higher education & training

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MARKING GUIDELINE

NATIONAL CERTIFICATE

MUSIC BUSINESS AND STYLES N5

2 October 2020

This marking guideline consists of 7 pages.

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SECTION A

QUESTION 1

1.1 C
1.2 A
1.3 D
1.4 C
1.5 B
1.6 A
1.7 B
1.8 B
1.9 C
1.10 A
1.11 D
1.12 B
1.13 A
1.14 B
1.15 D
1.16 A
1.17 C
1.18 C
1.19 B
1.20 D
1.21 B
1.22 A
1.23 C
1.24 C
1.25 A

(25 × 2) **[50]**

QUESTION 2

2.1 True
2.2 True
2.3 True
2.4 False
2.5 True
2.6 False
2.7 True
2.8 True
2.9 True
2.10 True
2.11 False
2.12 True
2.13 True
2.14 False
2.15 False
2.16 False

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2.17 True
2.18 True
2.19 True
2.20 False
2.21 False
2.22 True
2.23 True
2.24 True
2.25 True

(25 × 2) **[50]**

QUESTION 3

3.1 F
3.2 I
3.3 L
3.4 G
3.5 A
3.6 J
3.7 M
3.8 B
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3.10 O
3.11 C
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(15 × 2) **[30]**

QUESTION 4

4.1 Label
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4.3 Incorporated
4.4 Copyright
4.5 Devises
4.6 Commission
4.7 Contracts
4.8 Owned
4.9 Recorded
4.10 Injunction
4.11 Destruction
4.12 Published
4.13 Collections
4.14 Printed
4.15 Manufactures

(15 × 2) **[30]**

TOTAL SECTION A: 160

SECTION B

QUESTION 5

5.1 5.1.1

- Copyright statutory damages are charges for infringement of a copyrighted work.
- Statutory damages allow copyright holders, who succeed with claims of infringement, to receive an amount of compensation per work
- as opposed to compensation for losses, an amount of the profits or damages per infringing copy. (3 × 2) (6)

5.1.2

- Music publishing is a business of exploiting a song,
- finding uses for the song, such as cover versions,
- film, TV and video games, ringtones, greeting cards and even karaoke machines
- and collecting money for such uses, usually in the form of a licence fee.
- Songwriters own the copyrights of the music and lyrics to the songs they write and earn money
- from licence fees or royalties from the commercial use of their songs.
- Publishing income does not come from copyright ownership in sound recordings. It comes from ownership of the copyrights in the songs.
- The copyright owner of a song is entitled to certain exclusive rights under the U.S. copyright law.
- If someone wants to use the song in any way, they must get permission from the copyright owner in the form of a licence.
- Money generated from such licences is called 'publishing income'. (10 × 2) (20)

5.1.3

- A digital recording is a recording form that uses audio signals picked up by a microphone or other transducer or video signals picked up by a camera or similar device. These signals are converted into a stream of discrete numbers
- representing the changes over time in air pressure for audio, and chroma/chrominance and luma/luminance values for video, and are then recorded to a storage device. (2 × 2) (4)

5.1.4

- Print licence fees are revenues from the sale of printed music, performance and mechanical and synchronisation royalties of publishing income.
- A songwriter receives royalties from a print licence and any sheet music of his/her song or a folio or collection of his/her songs when it's sold.
- The royalties received from print licensing are usually a few cents per copy printed. (3 × 2) (6)

5.2 Reproduce the work:

- The rights to make copies of the work, such as the right to manufacture compact discs containing copyrighted sound recordings.
- Keeping with musical composition as an example, this means no one can record a copyrighted composition, publish it as sheet music, put it in a movie, or copy it. (2 × 2) (4)

Distribute copies of the work:

- The right to distribute and sell copies of the work to the public.
- Apart from the right to reproduce the music, there is a separate right of distribution which the artist also controls. (2 × 2) (4)

Perform the work publicly:

- Copyright owners of songs control the rights to have their song performed publicly.
- Performance of a song generally means playing it in a nightclub or live venue,
- on the radio, television, in commercial establishments, elevators or anywhere else where music is publicly heard.
- It does not matter whether the performance is by live musicians or a DJ playing records, the copyright owner controls this right. (4 × 2) (8)

Make a derivative work:

- A derivative work is a work that is based on another work such as a remix of a previous song.
- In the music industry, an example is a parody lyric set to a well-known song.
- This concept is even easier to see in the motion picture field.
- Any film made from a novel is a derivative work. (4 × 2) (8)

