

ФЕДЕРАЛЬНОЕ ГОСУДАРСТВЕННОЕ БЮДЖЕТНОЕ ОБРАЗОВАТЕЛЬНОЕ УЧРЕЖДЕНИЕ
ВЫСШЕГО ПРОФЕССИОНАЛЬНОГО ОБРАЗОВАНИЯ
«РОССИЙСКАЯ ГОСУДАРСТВЕННАЯ АКАДЕМИЯ
ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ»

Кафедра «Русских и иностранных языков»

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ФОНД ОЦЕНОЧНЫХ СРЕДСТВ

По дисциплине

Профессиональный иностранный язык

Для обучающихся по направлению 38.04.04
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I. Грамматические упражнения

1. Вставьте предлоги *on*, *in* или *into*.

1. Where is the book? - It is ... the table.
2. Where is the tea? — It is ... the cup.
3. Put the plates ... the table.
4. Put the book ... the bag.
5. There is a beautiful picture ... the wall.
6. He went ... the room.
7. I like to sit ... the sofa ... my room.
8. Mother is cooking dinner ... the kitchen.
9. She went ... the room and sat down ... the sofa.
10. There are many people ... the park today.
11. There is a girl standing ... the bridge. Why is she crying? - She has dropped her doll ... the water.
12. There is no tea ... my cup.
13. Pour some tea ... my cup.
14. Put these flowers ... the window-sill.
15. I saw many people ... the platform waiting for the train.
16. We went ... the garden and sat down ... a bench.
17. The teacher hung a picture ... the blackboard.
18. He put his hand ... his pocket, took out a letter and dropped it ... the mail-box which hung ... the wall of the house. Then he got ... his car and drove off.

2. Вставьте предлоги *at* или *on*

1. Get up ... seven o'clock or ... a quarter past seven.
2. ... Sunday I usually get up ... nine o'clock or half past nine. But last Sunday I slept very long and got up only ... noon.
3. Our lessons are usually over ... twenty minutes to two.
4. They returned from the wood ... sunset.
5. I began writing my composition ... seven o'clock and finished only ... midnight.
6. My birthday is ... the ninth of July.
7. ... the twenty-fifth of December people celebrate Christmas.
8. ... Wednesday I usually have a lot of homework.

3. Вставьте предлоги, где необходимо.

1. My mother is afraid ... rats.
2. "What do you complain ...?" asked the doctor.

3. Don't enter ... the room.
4. What are you laughing ... ?
5. They did not want to listen ... me.
6. Wait ... me. I'll be back ... a few minutes.
7. Yesterday the teacher spoke ... us about the architecture ... St. Petersburg.
8. My grandmother often complains ... headache.
9. I am sorry, I cannot speak ... you now, the professor is waiting ... me. I must go ... the institute and explain ... him some details ... our work. Come ... the evening, I shall listen ... you very attentively and answer ... all your questions.
10. Turn ... the corner ... the house and look ... the flowers grown ... my mother: aren't they beautiful?
11. We tried to speak ... him, but he did not want to listen ... us. He did not even look ... us and did not answer ... our questions.
12. When I entered ... the room, everybody looked ... me with surprise: they had not waited ... me.

4. Вставьте глаголы *to be* в Present, Past или Future Simple.

1. My father ... a teacher.
2. He ... a pupil twenty years ago.
3. a doctor when I grow up.
4. ... your father at work yesterday?
5. My sister ... ill last week.
6. She ... not ill now.
7. Yesterday we... at the theatre.
8. Where ... your mother now? — She ... in the kitchen.
9. Where ... you yesterday? — I ... at the cinema.
10. your little sister in bed now? — Yes, she
11. When my granny... young, she ... an actress.
12. My friend K.,, in Moscow now.
13. He ... in St. Petersburg tomorrow.
14. Where ... your books now? -- They ... in my bag.

5. Раскройте скобки, употребляя глаголы в Present Continuous или в Present Simple.

1. I (to read) books in the evening.
2. I (not to read) books in the morning.
3. I (to write) an exercise now.
4. I (not to write) a letter now.
5. They (to play) in the yard now.
6. They (not to play) in the street now.
7. They (to play) in the room now?
8. He (to help) his mother every day.

9. He (to help) his mother every day?
10. He (not to help) his mother every day.
11. You (to go) to school on Sunday?
12. My friend (not to like) to play football.
13. (not to read) now.
14. He (to sleep) now?
15. We (not to go) to the country in winter.
16. My sister (to eat) sweets every day.
17. She (not to eat) sweets now.
18. They (to do) their homework in the afternoon.
19. They (not to go) for a walk in the evening.
20. My father (not to work) on Sunday.
21. He (to work) every day.

