

THE JOINT EXAMINATION BOARD
COMMON FOUNDATION LEVEL
UNITED KINGDOM DESIGNS AND COPYRIGHT LAW

26th April, 1995

02.00 p.m. - 05.00 p.m.

Please read the following instructions carefully. This is a **THREE HOUR** paper.

1. You should attempt no more than **four** questions from Part A and no more than **four** questions from Part B.
2. The number of marks allotted to each question is placed in brackets at the end of the question.
3. Where a question permits of reasons being given for the conclusions reached, such reasons should be given.
4. Start each question (**but not necessarily each part of each question**) on a fresh sheet of paper. In the appropriate boxes at the top of each sheet please enter the designations of the paper, the question number, and your Examination number. Write on **one** side of the paper only using **BLACK** ink. You must **NOT** staple pages together. You must **NOT** state your name anywhere in the answers.
5. Unless specifically requested answers are **NOT** required in letter form.
6. **NO** printed matter or other written material may be taken into the examination room.
7. Answers **MUST** be legible. If the examiners cannot read a candidate's answer no marks will be awarded.

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PART A

You should attempt 4 (but not more than 4) questions from this section.

1. In relation to registered designs, write brief notes on the effect of the following on the scope of protection given by registration :

- (a) representations
- (b) article
- (c) statement of novelty

(10 marks)

2. A design made abroad only gives rise to design right in the United Kingdom in certain limited circumstances. Outline briefly the circumstances in question.

(10 Marks)

3. Who is the first owner of the copyright in :

(a) a photograph of a famous writer commissioned in 1990 by the editor of a literary magazine

(b) a diagram produced by an employee of company X using 'Freehand' software provided by a well-known software house ICBM

(c) advertising copy written by a copywriter employed by the client's advertising agency. The agency was paid for its work by the client despite there being no written agreement between the agency and the client

(10 marks)

4. When does the term of protection given by the following rights expire ? Why ?

(a) design right in a design document made on 2nd August 1989 showing an article, the first sales of which are expected to take place in mid-May 1995

(b) copyright in a sculpture erected in central Manchester in 1960, the sculpture having been made from a mould which collapsed after the thirteenth casting had been made

(c) a design registration granted on an application made in mid-1992 but 'associated' with an earlier design registration resulting from an application made in January 1990

(10 marks)

5. (a) In relation to registered designs, what is meant by 'new' ?

(b) In relation to unregistered design right, what is meant by 'original' ?

(10 marks)

PART B

You should attempt 4 (but not more than 4) questions from this section.

6. Your client expresses the view that he can see no point in paying to register designs when he can rely on copyright or unregistered design right for protection. Outline briefly the points you would make to him in explaining the differences between these different forms of protection.

(15 marks)

7. What is the difference between primary and secondary infringement of copyright? What acts constitute primary infringement? and secondary infringement?

(15 marks)

8. Assume that all of the following products have been designed in the United Kingdom during the early part of 1995 and that they are new and original. Indicate whether, and to what extent, design right, registered design and copyright protection is available in respect of:

(a) a tee-shirt having a rectangular area of a distinctive pattern printed on its front

(b) an electric plug which will fit a conventional socket but which is shaped to represent a cartoon character from a popular television series. The plug is to be made under licence from the producers of the TV series.

(c) a ball-point pen shaped and coloured to represent a thermometer

(d) a board for a new board game

(e) a knitting pattern including both written instructions and a colour chart printed on graph paper, of the kind in which each stitch is represented by a square of the appropriate colour on the squared paper

(15 marks)

9. A client tells you that he is about to launch a new range of perfumes. He recently visited Denmark and saw there a distinctively shaped bottle which he believes would be ideal suited as packaging for his new perfume. He tells you that the Danish bottle was first made two years ago but has sold in very small numbers, around 200 bottles per year. He has bought a sample back from Denmark and now intends to have a local bottle manufacturer copy it exactly, save that it will be scaled up to increase the volume of the bottle from the original 100 ml to 150 ml.

Write a letter to your client explaining any problems you foresee.

(15 marks)

10. A client runs a small workshop, which was opened in December 1989, building furniture by old-fashioned craft methods without using machines. As a result, he very seldom makes more than one set of furniture to the same design. His products are very carefully finished and, as a result sell at fairly high prices. Recently, he has begun covering the upholstered parts of the furniture with textiles designed and printed by his wife who has a studio in one corner of his workshop.

He has recently been told that a cut-price furniture warehouse chain, DTI, has bought a number of items of his furniture with a view to mass-producing cheap copies for sale throughout the United Kingdom. He has been told that both the overall shape of the items in question and the fabric covers are to be copied.

Does the client have any rights he can enforce now to prevent sales of the copies made by DTI? Are there any steps the client might consider taking to safeguard his position (and his wife's) in the future?

(15 marks)