Display the work publicly:

- Although this right is rarely applicable to music, one example would be displaying the lyrics and musical notation to a song on a karaoke machine.
- No one can do any of the above without the permission or authorisation of the owner of the copyright.
- This is the right to put paintings, statues, etc. on public display. (6)

Perform copyrighted sound recordings by means of a digital audio transmission:

- This is a right recently added by Congress that gives copyright owners in sound recordings the rights to perform a work by means of a digital audio transmission.
- Examples of digital audio transmissions include the performance of a song on the Internet or satellite radio stations. (4)

[70]

QUESTION 6

6.1

- When you have a particular name in mind for the band, it is important to determine whether anyone else already uses that name. ✓✓

- A band's right to its name depends on a few key factors:
  - Did the band used the name first.✓✓
  - The geographic area (city, state, region) where the band is using the name.✓✓
  - Does the band actually perform under that name.✓✓

- If the band used the name first, it may be able to stop other bands from using the same or a similar name.✓✓
- However, unless the band has obtained a federal trademark registration giving it an exclusive right to use the name throughout the country✓✓
- the band would only have the rights to use the name exclusively in the areas where it was the first to use the name.✓✓
- For example, if a local band performed live or sold its CDs only in Chicago, it could not prevent a band in California from using the same name✓✓
- but could stop a band from using the name in Chicago if the local band was the first to use the name in that area.✓✓
- Additionally, if a band applied for a federal trademark registration for its name in 2005, it could not prevent another band that started using the name in 2001 from using the name in the geographic area(s) where that band performs or sells its music.✓✓ (10 × 2) (20)

6.2 6.2.1

- Reversion of copyright means that the artist gets his/her songs back at the end of the term.
- This is different from the termination of copyrights under the Copyright Law, because the reversion is a contractual provision, negotiated specifically.
- It means that the publisher must give back to the artist his/her song's copyright at some point in the future. (3 × 2) (6)

6.2.2

- Conditions of reversion: What should trigger reassignment? The best short of automatic reversions is that the song reverts to the artist if it is not recorded and commercially released.
- If the artist has bargaining power, he/she can get the song back unless the recording is by a major artist.
- or at least on a major label and/or achieves a certain chart position, say top 50. (3 × 2) (6)

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6.2.3
- Automatic reversion: When the artist moves into the super leagues, or if he/she is in a bidding war, he/she can ask for reassignment of all compositions, whether or not recorded.
- Time frames on these usually run about five to fifteen years after the close of the exclusive term, with the majority in the seven to twelve year range.
- It is usually tied to recoupment, for example ten years after the term, the publisher will reassign only if the artist is recouped.
- In this case, (1) take the right to pay the unrecouped balance, the artist must remember to keep an option, in which case the artist gets his/her songs back sooner
- and (2) the artist must be sure to get the songs back when he/she eventually recoups, even if it is five or ten years later.
- Artists must not assume that the contract will say either of these if they do not ask, because it usually will not. (6 × 2) (12)

6.2.4
- Master rights reversion: When signing a record deal, the *artist* can negotiate for the return or reversion of master ownership after a set period of time.
- An album typically has a lifespan of one to three years before an artist releases the next one, so the *artist* can request ownership reversion after about two to five years.
- It will then be up to the artist to negotiate any licensing deals as the label would be out of the picture. (3 × 2) (6)

[50]

QUESTION 7

The personal manager advises and counsels the artist on virtually all aspects of the artist's career.✓✓

The duties of a personal manager may include:
- dealing with the artist's publicity, public relations and advertising✓✓
- assisting in the selection of the artist's material✓✓
- devising plans for the artist's long-term career development✓✓
- choosing the artist's booking agent, road manager, lawyer, accountant, etc. and overseeing the artist's relations with each of them.✓✓
- counseling the artist on what types of employment to accept✓✓
- in some instances, acting as a liaison between the artist and the artist's record company.✓✓

Personal managers are usually paid a commission of 15% to 25% of the artist's gross receipts from all of the artist's activities in the entertainment industry which includes recording contacts, publishing contracts, endorsements, television and movie work, etc.✓✓ This commission, which may increase depending on the artist's success, is in addition to reimbursement of the personal manager's travel and out-of-pocket expenses incurred in representing the artist.✓✓ In certain states, such as California, a manager may not seek or procure employment for artists, as the artist's agent typically performs this job✓✓ (10 × 2) (20)

TOTAL SECTION B: 140
GRAND TOTAL: 300

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