6. Раскройте скобки, употребляя глаголы в *Present Continuous* или в *Present Simple*.

1. What you (to do) here now? - We (to listen) to tape-recordings.
2. You (to want) to see my father? - Yes, I ...
3. Michael (to know) German rather well. He (to want) to know English, too, but he (to have) little time for it now.
4. What magazine you (to read)? - It (to be) a French magazine. There (to be) good articles on sports here. You (to be) interested in sports? - Yes, I But I (not to know) French.
5. We (to have) an English lesson now.
6. Lena usually (to prepare) her homework at the institute? - No, she As a rule, she (to work) at home. — And what she (to write) now? - Oh, she (to write) an article for our wall newspaper.
7. Who that man (to be) who (to stand) in the doorway? - You (not to recognize) him? It (to be) John, my cousin.
8. I (to have) no time now, I (to have) dinner.
9. Your family (to leave) St. Petersburg in summer? - Yes, we always (to go) to the sea-side. We all (to like) the sea. Mother (to stay) with us to the end of August, but father (to return) much earlier.
10. Where Tom and Nick (to be) now? — They (to have) a smoke in the garden.

7. Раскройте скобки, употребляя глаголы в *Present* или *Past Simple*.

1. I (to go) to bed at ten o'clock every day.
2. I (to go) to bed at ten o'clock yesterday.
3. My brother (to wash) his face every morning.
4. Yesterday he (to wash) his face at a quarter past seven.
5. I (not to have) history lessons every day.
6. We (not to rest) yesterday.

7. My brother (not to drink) coffee yesterday.
8. My mother always (to take) a bus to get to work, but yesterday she (not to take) a bus. Yesterday she (to walk) to her office.
9. You (to talk) to the members of your family every day? - Yes, I But yesterday I (not to talk) to them: I (to be) very busy yesterday.
10. You (to come) home at six o'clock yesterday? - - No, I Yesterday I (to come) home from school at half past eight. I (to be) very tired. I (to have) dinner with my family. After dinner I (to be) very thirsty. I (to drink) two cups of tea. Then I (to rest).
11. Your sister (to go) to school every day? - - Yes, she

8. Раскройте скобки, употребляя глаголы *Present Continuous* или *Past Continuous*

1. I (to write) an English exercise now.
2. I (to write) an English exercise at this time yesterday.
3. My little sister (to sleep) now.
4. My little sister (to sleep) at this time yesterday.
5. My friends (not to do) their homework now. They (to play) volley-ball.
6. My friends (not to do) their homework at seven o'clock yesterday. They (to play) volley-ball.
7. You (to eat) ice-cream now?
8. You (to eat) ice-cream when I rang you up yesterday?
9. What your father (to do) now?
10. What your father (to do) from eight till nine yesterday?
11. Why she (to cry) now?
12. Why she (to cry) when I saw her yesterday?
13. She (to read) the whole evening yesterday.
14. She (not to read) now.
15. Now she (to go) to school.
16. What you (to do) now? — I (to drink) tea.
17. You (to drink) tea at this time yesterday? — No, I (not to drink) tea at this time yesterday, I (to eat) a banana.
18. My sister is fond of reading. She (to read) the whole evening yesterday, and now she (to read) again,
19. Look! My cat (to play) with a ball.
20. When I went out into the garden, the sun (to shine) and birds (to sing) in the trees.

9. Раскройте скобки, употребляя глаголы в одном из следующих времен: *Present Simple, Past Simple, Present Continuous, Past Continuous*.

1. Nina (to celebrate) her birthday yesterday. Her room looked beautiful, there (to be) many flowers in it. When I (to come) in, somebody (to play) the piano, two or three pairs (to dance).
2. Listen! Somebody (to play) the piano.
3. I (to like) music very much.
4. When I (to look) out of the window, it (to rain) heavily and people (to hurry) along the streets.
5. What you (to do) at seven o'clock yesterday? - - I (to have) supper.
6. When I (to come) home yesterday, I (to see) that all my family (to sit) round the table. Father (to read) a letter from my uncle who (to live) in Kiev.
7. Where you (to be) yesterday? — I (to be) at home the whole day. — How strange. I (to ring) you up at two o'clock, but nobody (to answer). — Oh, I (to be) in the garden. I (to read) your book and (not to hear) the telephone.
8. What you (to do) at five o'clock yesterday? — I (to work) in the library. — I (to be) there, too, but I (not to see) you.
9. Yesterday I (to work) at my English from five till seven.
10. It (to rain) the whole day yesterday.
11. Where your sister (to be) now? — She (to be) in her room. She (to do) her homework.

