In James Boyle's article "What Intellectual Property Law Should Learn from Software", which of the following is NOT mentioned on the first page of Boyle's article in explaining copyrights, patents, and software?

A. Twenty-five years ago there was little to no debate about whether software should be covered by copyright or patent in any legal groups: professional or academic.

B. One could copyright one's code and also gain a patent over the 'non-obvious' novel and useful innovations inside the software [being covered by law].

C. It is presumed that different people in different situations who sit down to write a sonnet or love story will produce different results rather than be drawn to a single result.

D. United States intellectual property law often tends to disproportionately influence technology policy worldwide.

Answer Key: A

In the paragraph of Boyle's article beginning "There are lots of reasons to doubt that this vision..." [page 72] one of the following is NOT listed as a reason that copyright law may not apply to software.

A. In software practical solutions to problems do converge [as compared to creative works].

B. Copyright law applies to works 'expressed in a tangible medium', but software is bits, not atoms.

C. Programmers base their work on prior work/lines of code.

D. There is a strong 'network effect' in making decisions about what software to purchase.

Answer Key: B

According to Boyle, how did courts interpret copyright law as applied to software in terms of what is considered copyright infringement?

A. Software infringement was effectively limited to limited infringement of copyright.

B. Software with substantially the same function as other software, but written differently, is considered to be infringing software.

C. Software built on what is in the public domain is considered infringing.

D. Decompilation, or taking a program/software apart to see how it works, is not fair-use, but is considered as infringing.
According to Boyle [page 73] which of the following is considered as 'commons-based creativity'?  

- A. Being creative because it is a normal, common activity done by peers and others.  
- B. A common interest in creativity by a group of content creators.  
- C. Creativity that builds on an open resource available to all.  
- D. A coincidental, but similar act of creation done independently by more than one.  

Answer Key: C

Which one of the following is NOT attributed by Boyle as an attribute of free and open source software [page 73]?  

- A. Creators were able to use copyright law to set up new distributed methods of innovation.  
- B. Free and open source software creates a 'virtuous' cycle whereby each addition builds on the commons and is returned to it.  
- C. Copyright law was a 'hook' that allowed software engineers to create licenses that worked in the free and open source community.  
- D. Copyright law was changed by the US Congress specifically to be useful in the software community, facilitating the changes engendered by the free and open source movement.  

Answer Key: D

According to Boyle which one of the following was NOT considered to be in the public domain according to traditional patent law [page 73]?  

- A. Ideas  
- B. Algorithms  
- C. Business Methods  
- D. Inventions  

Answer Key: D

In discussing the Federal Circuit Court's decision about the case 'In re Bilski' which ONE of the following is mentioned as an important overturning/re-interpretation of State Street decision regarding when an algorithm or method is patentable?  

- A. In Bilski, an algorithm or method must result in some transformation or be embodied in some machine.  
- B. In Bilski, an algorithm or method must produce a useful, concrete, and tangible result.  
- C. In Bilski, algorithms running on a computer are patentable.  
- D. In Bilski, the patent system permits algorithms written by certified engineers to be patented, but not those written by hobbyists.  

Answer Key: A
Boyle is in favor of expansive software patents.

- True
- False

Answer Key: False

Insert New Question

Question 9 True False - 1.0

Boyle believes that the fundamental ideas behind our intellectual property system are sound.

- True
- False

Answer Key: True

Insert New Question

Question 10 Single Correct - 1.0

In the transcript from Richard Stallman's talk from 2002 titled "Software Patents--Obstacles to software development", which of the following is NOT stated in the first three paragraphs of Stallman's talk.

- A. You might be familiar with my work on free software.
- B. This speech is about what happens when patent law gets applied to the field of software.
- C. Intellectual property is an oxymoron, ideas and their expression are not required to be intellectual and they certainly aren't property.
- D. If it were [about patenting individual programs] it would make no difference, it would be basically harmless.

Answer Key: C

Insert New Question

Question 11 True False - 1.0

Stallman equates the patent system to a lottery, because only a tiny fraction of patents brings benefits to those who hold patents.

- True
- False

Answer Key: True

Insert New Question

Question 12 True False - 1.0

In discussing LZW, the compress program, and patents Stallman says that the writers of compress came up with an idea without looking at any previous work related to compression.

- True
- False

Answer Key: False

Insert New Question

Question 13 True False - 1.0

Stallman writes that searching patents online is a good start, but it's not enough because of the wording in patents, i.e., sometimes a patent does not use the words in it that people might use to search for it.

- True
- False

Answer Key: True

Insert New Question
Stallman writes that there are three things you can do with respect to patents and writing software. Which of the following is NOT one of the three things he discusses?

- A. Waiting for the patent to expire
- B. Avoiding the patent
- C. Licensing the patent
- D. Overturning the patent in court

Answer Key: A

In his discussion on avoiding patents, which of the following is NOT a stance taken by Stallman regarding the program PGP and public key encryption?

