Legal Practitioners’ Admission Board – Diploma in Law

INTELLECTUAL PROPERTY COURSE

Lecture 3 – Copyright (Pt 3)

Infringement

1. Introduction to relevant statutory provisions.

2. Direct vs indirect infringement.

3. Principal elements required to establish copyright infringement:
   a. Need to prove copying – objective similarity and causal connection.
   b. Substantiality – Section 14.

4. Infringement of specific exclusive rights – eg. infringement of the ‘right to perform in public’.

5. The concept of ‘authorisation’ – an avenue to extend the scope of liability.

6. Secondary (or indirect) infringement:
   a. Two main types: pirating (unauthorised copying) and parallel importation.
   b. Relevant statutory provisions: ss 37 and 38 (works) and ss 102 and 103 (other subject matter).
   c. Parallel importation: what is it and how do the statutory provisions operate regarding it?

7. Circumvention devices: the operation of Section 116A.

Defences to infringement

8. General outline of defences available.

9. The ‘fair dealing’ defences in relation to ‘works’: ss 40, 41 and 42. The corresponding provisions for ‘other subject matter’: ss 103A, 103B and 103C.

Remedies

10. Basic outline of remedies available.