10 Раскройте скобки, употребляя глаголы в *Present Perfect* или *Past Simple*.

1. We (to travel) around Europe last year.
2. My father knows so much because he (to travel) a lot.
3. I (to see) Pete today.
4. She (to see) this film last Sunday.
5. Alex (to meet) his friend two hours ago.
6. I just (to meet) our teacher.
7. The children already (to decide) what to do with the books.
8. Yesterday they (to decide) to help their grandmother.
9. She (to live) there last year.
10. The rain (to stop) and the sun is shining in the sky again.
11. The rain (to stop) half an hour ago.
12. The wind (to blow) off the man's hat, and he cannot catch it.
13. The weather (to change), and we can go for a walk.
14. The wind (to change) in the morning.
15. I already (to do) my homework. Now I can go for a walk.
16. I (to do) my homework yesterday.
17. He just (to come) home.
18. He (to come) home a minute ago.
19. Nick (to play) football yesterday.
20. She already (to come) from school. Now she is doing her homework.
21. I (to read) this book last year.

22. I (to read) this book this year.
23. I never (to be) to Washington.
24. You ever (to be) to New York?
25. I (not yet to eat) today.
26. He (not to eat) yesterday.
27. You (to play) the piano yesterday?
28. You (to play) the piano today?
29. What you (to prepare) for today?
30. Where you (to put) my pen? I cannot find it.
31. You (to see) Mary today?
32. When you (to see) Mary? — I (to see) her last week.
33. Your mother (to promise) to take you to the theatre?
34. He is not at school today, he (to fall) ill. — When he (to fall) ill? — He (to fall) ill yesterday.

11. Раскройте скобки, употребляя глаголы в *Past Simple*, *Past Continuous* и *Past Perfect*.

1. I (to sit) in an armchair and (to think) of my coming trip across the North Sea when the door suddenly (to open) and an old friend of mine whom I (not to see) for a very long time (to enter) the room.
2. She (to come) to see us just at the time when we (to have) dinner. It (to be) the first time I (to see) her.
3. I (to see) him just as he (to leave) the hotel.
4. I (not to see) him before we (to meet) at the concert.
5. He (to leave) the house before I (to have) time to ask him anything.
6. He (to tell) me he (to learn) it from the newspaper.
7. He (to enter) the room, (to take) something from the desk and (to go) out.
8. There (to be) two men in the room. One of them (to write) something while the other (to read) a newspaper.
9. He (not to tell) me that he (to receive) a telegram from her.
10. I (to ask) him if he (to know) where she (to live). I (to say) I (not to know) her address.
11. He (to ask) me if I (can) give him your address.
12. She (to say) that he (to give) her the wrong address.
13. I (to ask) him where he (to put) my letter.
14. He (to tell) us that they (to spend) all the money.
15. After spending several days in Paris he (to feel) lonely and (to want) to return home.
16. I (to think) he already (to go) home.
17. I (to find) the old man in the garden. He (to talk) to some children who (to stand) around listening to him.
18. He (to speak) a language we never (to hear) before.

12. Раскройте скобки, употребляя глаголы в *Present Perfect*, *Past Simple*, *Past Continuous* или *Past Perfect*.

1. I just (to see) Jack.
2. She (to wash) the dishes from five till six.
3. Look! She (to draw) a very nice picture.
4. At this time yesterday I (to talk) to my friend.
5. The TV programme (to begin) before I (to come) home.
6. I (not to eat) ice-cream since summer.
7. I understood that she (not to read) my letter.
8. She (to do) the rooms when I (to come) home.
9. It's all right: she (to find) the way out of the situation.
10. He (to come) home late yesterday.
11. She is very glad: she (to finish) her composition at last.
12. He (to translate) the whole text by eleven o'clock.
13. I never (to be) to Rome.
14. Last year we (to work) very much.
15. When I (to have) breakfast, I went to school.
16. I (not to see) you for ages! I am very glad to see you.
17. My sister already (to graduate) from the institute.
18. He repaired the toy which his brother (to break) the day before.
19. I (to see) an interesting TV programme this week.
20. They (to cook) the whole day yesterday.

13. Раскройте скобки, выбирая требующуюся форму глагола.

1. Bread (to eat) every day.
2. The letter (to receive) yesterday.
3. I (to ask) at the lesson yesterday.
4. I (to give) a very interesting book at the library last Friday.
5. Many houses (to build) in our town every year.
6. These trees (to plant) last autumn.
7. We (to invite) to a concert last Saturday.
8. My question (to answer) yesterday.
9. Hockey (to play) in winter.
10. Mushrooms (to gather) in autumn.
11. Flowers (to sell) in shops and in the streets.
12. The porter will (bring, be brought) your luggage to your room.
13. Your luggage will (bring, be brought) up in the lift.
14. You may (leave, be left) your hat and coat in the cloak-room downstairs.
15. From the station they will (take, be taken) straight to the hotel.
16. At the station they will (meet, be met) by a man from the travel bureau.

