

CADERNO DE PROVAS OBJETIVAS E DISCURSIVA

LEIA COM ATENÇÃO AS INSTRUÇÕES ABAIXO.

- Ao receber este caderno de provas, confira inicialmente se os seus dados pessoais e os dados referentes ao cargo a que você concorre, transcritos acima, estão corretos e coincidem com o que está registrado na sua folha de respostas e na sua folha de texto definitivo da prova discursiva. Confira, também, o seu nome e os dados do cargo a que você concorre em cada página numerada do seu caderno de provas. Em seguida, verifique se ele contém a quantidade de itens indicada em sua folha de respostas, correspondentes às provas objetivas, e a prova discursiva, acompanhada de espaço para rascunho, de uso opcional. Caso o caderno esteja incompleto, tenha qualquer defeito ou apresente discordância quanto aos seus dados pessoais ou aos dados do cargo a que você concorre, solicite ao fiscal de sala mais próximo que tome as providências cabíveis, pois não serão aceitas reclamações posteriores nesse sentido.
- 2 Quando autorizado pelo chefe de sala, no momento da identificação, escreva no espaço apropriado da sua folha de respostas, com a sua caligrafia usual, a seguinte frase:

Conforme previsto em edital, o descumprimento dessa instrução implicará a anulação das suas provas e a sua eliminação do concurso.

- 3 Durante a realização das provas, não se comunique com outros candidatos nem se levante sem autorização de fiscal de sala.
- 4 Na duração das provas, está incluído o tempo destinado à identificação que será feita no decorrer das provas —, ao preenchimento da folha de respostas e à transcrição do texto da prova discursiva para a folha de texto definitivo da prova discursiva.
- **5** Ao terminar as provas, chame o fiscal de sala mais próximo, devolva-lhe a sua folha de respostas e a sua folha de texto definitivo da prova discursiva e deixe o local de provas.
- 6 A desobediência a qualquer uma das determinações constantes em edital, no presente caderno, na folha de respostas ou na folha de texto definitivo da prova discursiva poderá implicar a anulação das suas provas.



De acordo com o comando a que cada um dos itens a seguir se refira, marque, na **folha de respostas**, para cada item: o campo designado com o código **C**, caso julgue o item **CERTO**; ou o campo designado com o código **E**, caso julgue o item **ERRADO**. Para as devidas marcações, use a **folha de respostas**, único documento válido para a correção das suas provas objetivas.

CONHECIMENTOS BÁSICOS

Texto para os itens de 1 a 15

- A Constituição Federal, em seu artigo 5.º, que trata dos direitos e deveres individuais e coletivos, estabelece o direito à proteção das criações intelectuais. No inciso
- 4 XXVII, afirma: aos autores pertence o direito exclusivo de utilização, publicação ou reprodução de suas obras, transmissível aos herdeiros pelo tempo que a lei fixar. No
- 7 inciso XXIX, define que a lei assegurará aos autores de inventos industriais privilégio temporário para sua utilização, bem como proteção às criações industriais, à
- propriedade das marcas, aos nomes de empresas e a outros signos distintivos, tendo em vista o interesse social e o desenvolvimento tecnológico e econômico do país.

Constituição da República Federativa do Brasil, 1988. In: Internet: www.planalto.gov.br (com adaptações).

A partir das ideias veiculadas no texto acima, julgue os itens a seguir.

- No texto se afirma que o direito outorgado aos autores é personalíssimo, vitalício e perpétuo, mas se ressalta a exceção legal de ser concedido por prazo certo e determinado.
- 2 Infere-se do texto que o inciso XXIX da Constituição Federal trata da propriedade industrial, que abrange o direito sobre as criações industriais, cuja proteção é conferida em nome do interesse social e do desenvolvimento tecnológico e econômico do Brasil.
- 3 De acordo com o texto, o Estado oferece dois tipos diferentes de proteção da propriedade intelectual.
- 4 Deduz-se do texto haver, para se assegurar o direito expresso nos citados incisos da Constituição Federal, necessidade da criação de leis específicas para regular a proteção às criações intelectuais.
- Depreende-se do texto que são direitos autorais os que a pessoa criadora de obra intelectual tem de gozar dos benefícios morais e econômicos resultantes da produção de suas criações.