- A. The patent holders for public key encryption were Rivest, Shamir, and Adelman and some of whom new Stallman from MIT.
- B. Patents delayed the widespread adoption of public key encryption in the United States.
- C. PGP was initially released as free software.
- D. The patent holders allowed PGP to be used for non-commercial use because blocking it might get too much bad publicity.

Answer Key: A

In discussing how to avoid patents, GIF, and LZW, which one of the following is NOT true about how Stallman describes the issues?

- A. By chance in reading the NY Times Stallman discovered a patent on a compression algorithm his GNU project was about to use and dropped the compression algorithm because of the discovered patent.
- B. The patent office sometimes grants more than one patent for essentially the same invention, e.g., as with LZW compression.
- C. The gzip alternative to LZW is twice as fast as LZW and compresses better.
- D. The patent office sometimes grants more than one patent for essentially the same invention, e.g., as with LZW compression.

Answer Key: C

In discussing cross-licensing of patents Stallman indicates that patents don't protect small inventors, but help large corporations.

- True
- False

Answer Key: True

In discussing a family business that shut down because they could not get a patent license and could not afford to go to court Stallman talks about the pervasiveness of gambling in the United States and the ill-effects it has on society.

- True
- False

Answer Key: False
Stallman talks about IBM and the number of patents they hold, but indicates that “despite having bad software, Microsoft has a good policy in not patenting that bad software”.

True
False
Answer Key: False

Stallman thinks that because the patent system does not work for software the entire patent system must be dismantled for every discipline, not just for software.

True
False
Answer Key: False

In discussing why software is facilitated by ‘incremental innovation’, which of the following is NOT an analogy offered by Stallman?

A. Software is like a complicated castle that can rest on a thin line because it doesn’t weigh anything.
B. In putting two different types of code together, an IF statement and a WHILE statement, the programmer doesn’t need to worry about how these statements oscillate or rub against each other as would be the case with physical entities.
C. Software systems are far bigger than physical systems in terms of the number of parts they contain.
D. Pierre Boulez is to music as Donald Knuth or Richard Stallman are to computer science.

Answer Key: D

This section begins the section on the article ‘Is the Patent Office a Rubber Stamp’, by Lemley and Sampat. Which one of the following is NOT offered in the first two paragraphs as possible evidence that the USPTO is, in fact, a rubber stamp.

A. Patent applicant can try to re-file a rejected patent an unlimited number of times.
B. The USPTO grants patents to too many of the applications it receives.
C. The incentives for patent examiners to grant patents is great.
D. Patent examiners are not paid well, so consulting on-the-side is rampant and makes quality-control tougher.

Answer Key: D

The authors claim the data show that patents are more likely to be granted in pharmaceutical industry patent applications than in software industrial patent applications.

True
False
Answer Key: True
In the Patent/Rubber Stamp article the authors offer statistics about several issues related to patents. Which of the issues below is identified as difficult/hard or an issue in understanding data about patents as identified in the article [pp 183-184] (select all that apply, at least one applies) or is mentioned as an issue.

☑ A. The term 'patent application' lumps different categories together than shouldn't be, e.g., continuations should be treated differently.
☐ B. Government so-called sunshine laws have not been enforced, so data about patents is harder to get than it should be.
☑ C. Patents take time to issue, many years, and analyzing patents in a given year will not take this delay/time into account.
☐ D. Legal articles have too many footnotes which can detract from understanding these articles.

Answer Key: A,C

On page 186 the authors claim, at the end of the section on that page, that there is no need to no precisely what the USPTO is doing because this can be uncovered with random sampling using statistical techniques.

☐ True
☒ False

Answer Key: False

The authors identify a flaw in their data following plan [see page 188] as:

Applications granted or abandoned before eighteen months do not appear in our analyses unless the applicant affirmatively chooses to ask for early publication.

☐ True
☒ False

Answer Key: True

At the end of section II (page 189) the authors identify some reasons a patent may be abandoned and how abandonment is tough to analyze. Which of the following are such reasons [more than one may be selected]

☑ A. Business decisions may result in abandonment (e.g., a company goes out of business).
☑ B. A company may file a continuation even after abandoning the original application.
☐ C. Data is hard to analyze because the patent office scrubs the data before making it available for privacy reasons.
☐ D. Continuations only last for 1.5 months, making them easy to overlook during a long-term analysis.

Answer Key: A,B

On page 192 the authors write "As a result, continuations have a more modest effect on the grant rate than their overall numbers might suggest."

☐ True
☒ False

Answer Key: True
On page 193 the authors identify a rate of 'success' and write "Even after accounting for continuations, the odds of an applicant getting a patent are pretty good, but it is an exaggeration to say that the PTO is a rubber stamp."

- True
- False

Answer Key: True

In Table 7 (page 195) which one of the following is NOT a conclusion that can be reached from the data in the table.

A. Biotechnology and organic chemistry patent applications account for the smallest percentage of Duke University

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