14. Раскройте скобки, употребляя глаголы в *Passive Voice*.

1. At the last competition the first prize (to win) by our team.
2. The question (to settle) as soon as they arrived.
3. Your report must (to divide) into two chapters.
4. Soon he (to send) to a sanatorium.
5. The book (to discuss) at the next conference.
6. The composition must (to hand) in on Wednesday.
7. Yesterday he (to tell) to prepare a speech.
8. The article (to publish) last week, if I am not mistaken.
9. The lectures (to attend) by all of us.
10. A taxi (to call) fifteen minutes ago, so we are expecting it any moment.
11. The young man (to introduce) to me only a couple of hours ago, but it seems to me that I've known him for years.
12. The rule explained by the teacher at the last lesson (to understand) by all of us.
13. The poem was so beautiful that it (to learn) by everybody.
14. I hope the invitation (to accept) by everybody.
15. The letter (to post) in half an hour.

15. Переведите на русский язык, обращая внимание на герундий.

1. Have you finished writing?
2. Taking a cold shower in the morning is very useful.
3. I like skiing, but my sister prefers skating.
4. She likes sitting in the sun.
5. It looks like raining.
6. My watch wants repairing.
7. Thank you for coming.
8. I had no hope of getting an answer before the end of the month.
9. I had the pleasure of dancing with her the whole evening.
10. Let's go boating.
11. He talked without stopping.
12. Some people can walk all day without feeling tired.
13. Iron is found by digging in the earth.
14. There are two ways of getting sugar: one from beet and the other from sugar-cane
15. If you want things done well, do them yourself.
16. I should very much like it to be made clear to me.
17. The traveler entered the inn and ordered supper to be prepared.
18. He wanted his letters sent at once.
19. I don't want my papers looked through.
20. She did not want her child taken to hospital.
21. She gave him some papers and said that the client wanted them signed.
22. The teacher wants our homework to be prepared well.
23. Would you like your luggage carried upstairs?
24. I want a bedroom prepared for my guest.

25. I must have my hair cut tomorrow.
26. I have just had my photograph taken and thought you might like to get one.
27. She has had no photographs of herself taken since her childhood.
28. Have this carpet spread on the floor.
29. They had some dinner brought.
30. She had the children looked after in the evening when she went out.
31. Ellen had her needle threaded for her as her eyesight was getting worse and worse.
32. I must have these shoes mended.
33. The planters had the trees in the jungle cut down.

16. Переведите на русский язык, обращая внимание на сложное подлежащее.

1. He was said to be one of the most promising nuclear physicists.
2. He is said to be a good translator.
3. Roberta was known to be an honest and hard-working girl.
4. Clyde was expected to arrive at the week-end.
5. Becky and Tom were supposed to have stayed at the widow Douglas'.
6. The number of the unemployed is reported to be increasing with every year.
7. Many new textbooks are expected to be published soon.
8. The Moscow Underground is said to be the finest in the world.
9. Chernyshevsky is known to have spoken several foreign languages.
10. A hare is known to run very fast.
11. The man was seen to take off his coat.
12. The diamond content of the mines in Western Yakutia is said to be in no way inferior to that of the world-famous South African mines.
13. That power station is known to be situated on the Angara River.
14. These devices are considered to be very effective.
15. Many books are known to be published in our country every year.
16. You are supposed to graduate in four years.
17. Radium is said to be very radioactive.
18. This device was known to have been designed in that laboratory.
19. His invention is considered to be of great importance.
20. The sun is known to represent a mass of compressed gases.
21. The new rocket is reported to go into operation next year.
22. This type of rocket is supposed to have many advantages.
23. For a longtime the atom was thought to be indivisible.
24. The helium atom was found to have two electrons.
25. I did not know what I was expected to say to that, so I said nothing.

17. Вставьте подходящие модальные глаголы (must, may, can, need, to have to, to be able to).