Com base no texto, julgue os itens de 6 a 15.

- 6 Mantendo-se a correção gramatical e o nível de formalidade do texto, seu primeiro período poderia ser reescrito da seguinte maneira: No artigo 5.º tratando dos direitos e deveres dos indivíduos e da sociedade, a Constituição Federal instituiu o direito a proteção da propriedade intelectual.
- 7 A grafia correta da forma verbal derivada do nome "individuais" (£.2) é individualizar.
- 8 A palavra "proteção", nas linhas 3 e 9, poderia ser corretamente substituída por **tutela**, sem prejuízo aos sentidos do texto.
- 9 Mantendo-se a correção gramatical e os sentidos originais do texto, o trecho "No inciso XXIX (...) utilização" (l.6-9) poderia ser reescrito da seguinte forma: O inciso XXIX determina que é garantido aos autores a autorização temporária para utilizarem as criações industriais.
- 10 O trecho "aos autores (...) fixar" (l.4-6) poderia ser corretamente reescrito da seguinte forma: pelo tempo que a lei permitir pertence, aos autores, o direito exclusivo de utilização, de publicação ou de reprodução de suas obras, o qual é transmissível a seus herdeiros.

- 11 As palavras "transmissível" e "tecnológico" são acentuadas em decorrência de mesma regra gramatical.
- 12 A forma verbal correta derivada do vocábulo "privilégio" (l.8) é previlegiar.
- 13 Atendendo-se à norma gramatical, o trecho "proteção às criações industriais (...) e a outros signos distintivos" (ℓ.9-11) poderia ser reescrito do seguinte modo: proteção a criações industriais, propriedade das marcas, nomes de empresas e outros signos distintivos.
- 14 A substituição da expressão "bem como" (ℓ.9) pelo elemento e, com a retirada da vírgula que a antecede manteriam a correção gramatical do trecho.
- 15 A substituição de "aos autores" (ℓ.4) por a eles manteria a correção gramatical e os sentidos do trecho em que se insere.

O ser humano, dotado de inteligência e sabedoria, é capaz de criar. Essa criação, quando representa uma solução para determinado problema técnico e pode ser industrializada, merece ser protegida, de modo que o prestígio do inventor/autor seja reconhecido. A propriedade industrial é o ramo da propriedade intelectual que trata das criações intelectuais voltadas para as atividades de indústria, comércio e prestação de serviços. Engloba a proteção das invenções (patente de invenção e modelo de utilidade), das marcas (de comércio, de serviços e nomes comerciais), dos desenhos industriais, das indicações geográficas e dos cultivares.

Manual de Propriedade Industrial. ABIMAQ/IPD-Maq 7, Núcleo de apoio ao patenteamento, p. 5. *In*: Internet: <www.abimaq.org.br> (com adaptações).

Considerando os aspectos relacionados à análise, compreensão e interpretação do texto, julgue os seguintes itens.

- 16 Segundo o texto, a tutela estatal à criação intelectual decorre não só da necessidade de reconhecimento do prestígio dos inventores e autores, mas também do fato de a criação servir para resolver um problema técnico.
- 17 O primeiro período do texto poderia ser corretamente reescrito da seguinte forma: Dotado o ser humano de inteligência e sabedoria, é capaz de criar.
- 18 Infere-se do texto que toda criação humana deve ser tratada como propriedade intelectual, devendo, portanto, ser legalmente protegida e regulada pelo Estado.
- 19 Do texto se infere que patentes, marcas, desenhos industriais, indicações geográficas e até plantas completas produzidas mediante técnicas de cultivo podem ser consideradas criações intelectuais passíveis de proteção legal.
- 20 De acordo com o texto, as criações intelectuais se confundem com a propriedade industrial.

