 - B. Rejected the Ninth Circuit's view of § 106(2).
 - C. Copyright enforcement was allowed despite unclean hands.
 - D. Political use of another's work was fair.
 - E. Basic contributory infringement law was devised by the courts.
 - F. Basic fair use law was devised by the courts.
 - G. Agents may not get the benefit of fair use defenses available to those for whom work is done.
 - H. Including photos of copyrighted works in a buyer's guide may be fair.
 - I. The authoritative source of general fair use law.
 - J. Owners of copies of most works can sell or rent them without infringing copyright.
-

Quiz 8

- | | |
|-----------------------|------------------------|
| _____ 1. Sandoval | _____ 6. Peabody |
| _____ 2. Olan Mills | _____ 7. Tabor |
| _____ 3. LaMacchia | _____ 8. duPont |
| _____ 4. NFL v. White | _____ 9. Metallurgical |
| _____ 5. Napster | _____ 10. Hoechst |

- A. Distinguishes fair and de minimus copyright uses.
- B. One whose photographs is taken is unlikely to be a joint author.
- C. Was the inspiration for the NET Act.
- D. The Copyright Act does not require an award of attorney fees.

- E. Contributory infringement was found.
 - F. Confidential disclosure to employees does not forfeit secrecy.
 - G. Particular inventions may enjoy both patent and trade secret protection.
 - H. A famous example of industrial espionage.
 - I. Confidential disclosure to non-employees does not forfeit secrecy.
 - J. That the public might have seen a document does not forfeit its secret status.
-

Quiz 9

- | | |
|----------------------|--------------------------|
| ___ 1. Weigh Systems | ___ 6. 1st Downey appeal |
| ___ 2. Kewanee | ___ 7. 2d Downey appeal |
| ___ 3. Group One | ___ 8. Aronson |
| ___ 4. Chou | ___ 9. ProCD |
| ___ 5. Taborsky | ___ 10. Bowers |

- A. Generally available information was held not to be secret.
 - B. The Supreme Court cited DuPont v. Christopher with apparent approval.
 - C. The Federal Circuit applied Missouri trade secret law.
 - D. A graduate student had the right to have inventorship corrected.
 - E. Misappropriating trade secrets may be criminal under state law.
 - F. Whether a marketing idea was improperly used was for a jury to decide.
 - G. An outsider who submitted a marketing idea was not entitled to compensation for its use.
 - H. Outsiders may be entitled to compensation even after their idea becomes well known.
 - I. A contract restricting use of a data base was not preempted by copyright law.
 - J. A contract forbidding reverse engineering was not preempted by copyright law.
-

Quiz 10

- | | |
|---------------|------------------|
| ___ 1. Bonito | ___ 6. Manhattan |
| ___ 2. NBA | ___ 7. Taylor |

___ 3. Berge

___ 8. Harmon

___ 4. The Trade-Mark Cases

___ 9. Siegel

___ 5. Hanover Star

___ 10. 17 U.S.C. § 301

- A. State prohibitions of reverse engineering are preempted by the patent laws.
 - B. Discusses the extent to which INS survived the 1976 Copyright Act.
 - C. An attempted recovery for plagiarism was preempted by the copyright laws.
 - D. Trademarks are not based on Art. I § 8 cl. 8 of the U.S. Constitution.
 - E. Common law trademarks rights exist only within particular markets.
 - F. Neither of two firms had exclusive rights after another abandoned the mark.
 - G. A mark was not published for opposition.
 - H. A mark was registered despite being opposed after publication.
 - I. Firms may be allowed to use misdiscriptive marks.
 - J. Essentially abolished so-called common-law copyright.
-

Quiz 11

___ 1. EAL

___ 6. Morehouse

___ 2. Two Pesos

___ 7. Roots

___ 3. Qualitex

___ 8. Lucent

___ 4. Wal-Mart & City Merchandise

___ 9. Champion

___ 5. Burger King

___ 10. Chanel

- A. Despite finding a mark generic, the court did not see a need to cancel its registration.
- B. Secondary meaning is unnecessary if trade dress is distinctive.
- C. Single colors may have trademark protection.
- D. Copyrightable elements may have Lanham Act protection if source significance is shown.
- E. Federal registrants may acquire trademark rights in remote geographic markets.
- F. Unlike patents, trademark rights do not require PTO examination.
- G. Presumptive rights of federal registrants are limited by the classification scheme.

H. Intent-to-use applicants may prevail over first users.

I. Used goods may be sold under their original marks.

J. Marks may be used to identify copies of famous products.

Quiz 12

___ 1. Sunkist

___ 6. Dawn

___ 2. duPont

___ 7. Copy Cop

___ 3. McGregor

___ 8. Juno

___ 4. Hilfiger

___ 9. Parenthood

___ 5. Mosely

___ 10. Ty

A. Independent firms had a problem because they agreed to use a mark on similar goods.

B. An agreement was one of many factors used to decide whether a mark was registerable.

C. After long use, defendant acquired rights to a similar mark on similar products.

D. The court initially saw a limited search as evidence of bad faith.

E. Plaintiff's fame, alone, was inadequate to warrant relief.

F. Registrants do not lose rights for failure to use marks coast-to-coast.

G. Failure to act promptly effectively limited the geographic scope of registrant's rights.

H. When trademarks and domain names collide.

I. Non-commercial parties may acquire trademarks.

J. People may hold domain names accurately identifying goods they have a right to sell.

Quiz 13

___ 1. Ty

___ 6. P&G

___ 2. Auvil

___ 7. Zacchini

___ 3. Mikohn

___ 8. White

___ 4. Coke

___ 9. Wendt

___ 5. Bean

___ 10. § 43(c)(4)

- A. On appeal, the injunction based on § 43(c) was found to be overbroad.
- B. Although injured, apple growers could not recover.
- C. Firms have a right to tell competitors' customers about the risk of patent infringement.
- D. Defendant's attorney did not advance the cause with frivolous arguments.
- E. For-profit publishers do not necessarily engage in "commercial" speech.
- F. Being accused of devil worship was not per se defamatory.
- G. Damages for taping and broadcasting a performance do not interfere with free speech.
- H. Celebrities' rights of publicity may be infringed although they are not actually depicted.
- I. Celebrities' rights of publicity may be infringed by look-alike robots in bars.
- J. Federal prohibitions against trademark dilution contain explicit speech protection.