1. If you want to improve your English, you ... work very hard.
2. ... I take this book? — Certainly, but you ... not give it to anybody.
3. Mother, ... I go to the country tomorrow? — No, you ... not. The doctor says you ... stay at home for a day or two.
4. There is something wrong with your television-set. You ... call a repair-man. — Oh, we ... not do, it! My brother ... fix it himself.
5. ... we bring these text-books every day? — No, you ... not: you ... take them from the library.
6. You ... not come to help them tomorrow: the work is done.
7. You ... not change the whole text as the beginning is all right. You ... only rewrite the second part of it.
8. ... you help me now? — I am afraid not: I am in a great hurry. I shall be free in the evening. Come to my place at about eight, and I ... help you.
9. John ... not tell us the rules of the game: we know them.
10. ... I return the book to you on Friday? I am afraid I ... not finish it before. — No, that is too late. You ... bring it to me not later than Wednesday.
11. It is already six o'clock. We ... hurry if we don't want to be late.
12. ... you translate this text into English? — I think I ...

II. Образец текстов для перевода. Объем одного текста - около 15 000 печатных знаков.

Текст № 1

Understanding copyright and related rights

This article is intended to provide an introduction for non-specialists or newcomers to the subject of copyright and related rights. It explains in layman's terms the fundamentals underpinning copyright law and practice. It describes the different types of rights which copyright and related rights law protects, as well as the limitations on those rights. And finally it briefly covers transfer of copyright and provisions for enforcement.

Detailed legal or administrative guidance on how, for example, to deal with infringement of copyright, is *not* covered in this article, but can be obtained from national intellectual property or copyright offices.

Intellectual Property

Copyright legislation is part of the wider body of law known as intellectual property. The term intellectual property refers broadly to the creations of the human mind. Intellectual property rights protect the interests of creators by giving them property rights over their creations.

The [Convention Establishing the World Intellectual Property Organization](#) (1967) gives the following list of subject matter protected by intellectual property rights:

- literary, artistic and scientific works;
- performances of performing artists, phonograms, and broadcasts;
- inventions in all fields of human endeavor;
- scientific discoveries;
- industrial designs;
- trademarks, service marks, and commercial names and designations;
- protection against unfair competition; and
- “all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.”

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.

The Two Branches of Intellectual Property: Industrial Property and Copyright

Intellectual property is usually divided into two branches, namely industrial property, which broadly speaking protects inventions, and copyright, which protects literary and artistic works.

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.

Copyright relates to artistic creations, such as books, music, paintings and sculptures, films and technology-based works such as computer programs and electronic databases. In most European languages other than English, copyright is known as author's rights. 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. That act is the making of copies of the work. The expression *author's rights* refers to the creator of the artistic work, its author. It thus underlines the fact,

recognized in most laws, that the author has certain specific rights in his creation which only he can exercise (such as the right to prevent a distorted reproduction). Other rights (such as the right to make copies) can be exercised by other persons, for example, a publisher who has obtained a license from the author.

While other types of intellectual property also exist, it is helpful for present purposes to explore the distinction between industrial property and copyright in terms of the basic difference between inventions and literary and artistic works.

Inventions may be defined in a non-legal sense as new solutions to technical problems. These new solutions are **ideas**, and are protected as such; protection of inventions under patent law does not require that the invention be represented in a physical embodiment. The protection accorded to inventors is, therefore, protection against any use of the invention without the authorization of the owner. Even a person who later makes the same invention independently, without copying or even being aware of the first inventor's work, must obtain authorization before he can exploit it.

Unlike protection of inventions, copyright law protects only the **form of expression** of ideas, not the ideas themselves. The creativity protected by copyright law is creativity in the choice and arrangement of words, musical notes, colors and shapes. So copyright law protects the owner of property rights against those who copy or otherwise take and use the form in which the original work was expressed by the author.

From this basic difference between inventions and literary and artistic works, it follows that the legal protection provided to each also differs. Since protection for inventions gives a monopoly right to exploit an idea, such protection is short in duration- usually about 20 years. The fact that the invention is protected must also be made known to the public. There must be an official notification that a specific, fully described invention is the property of a specific owner for a fixed number of years; in other words, the protected invention must be disclosed publicly in an official register.

Since the legal protection of literary and artistic works under copyright, by contrast, prevents only unauthorized use of the *expressions* of ideas, the duration of protection can be much longer than in the case of the protection of ideas themselves, without damage to the public interest. Also, the law can be - and in most countries is - simply declaratory, i.e., the law may state that the author of an original work has the right to prevent other persons from copying or otherwise using his work. So a created work is considered protected as soon as it exists, and a public register of copyright protected works is not necessary.

Текст № 2

How prior art is used against a patent

Prior art for a patent means anything published before the filing date of the patent which describes the same or a similar invention.

While there are many different grounds on which a patent can be invalidated, the most common one is that the invention is found to be not novel or obvious in the light of the prior art. So, to get a patent invalidated, the first step is to locate documents that can be considered "prior art" against the patent's claims. Prior art basically means any disclosure of the contents of a claim, prior to the application for patent.

