Intellectual Property Quiz

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Directions: Review section 5.6 (Intellectual Property) of the *AMA Manual of Style* and respond to the following questions.

1. What is the proper procedure when an editor receives 2 or more manuscripts by collaborating authors based on the same data but with conflicting results?

a. Publish both manuscripts and do not refer to the conflicting data
b. Publish both manuscripts with an editorial indicating which paper is more accurate
c. Decline to consider both manuscripts until the dispute has been resolved by the collaborators
d. Publish the paper of higher quality

Editor's Note: *When more than 1 manuscript is submitted by current or former coworkers or collaborators who disagree on the analysis and interpretation of the same unpublished data, editors should decline to consider competing manuscripts from coworkers until the dispute is resolved by the authors or the institution where the work was done. Arguments against publishing both papers include that doing so could confuse readers and waste journal pages. However, publishing the competing manuscripts with an explanatory editorial may allow readers to see and understand both sides of the dispute. Alternatively, publishing the paper deemed of higher quality could result in biasing the literature and postponing publication of legitimate research (***§5.6.1***, Ownership and Control of Data, Manuscripts Based on the Same Data, p 183 in print).*

2. A scientist develops data while working at Harvard University. He then moves to Stanford University, where he publishes an article using the original data in *JAMA*. Who owns the data?

a. Harvard University
b. Stanford University
c. Scientist
d. *JAMA*

Editor's Note: *In scientific research, 3 primary arenas exist for ownership of data: the government, the commercial sector, and academic or private institutions or foundations. Although an infrequent occurrence, when data are developed by a scientist without a relationship to a government agency, a commercial entity, or an academic institution, the data are owned by that scientist. Any information produced by an office or employee of a government agency in the course of his or her employment is owned by the government. Data produced by employees in the commercial sector (eg, a pharmaceutical, device, or biotechnology company, health insurance company, or for-profit hospital or managed care organization) are most often governed by the legal relationship between the employee and the commercial employer, granting all rights of data ownership and control to the employer. According to guidelines established by Harvard University in 1988 and subsequently adopted by other US academic institutions, data developed by employees of academic institutions are owned by the institutions (***§5.6.1***, Ownership and Control of Data, pp 179-183 in print).*

3. Which of the following is true regarding data sharing?

a. Authors should not be required to provide access to data during the peer review process.
b. Once the results from analyses of data have been published, the original data no longer need to be made available.
c. Journals should lessen their emphasis on reports of secondary analyses.
d. Data sharing should be a regular practice.

Editor's Note: *In 1985, the US Committee on National Statistics released a report on data sharing that continues to serve as a useful guide for authors and editors. Among the committee's recommendations were the following: (1) data sharing should be a regular practice; (2) investigators should keep data available for a reasonable period after publication of results from analyses of the data; (3) journal editors should require authors to provide access to data during the peer review process; and (4) journals should give more emphasis to reports of secondary analyses and to replications. (For other recommendations that have specific relevance for scientific publication, see* ***§5.6.1****, Ownership and Control of Data, Data Sharing, Deposit, Access Requirements of Journals, pp 181-183 in print.)*

4. Which of the following is true regarding open-access journals?

a. Content can be freely copied and distributed without author attribution.
b. Content is never peer reviewed.
c. Authors or author institutions may be asked to pay submission or publication fees.
d. Readers can read but cannot download or print content.

Editor's Note: *Strictly applied, open-access publishing means that users can freely read, download, copy, distribute, print, search, or link to full text of articles provided that authors are properly acknowledged and cited. The funding model for open-access publishing requires author, institution, or funding agency payments, and/or a subsidy from the owner or publisher, and/or external grants. This is commonly referred to as an "author pays" publishing model (or "funder pays" in the event the research funder sets aside monies explicitly for such use). In 2003, the Public Library of Science launched its first in a series of open-access journals that are peer reviewed and provide editorial revision and editing (***§5.6.2***, Open-Access Publication and Scientific Journals, pp 184-185 in print).*

5. Which of the following is NOT protected by copyright?

a. Pantomimes
b. Slogans
c. Sculptures
d. Songs

Editor's Note: *A copyrightable work must be fixed in a tangible medium of expression and includes the following: literary works; musical works; dramatic works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; and architectural works. The following are not protected by copyright, although they may be covered by patent and trademark laws: works not fixed in tangible form of expression (eg, speeches or performances that have not been written or recorded); titles; names; short phrases; slogans; familiar symbols or designs; mere variation of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents; ideas, procedures, methods, systems, processes, concepts, principles, discoveries, and devices, as distinguished from a description, explanation, or illustration; and works consisting entirely of information that is common property and containing no original authorship (***§5.6.3***, Copyright: Definition, History, and Current Law, pp 186-188 in print).*

