Copyright Research Seminar
Final Examination
Professor Field

This is a two-hour, open-book exam. You may consult any written materials but may not discuss the exam with others.

• You need answer only 20 (of 25) questions (5 points each).
• Put your exam number and answers on the sheet provided. Only the first 20 answers will be graded.
• All references are to current Title 17 of the U.S. Code unless otherwise indicated.

1. Under the 1909 Act, federal law applied to works once they were:
   A. performed publicly.
   B. fixed by the author.
   C. published by the author.
   D. Each previous statement is true.

2. Under the 1909 Act, copyright in books was lost:
   A. by publishing without registering within three months.
   B. by publishing without notice such as “© Tom Field 1962.”
   C. by failing to deposit copies as required by § 14 of that Act.
   D. by failing to register within three months of completion.

3. Despite unconditional assignment, under the 1909 Act, renewal terms could be claimed:
   A. by authors’ next of kin if authors were dead.
   B. by authors during the final year of their initial term.
   C. by authors within one year after the initial registration expired.
   D. Each previous statement is false.

4. The Act specifies the meaning of:
   A. employee.
   B. state.
   C. abandonment.
   D. idea.

5. Termination of transfers is possible:
   A. without prior notice to transferees.
   B. regardless of whether the work was for hire.
   C. except when authors have otherwise agreed in writing.
   D. except as to derivatives that transferees have already prepared.

6. Administration of various licenses not freely negotiated may fall within the jurisdiction of:
   A. a federal district court in New York.
   B. Copyright Royalty Judges.
   C. the Register of Copyright.
   D. Each previous statement is true.
7. Those who submit story ideas without prior written agreement with publishers or producers are most likely to obtain compensation for subsequent use:
   A. under copyright law.
   B. if the transferee has paid for use of their prior submissions.
   C. if the idea proves to have great economic value.
   D. if the idea was objectively novel.

8. Statutory damage awards for infringement of musical works:
   A. require registration within three months of first performance.
   B. may be assessed if registration occurs within six months of publication.
   C. require registration within three months of infringement.
   D. are assessed by juries, not judges.

9. Despite copyright protection, strangers may import copies of works:
   A. published by the copyright owner in the United States.
   B. if the works were initially created within the United States.
   C. published by the copyright owner in another Berne country.
   D. published anywhere under the legal authority of the copyright owner.

10. Since adoption of the Berne convention, copyright:
    A. notice cannot affect recoveries for infringement.
    B. registration serves no purpose except for a “United States work.”
    C. registration is useful even when not required.
    D. registration has no effect on owners’ burden of proof.

11. Copyright Office refusals to register:
    A. preclude infringement actions.
    B. are closely scrutinized by the courts.
    C. preclude further attempts to register.
    D. are subject to two levels of intramural review.

12. In Barclays, the Second Circuit:
    A. was obligated to apply its NBA holding.
    B. found state causes of action for hot news misappropriation preempted.
    C. applied the federal cause of action for hot news misappropriation.
    D. found liability because purloined facts were novel to the defendant.

13. Rights under VARA:
    A. are transferable by signed writings.
    B. may not be waived, even in writing.
    C. arise for all works of visual art that are numbered and signed.
    D. are not available if editions of qualifying works exceed two hundred copies.

14. Works regarded as orphans:
    A. are those published by people whose parents are deceased.
    B. are more apt to include published works since 1988.
    C. are more apt to include unpublished works since 1978.
    D. have long been seen as a problem in Europe.
15. People who make unauthorized recordings when works previously unfixed are performed:
   A. necessarily violate § 106(1).
   B. may be subject to state and federal sanctions if the work is musical.
   C. are subject to state and federal sanctions if the work is suitable for performance.
   D. are subject to federal criminal, but not civil, sanctions.

16. Parties who fail to conform to “conditions” in software licenses are most likely to:
   A. forfeit otherwise available benefits under § 109.
   B. forfeit otherwise available benefits under § 117.
   C. face copyright remedies.
   D. face contract remedies.

17. Five years ago, Sal authored a work within the scope of her duties. With her employer’s consent, she immediately registered as author. If Sal sues for infringement, a court should:
   A. find that she has standing to sue.
   B. allow suit, but obligate her to share any recovery with her employer.
   C. dismiss her action.
   D. require joinder of the employer.

18. After Bob’s copyright expired, Joe copied his book. If he also replaced Bob’s copyright notice with his own, Joe:
   A. is liable under § 43(a) of the Lanham Act.
   B. committed the common law tort of plagiarism.
   C. is clearly liable under § 1202(b).
   D. No previous statement is true.

19. Ed repeatedly informed eBay that Mo’s copyright claims were bogus. If eBay nevertheless suspended sales of the allegedly infringing work twenty times, Ed has a cause of action:
   A. against eBay under § 512(g).
   B. against Mo under § 512(f).
   C. against eBay because only three take-downs are permitted.
   D. No previous statement is true.

20. UNH found it necessary to override copy protection to evaluate EZ’s widely-used accounting software. If EZ is upset that UNH thereafter bought a competing product:
   A. EZ could potentially recover up to $25,000 for violation of § 1201.
   B. EZ could potentially recover up to $2,500 for violation of § 1202.
   C. UNH has a § 1201(d) defense.
   D. Each previous statement is true.

21. Noncommercial consumer use:
   A. of digital devices to record movies is actionable under § 1008.
   B. of computers to record music is clearly actionable under § 1008.
   C. of analog audio recording devices is actionable under § 1008
   D. of digital and analog recording devices is not actionable under § 1008.
22. Bob copied most of Ed’s lengthy appellate brief for use in a similar case. Bob’s liability is most apt to be negated by:
   A. giving Ed full credit for the work.
   B. the lack of copyright for legal works.
   C. § 107(2).
   D. § 107(3).

23. Bo’s band made an authorized recording of Jo’s song. If Mo’s band later intends to make another recording of the same song, it may do so:
   A. under § 115(c), subject only to an obligation to pay royalties.
   B. without paying royalties if Jo cannot be identified.
   C. with no obligation to pay royalties if Mo’s recording is clearly satirical.
   D. unless Mo’s recording causes Bo to lose sales.

24. So far, Molly has met only about 50% of the market demand for her dolls. When Eve began to sell knock-offs, Sue registered and sued. Under those circumstances, Eve is apt to lose:
   A. if jurors find the dolls to be substantially similar.
   B. if experts regard the dolls as substantially similar.
   C. unless experts regard both dolls as strikingly different from other dolls.
   D. only if jurors find the dolls to be strikingly similar.

25. If Sue can establish infringement (Q.24), she is most likely to recover:
   A. damages.
   B. attorney fees and costs.
   C. Eve’s profits if Sue can prove them.
   D. Eve’s income less costs proven by Eve.
Copyright Research Seminar
Answer Sheet
Again, only the first 20 answers count (5% each).

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