National patent laws provide various definitions of what constitutes prior art and in which situations. For example, not all countries recognize oral disclosures as prior art, and others provide grace periods during which the inventor may publish his invention without the publication counting as prior art against his later patent application. Additionally, the Paris Convention provides so-called priority rights, which give an inventor one year to file patent applications after he filed the first one, without endangering the novelty of his invention.

A patent cannot claim something that already exists, nor can it claim something obvious. To determine this, patent examination always involves looking for *prior art*, earlier publications that show the invention is not new or is obvious.

One of the reasons that a patent system exists is to reward inventors for disclosing their invention to the public. This implies that an invention should be new, because otherwise the inventor would get a reward for telling us something we already know. An important aspect of the patent system therefore is the determination of novelty (and obviousness) of an invention. If examination reveals that an invention is not novel, the patent application is rejected. And even if the patent is granted, it can still be annulled by a court if the court finds that the invention wasn't novel after all.

The first step in patent examination is to search the available literature for documents that describe the invention in whole or in part. A restriction is made in this search: only documents published before the filing date of the application in question are considered. Patent practitioners call this "the state of the art". This restriction allows an inventor to publish his invention after he has filed a patent application on it, without destroying the novelty of his invention. Documents found in the search are often referred to as "prior art". In all cases, examination of the patent application is carried out on the basis of the claims. The evaluation of a prior art document thus must also be performed by comparing it to the claims. In this document the term "invention" should therefore be read as meaning "invention as defined in one of the independent claims of a patent or application".

A prior art document is said to anticipate a claim of a patent if the prior art document describes all the features of that claim, either implicitly or explicitly. The features of the claim must be present in the same composition in the prior art. The invention is then not novel over that prior art document. Such prior art documents are often referred to as "relevant prior art". If a prior art document does not describe all the features of a claim, that claim is said to be novel compared to the document. The document can still be useful as prior art, but only to prove that the claimed invention is obvious. Usually, to establish that an invention is obvious, more than one prior art document is necessary.

What can be prior art?

Any publication, in any form, in principle qualifies as prior art. Often earlier patents and scientific publications are used, because those are the easiest to find. But also textbooks, newspapers, lectures, demonstrations and exhibitions and any other disclosure can be used.

Any publication

While earlier patents and published patent applications are most often cited by patent offices, any document from any source can in fact be used as prior art. It does not matter in which language the document is written, in how many copies it was made available, or whether any copies were in fact bought or read by third parties. The only thing that matters is that the document was available to the public before the critical date. A single copy of a Ph.D. thesis available in a university library counts as prior art, as would an article in the Irkutsk Daily Gazette.

Also, the intended audience for the publication is mostly irrelevant. Whether an invention is described in a highly technical electrical engineer's journal, or in a junior high school textbook, does not matter. The textbook counts as prior art just like the journal, if both were published before the filing date of the patent application.

Any material available to the public

Something counts as prior art only if it is available to the public. It is irrelevant whether the public in fact accessed the document, or how easy it was to find the document. For instance, a paper might be published in a journal with a very small circulation, or a book might be present in the library without being mentioned in the catalog. People might give lectures and distribute handouts at a conference that costs several thousand dollars per day to attend. All these instances constitute prior art, as long as a member of the public could gain access to it without violating a secrecy obligation or doing something illegal (such as breaking into an inventor's private library).

Making available and exhibitions of products

Publicly available products also count as prior art, even though it may be very difficult to determine exactly what the product is made of or how it works. If a device is put on the market before the patent application filed on a feature in that device, the feature is no longer novel. Usually, the sale or other disposal of the product is enough to make all its features prior art for later filed applications. If the product is not sold, but only demonstrated to the public, then only those features which the public could observe count as prior art.

In the USA, selling or publicly displaying an invention counts as prior art even when the invention was completely hidden from view as part of a larger machine or article. But if the use was under the control of the inventor, the invention was not publicly used and so the use does not count as prior art.

Non-disclosure agreements

The inventor might want to disclose his invention to a third party before filing a patent application, for example to evaluate the commercial value. If such a disclosure is done in confidence, it does not count as prior art. While a written non-disclosure agreement (NDA), signed by both parties before the invention is disclosed, is probably the best way to go, it is by far not required. As long as the inventor can prove that the disclosure was confidential, it does not count as prior art. Of course with a written and signed NDA it is easy to prove this.

A disclosure can also be implicitly confidential; that is, the recipient of the information should have known that this was confidential information. For example, when presenting your invention to a patent attorney it is not necessary to have him sign an NDA first.