6. Works in the public domain may be freely used by anyone without permission. Which of the following are in the public domain for works covered under US copyright law?

a. Works published before 1923
b. Works published from 1923 through 1997 without a copyright notice
c. Works published from 1978 to March 1, 1989, without copyright notice or subsequent registration
d. All of the above

Editor's Note: *Works published before 1923, works published from 1923 through 1997 without a copyright notice, and works published from 1978 to March 1, 1989, without copyright notice or subsequent registration are all in the public domain. For more examples of types of works, conditions, and terms of copyright protection, see the table on page 190 of the stylebook (***§5.6.4***, Types of Works and Copyright Duration in the United States, pp 188-193 in print).*

7. Typically, copyright of a work vests initially with the author (who may transfer rights). Which of the following is an exception to the initial assignment of copyright to authors?

a. Work created by a federal government employee
b. Work created by an employee of an institution under a work-for-hire scenario
c. Both a and b
d. Neither a nor b

Editor's Note: *Because copyright does not vest in works created by the US federal government, no assignment from the author is necessary. In addition, a manuscript from an author or authors from a single institution may be submitted with a copyright transfer or publication license and signed on behalf of the institution, rather than by the individual authors (***§5.6.5***, Copyright Assignment or License, pp 193-196 in print).*

8. A reasonable type and amount of copying of copyrighted work is permitted under the fair use provision of US copyright law. Which of the following would be a violation of the fair use provision?

a. Reprinting abstracts without permission from the copyright owner
b. Copying and distributing an entire book by a teacher to a class
c. Quoting passages of fewer than 300 words without permission
d. All of the above

Editor's Note: *What constitutes fair use of copyrighted material in a given case depends on the following 4 factors: (1) purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (2) nature of the copyrighted work; (3) amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) effect of the use on the potential market for or value of the copyrighted work. The amount of text subject to fair use is determined by its proportion of the whole, but this proportion is not measurable by word length. Obviously, copying an entire work is a violation of fair use; however, there are no specific numbers of words or lines or amount of content that may be taken without permission. The so-called 300-word rule has been cited erroneously to justify quoting passages of text without permission. In addition, abstracts, which are usually fewer than 300 words, are a widely debated application of fair use. It can be argued that abstracts, especially structured abstracts, represent the whole work. As a result, any secondary publication or commercial use of abstracts of journal articles as derivative works in print or online without permission of the copyright owner may be considered copyright infringement (***§5.6.7**, *Copying, Reproducing, Adapting, and Other Uses of Content, pp 197-200 in print).*

9. There is no international copyright law.

a. True
b. False

Editor's Note*: Although there are several international copyright conventions and treaties, there is no international copyright law. Copyright law, scope, protections, and remedies are governed by individual nations and treaties between them. Thus, copyright laws do not automatically protect an author's work throughout the world. However, most countries offer protection to works from other nations. For a detailed discussion of the copyright laws of individual countries, consult the World Intellectual Property Organization (WIPO) (which is under the auspices of the United Nations) in Geneva, Switzerland (see* **§5.6.14**, *Copyright Resources, for contact information for WIPO) (***§5.6.12**, *International Copyright Protection, pp 207-208 in print).*

10. Which of the following is not protected by trademark laws?

a. Logos
b. Book titles
c. Pseudonyms
d. Trade dress

Editor's Note: *Trademark and unfair-competition laws are designed to prevent a competitor from selling goods or services under the auspices of another. Trademark law, not copyright law, protects trademarks, service marks, and trade names.* Trademarks *are legally registered words, names, symbols, sounds, or colors or any combination of these items that are used to identify and distinguish goods from those goods manufactured and sold by others and to indicate the source or origin of the goods (eg, brand names). Logos, pseudonyms, and trade dress are all protected by trademark laws. However, book titles are rarely protected under trademark law because of judicial reluctance to protect titles that are used only once. A few exceptions to this norm have occurred with book titles that have engendered common secondary meanings, ie, become widely recognized and associated with the name of the author or publisher (eg,* Gone With the Wind*). The title of a series of creative works (eg, book series, journals, magazines, newspapers, television series, or software) may more easily receive trademark protection than can the title of a single creative work (***§5.6.16**, *Trademark, pp 210-215 in print).*