Intellectual Property

Industrial property legislation is part of the wider body of law known as intellectual property. Intellectual property relates to items of information or knowledge, which can be incorporated in tangible objects at the same time in an unlimited number of copies at different locations anywhere in the world. The property is not in those copies but in the information or knowledge reflected in them. Intellectual property rights are also characterized by certain limitations, such as limited duration in the case of copyright and patents.

The importance of protecting intellectual property was first recognized in the Paris Convention for the Protection of Industrial Property in 1883 and the Berne Convention for the Protection of Literary and Artistic Works in 1886. Both treaties are administered by the World Intellectual Property Organization (WIPO).

Countries generally have laws to protect intellectual property for two main reasons. One is to give statutory expression to the moral and economic rights of creators in their creations and to the rights of the public in accessing those creations. The second is to promote creativity and the dissemination and application of its results, and to encourage fair trade, which would contribute to economic and social development.

Intellectual property is usually divided into two branches, namely industrial property and copyright.

Copyright relates to artistic creations, such as poems, novels, music, paintings, and cinematographic works. The expression copyright refers to the main act which, in respect of literary and artistic creations, may be made only by the author or with his authorization.

The broad application of the term "industrial" is clearly set out in the Paris Convention for the Protection of Industrial Property (Article 1 (3)): "Industrial property shall be understood in the broadest sense and shall apply not only to industry and commerce proper, but likewise to agricultural and extractive industries and to all manufactured or natural products, for example, wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour."

Industrial property takes a range of forms. These include patents to protect inventions; and industrial designs, which are aesthetic creations determining the appearance of industrial products. Industrial property also covers trademarks, service marks, layout-designs of integrated circuits, commercial names and designations, as well as geographical indications, and protection against unfair competition. In some of these, the aspect of intellectual creation, although existent, is less clearly defined. What counts here is that the object of industrial property typically consists of signs transmitting information, in particular to consumers, as regards products and services offered on the market. Protection is directed against unauthorized use of such signs likely to mislead consumers, and against misleading practices in general.

Understanding Industrial Property. World Intellectual Property Organization – WIPO, p. 3-5. *In*: Internet: http://www.wipo.int (adapted).

According to the text above, judge the following items.

- 21 The term "property" can be replaced by the word **propriety**, without distorting the general meaning of the text.
- 22 Copyright and Industrial Property are normally considered as the two constituents of Intellectual Property.
- 23 The international organization WIPO is responsible for enacting legislation intended to regulate intellectual property in every country.
- 24 Intellectual property laws concern themselves with the property of the copies of artistic or industrial products.
- 25 Protection granted by industrial property rights is exclusive to those products in which the aspects of intellectual creation are explicit.
- 26 "Intellectual property" is an umbrella term which defines a group of laws, including those concerning industrial property.

An Economic History of Patent Institutions

Scholars such as Max Weber and Douglass North have suggested that intellectual property systems had an important impact on the course of economic development. However, questions from other eras are still current today, ranging from whether patents and copyrights constitute ideal policies toward intellectual inventions and their philosophical rationale to the growing concerns of international political economy. Throughout their history, patent and copyright regimes have confronted and accommodated technological innovations that were no less significant and contentious for their time than those of the twenty-first century.

The British Patent System

Britain is noted for the establishment of a patent system which has been in continuous operation for a longer period than any other in the world. English monarchs frequently used patents to reward favorites with privileges, such as monopolies over trade that increased the retail prices of commodities. It was not until the seventeenth century that patents were associated entirely with awards to inventors, when Section 6 of the Statute of Monopolies repealed the practice of royal monopoly grants to all except patentees of inventions.

The British patent system established significant barriers in the form of prohibitively high costs that limited access to

property rights in invention to a privileged few. Patent fees provided an important source of revenues for the Crown and its employees, and created a class of administrators who had strong incentives to block proposed reforms.