Oral disclosures

Oral disclosures, such as lectures or nonconfidential discussions between the inventor and a third party, usually also count as prior art. The problem with oral disclosures is usually how to prove that they took place and what was disclosed exactly. In some cases

a transcript or recording may be available. This can serve as evidence of what was orally disclosed, although establishing the date of the oral disclosure may still be difficult.

Note that the transcript itself also counts as prior art from the day it was published. Thus, if the patent application was filed after the publication of the transcript, it may be easier to use the transcript as prior art than to use the transcript as evidence of an earlier oral disclosure.

The USA regards oral disclosures as prior art only if they were made in the USA ("known or used by others *in this country*, or patented or described in *a printed publication in this or another country*"). A therapeutic technique orally handed down from one generation to another by a tribe in South America can thus still be patented in the USA, despite it being publicly known (but not from a printed publication) for many years.

1. Тестовые задания для оценки знаний студентов

Из четырёх вариантов (A, B, C, D) выберите единственно правильный. Впишите нужную букву (A, B, C, D) в соответствующую строку на листе для ответов.

1)... protects literary, dramatic and artistic works.

- a) trademarks
- b) copyright
- c) patents
- a) designright

2) A patent can last for a... of 20 years.

- a) maximum
- b) process
- c) registration
- d) minimum

3) A patent gives the right to use....

- a) the application
- b) the owner
- c) the invention
- d) the trademark

4) ... the timing of an application important?

- a) has
- b) does
- c) can

d) is

5) The first stage of obtaining a patent is the of an application.

- a) filing
- b) filed
- c) failing
- d) following

6) A UK patent ... not give any protection abroad.

- a) is
- b) does
- c) do
- d) has

7) Later you can apply ... protection in another country.

- a) on b) of
- c) for d) from

8) Most countries belong ... at least

one convention.

- a) with b) of
- c) for d) to

9) Patents give the right ... legal action against infringers.

- a) to take c) taken
- b) taking d) to be taken

10) The Patent office does not take sides in dispute.

- a) some c) any
- b) none d) no

11) be important commercial reasons for delaying filing.

- a) there were c) there can
- b) there was d) there have

12) Sound recordings and cable programs for 50 years.

- a) was protected
- b) be protected
- c) has to protect
- d) are protected

13) Marking ... may assist in infringement proceedings.

- a) in this way
- b) at his way

c) on this way

d) this way out

14) a patent in force, renewal fees have to be paid annually.

- a) maintained c) have to maintain
- b) maintaining d) to maintain

15) Patents are often the disclosure of technical matter.

- a) more early
- b) earlier
- c) most early
- d) earliest

16) The search report ... within twelve weeks after the request.

- a) is issued
- b) issues
- c) issued
- d) is issuing

17) ... no registration system for copyright.

- a) there have been
- b) there are
- c) there were
- d) there is

18) Copyright lasts for the period of 70 years after the death

- a) author's
- b) of the author
- c) the author's
- d) for the author

19) A UK patent ... only in the United Kingdom and the Isle of Man.

- a) has support
- b) has preparation
- c) has experience
- d) has effect

20) Grant follows after official objections have been

- a) met
- b) meet
- c) meeting
- d) to meet

21) Not all are patentable.

- a) inventions
- b) applicants
- c) infringers
- d) countries

22) The application is published in

the state it when first filed.

- a) could
- b) was
- c) wrote
- d) did

23) The examination determines if the application meets ... requirements.

- a) physical and chemical
- b) new and non-obvious
- c) legal and formal
- d) artistic and commercial

24) A patent any other commodity may be bought, sold, hired or licensed.

- a) likes
- b) liked
- c) to like
- d) like

25) These terms of protection apply...works of UK origin.

- a) to
- b) for
- c) under
- d) from

26) To get permission to exploit copyright material you have to ask the

- a) copyright infringer
- b) copyright owner
- c) copyrightConvention
- d) PatentOffice

27) Early filing of an application ...vital.

- a) have to
- b) thereis
- c) did not
- d) can be

28) Copyright may protect the drawing,... cannot prevent the manufacture of articles.

- a) because
- b) when
- c) but
- d) like

29) ... inventions are patentable.

- a) not all
- b) not every
- c) not very
- d) not much

30) The Patent Office ...fees for processing application.

- a) pays
- b) charges
- c) registers
- d) applies

31) Patents also ...to take legal action against infringing the invention.

- a) have the right
- b) give the right
- c) own the right
- d) use the right

32) Most countries belong to...one of the conventions: Berne Convention or UCC.

- a) at the most
- b) at the latest
- c) at least
- d) at last

33) Copyright protection is automatic,so there are no forms to fill...

