Solutions

Marking: **K** knowledge, **App** use of the case or data, **An** analysis (a chain of reasons: cause, then effect), **Ev** evaluation (a judgement with a reason). In calculations, **M1** is for the method and **A1** for the answer; **B1** is an independent mark.

Each answer shows the steps, then the **result**.

2.1

(a) trade mark; (b) copyright

(c) patent; (d) trade secret

2.2

(a) 20 years; (b) 10 years, renewable for ever

(c) life of the author + 70 years; (d) up to 25 years

2.3

with a registered mark, using the same mark on the same goods is infringement, which is simple to prove

without it, Nimbus must prove goodwill, confusion and damage, at many times the cost

2.4

a patent is published, so rivals could read the recipe and use it after 20 years

a secret can last for ever, as long as it stays secret

e.g. NDAs for staff who see it, or only two named people hold the full recipe

3.1

(a) trade mark infringement: an almost identical sign on the same goods, likely to confuse customers

(b) passing off: Nimbus must show goodwill in the name, a misrepresentation that confuses customers, and damage to Nimbus

(c) register the name and logo now, as a cheap way to make any future claim simple

3.2

(a) "all rights" may be read as an assignment, so the sponsor could own or register the name

(b) any three, e.g.: use only at festival sites; for a fixed time, such as two seasons; Nimbus keeps quality control, and rights return on breach

3.3

7–8: a patent gives 20 years of protection, but only if the method is new and inventive, and it is published (K); if rivals can work the method out within about 3 years, secrecy gives little protection, so a patent may be worth more (App); secrecy is cheap and can last for ever, but one leaving employee or a rival's own discovery ends it (An); a patent costs money to file and to defend in court (An); recommendation with a condition, e.g.

take advice on whether it is patentable; if it is, file before telling anyone; if not, protect it with NDAs and limited access (Ev). **4–6**: sound analysis with limited use of the case or a weak judgement. **1–3**: relevant points, mostly descriptive.

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