In addition to the monetary costs, complicated administrative procedures that inventors had to follow made transactions costs also high. Thus nation-wide lobbies of manufacturers and patentees expressed dissatisfaction with the operation of the British patent system. However, it was not until after the Crystal Palace Exhibition in 1851 that their concerns were finally addressed, in an effort to meet the burgeoning competition from the United States. In 1852 the efforts of numerous societies and of individual engineers, inventors and manufacturers that had been made over many decades were finally rewarded. Parliament approved the Patent Law Amendment Act, which authorized the first major adjustment of the system in two

However, the adjustments made at that time were not completely satisfactory. One source of dissatisfaction that endured until the end of the nineteenth century was the state of the common law regarding patents. British patents were granted "by the grace of the Crown" and therefore were subject to any restrictions that the government cared to impose. According to the statutes, as a matter of national expediency, patents were to be granted if "they be not contrary to the law, nor mischievous to the State, by raising prices of commodities at home, or to the hurt of trade, or generally inconvenient." The Crown possessed the ability to revoke any patents that were deemed inconvenient or contrary to public policy. [...]

The Patent System in the United States

The United States stands out as having established one of the most successful patent systems in the world. American industrial supremacy has frequently been credited to its favorable treatment of inventors and the inducements held out for inventive activity. The first Article of the U.S. Constitution included a clause to "promote the Progress of Science and the useful Arts by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and

Discoveries." Congress complied by passing a patent statute in April 1790. In 1836 the United States created the first modern patent institution in the world, a system whose features differed in significant respects from those of other major countries.

The primary feature of the "American system" is that all applications are subject to an examination for conformity with the laws and for novelty. An examination system was set in place in 1790, when a select committee consisting of the Secretary of State (Thomas Jefferson), the Attorney General and the Secretary of War scrutinized the applications. These duties proved to be the consuming for highly replied efficiels who had other energies duties, so three years later it was replaced by a be too time-consuming for highly ranked officials who had other onerous duties, so three years later it was replaced by a registration system. The validity of patents was left up to the district courts, which had the power to set in motion a process that could end in the repeal of the patent.

Another important feature of the American patent system is that it was based on the presumption that social welfare coincided with the individual welfare of inventors. Accordingly, legislators rejected restrictions on the rights of American

inventors.

Nevertheless, economists such as Joseph Schumpeter have linked market concentration and innovation, and patent rights are often felt to encourage the establishment of monopoly enterprises. Thus, an important aspect of the enforcement of patents and intellectual property in general depends on competition or antitrust policies. The attitudes of the judiciary towards patent conflicts are primarily shaped by their interpretation of the monopoly aspect of the patent grant. The American judiciary in the early nineteenth century did not recognize patents as monopolies, arguing that patentees added to social welfare through innovations which had never existed before, whereas monopolists secured to themselves rights that already belong to the public.[...]

B. Zorina Khan. In: Internet: http://eh.net/encyclopedia/article/khan.patents (adapted).

According to the information provided by text, judge the items below.

- Although they play an important role in the economic development of countries, patents and copyrights are still questioned as effective instruments for dealing with intellectual inventions.
- The British patent system is the oldest one in the world, but it only took the form that we are familiar with today, i.e. protection for inventors, after the seventeenth century.
- Before regulation, British monarchs would use the patent system unfairly, thus favoring some people over others, which led to the increase in the prices of goods.
- The word "patentees" (ℓ .12) can be understood as **patent holders**.
- The new class of administrators that emerged from the patent fees system would not agree with the high costs of the patent procedure.
- In mid-nineteenth century, the British patent system was adjusted in order to be able to face business competition with the expanding American market.
- Up to the end of the nineteenth century, not all patents requested would be granted; they had to be approved by the Crown.
- The Crown had the power to refuse the issuing of patents that would violate the laws or raise the prices of goods unjustifiably.
- 35 It is believed that the outstanding performance of the US industry is due to the efficiency of this country's patent system.
- The basis of a system for protecting intellectual inventions was already stated in the U.S. Constitution.
- Innovation was one of the criteria required by the committee responsible for examining the applications for patents.
- In the American patent system, the idea of protection of individual rights goes against the idea of collective welfare.
- Some economists establish a cause and effect relation between patent laws and the constitution of monopolies.
- The American judiciary argues that the difference between patentees and monopolists lies in the innovative skills that the former display.