- a) on
- b) with
- c) off
- d) in

34) If objections are raised by the Office, the applicant must overcome....

- a) their
- b) they
- c) them
- d) thus

35) Published editions are protected by copyright...25 years.

- a) of
- b) for
- c) after
- d) from

TEST OF READING

Прочтите текст. Ответьте на вопросы после текста. Выбрав вариант, который соответствует содержанию текста, впишите нужную букву (A,B,C,D) в соответствующую строку на листе для ответов.

‘A’ – Disclosure and exploitation

It is vital not to disclose your invention to anyone or to make commercial use of it before an application is made. This could prevent the grant of a patent or could invalidate a granted patent. If disclosure is necessary, it should be done in the strictest confidence.

An invention can be exploited without a patent. It can be done provided no-one else already has rights protecting that invention or a part of it. This would prevent anyone from getting a valid patent for the invention, but would not prevent others from copying it.

Published patent specifications provide an enormous amount of information which constitutes an invaluable database for research. Patents are often the earliest disclosure of technical matter. Companies are increasingly using patents as a source of technical or commercial information, e.g. in market research.

Say which is true:

36) Invention should not be disclosed...

- a) before the grant of a patent
- b) before the application is filed
- c) before the application is published
- d) before the invention is exploited

37) Exploitation of an invention without a patent prevents...

- a) from getting a valid patent.
- b) from disclosing an invention.
- c) from copying an invention.
- d) from protecting part of the invention.

38) Published patent specifications provide...

- a) a list of UK residents.
- b) the rights of patent owners.
- c) results of market research.
- d) a good database for research.

Answer the questions:

39) What could invalidate a granted patent?

- a) Getting a valid patent for the invention.
- b) Commercial use of the invention before the application date.
- c) Sources of technical or commercial information.
- d) Disclosure made in the strictest confidence.

40) If an invention is not patented, can others copy it?

- a) No, they cannot.
- b) Only part of it.
- c) Only in the strictest confidence.
- d) Yes, they can

2. Деловые игры.

CASE STUDY

1. James is a comedian with a talent for improvisation. As part of his act he asks the audience for themes and styles for songs which he then improvises. He sings and accompanies himself on the piano. When James is performing at the Star Club the owner of the club allows two members of the audience Gill and Grant to record James. James does not give permission for this. Gill and Grant then make 200 copies of James' improvised songs. These are sold to a respectable music shop "Tony & C". "Tony & C" put the tapes on sale and play one of the tapes in the shop to encourage customers to buy it.

One of these customers is Phillips, an inspiring novelist. He is so inspired by one of the songs "Dream" that he writes a novel called "Inspiration" based on the incident as it is described in this two minute song. This novel is to be published next month and Phillips has called one of the characters James.

- 1) Do any copyright works subsist in James' performance?
- 2) As suggestions for the song come from the audience is James the author of the literary and musical works that subsist in his songs?
- 3) What remedies if any may James have against the club owner?
- 4) Do the activities of Gill and Grant constitute any infringement?
- 5) Is "Tony & C" liable for any copyright infringement?
- 6) Does Phillips infringe the literary copyright in James' song?
- 7) Can James prevent Phillips from calling the book's main character James?

2. NTP, a holding company applied for and received multiple patents in the mid 1990ies for a technology they called "Electronic Mail System" with radio communications to mobile processors. NTP claims to have prototyped a device but the actual business of bringing useful products to the public never materialized.

Meanwhile “RIM” company independently developed the line of two- way e- mail devices. “Blackberries”, the first devices of their type to hit the market were received with great enthusiasm and “RIM” sold about 650000 of the \$400 devices. In 2002 “NTP” sued “RIM” for patent infringement contending that “RIM” violated NTP patents.

- 1) Considering the fact that NTP never put the patented device into practice, what do you think the court decision was?
- 2) Were “NTP”’s claims justified?
3. Lock’s Grapery, the plaintiff winery obtained a license to use the Marilyn Munroe name and likeness from the Munroe licensing entity and sold wine under Marilyn Munroe brand for many years displaying a succession of images of Marilyn on its labels. At one point Lock’s grapery also obtained a license for the copyright in a famous photograph of Marilyn on Red Velvet from the photographer and sold wine with this photo on the label. Some time later the photographer terminated the license and then granted an exclusive license which allowed the use of the photo to the defendant, a different winery which reproduced the photo on its label.

The plaintiff, Lock’s grapery, sues on the trademark infringement for use of the photo that it can no longer use.

- 1) What do you think the court decision would be?
- 2) Can the plaintiff prohibit the use of an image by the rightful owner when Lock’s grapery itself cannot use the image. Give your reasons.