

**THE JOINT EXAMINATION BOARD**

**COMMON FOUNDATION LEVEL**

**UNITED KINGDOM DESIGNS AND COPYRIGHT LAW**

**24th April, 1996**

**2.00 p.m. - 5.00 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.
8. Please put your answers in **QUESTION NUMBER ORDER** before placing in the envelope provided.

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StudentBounty.com

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

1. Write brief notes on:

- (a) the duration of Design Right;
- (b) the meaning of "Design" with reference to Design Right.

(10 marks)

2. Your U.K. client has commissioned the following from outside consultants in the United Kingdom:

- (a) a distinctive and eye-catching logo that will be used on all the client's packaging and letter heading as a sort of corporate emblem;
- (b) software for stock control; and
- (c) an electronic pocket torch of novel visual appearance, which the client wishes to protect by registered design and design right.

The written agreement between the client and the consultants did not mention ownership of intellectual property rights. Ignoring trade marks, explain who owns whichever of

copyright, design right and registered design rights apply to each of (a) to (c). If your client does not own all rights in (a) to (c) above, outline what steps he should take in order to ensure that he obtains such rights.

(10 marks)

3. Discuss the protection available under registered design, design right and copyright law for each of the following proposed new products designed by a U.K. Company (you may assume that the designs are all novel):

(a) a novel pattern applied to a tea set of conventional shape;

(b) a printed textile;

(c) a pen top; and

(d) a car steering wheel.

(10 marks)

4. Outline the circumstances in which a valid U.K. registered design application may be filed by the owner of the design even though the design in question has already been published with the consent of the owner (a) in France but

not the United Kingdom and (b) in the United Kingdom.

(10 marks)

5. Your U.S. Associate writes to you as follows:

"Our clients, New, Inc., wish to file for a Registered Design in the United Kingdom in respect of the novel design of a knife sharpener. An application for a design patent was filed in U.S.A. four months ago and includes three variations of the knife sharpener, each with a slightly different aesthetically shaped handle design. New, Inc. is a Corporation with limited funds and has not yet decided on which variation of knife sharpener to concentrate. Please let us know what information and documents you need in order to protect the different variations of the design in the U.K."

Outline the advice to your Associate, setting out the information and documents you would require, and giving practical advice as to the most economic way of proceeding.

(10 marks)

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

6. Your client is the Proprietor of U.K. Registered Design No.

3456789 registered in 1989 in respect of a toy doll. The client informs you that an almost identical toy doll is being imported into the U.K. by ABC Limited and will be offered for sale through a mail order catalogue of DEF Limited. The client plans to write to both ABC Limited and DEF Limited. Write notes on the advice you will give to your client restricting your comments to the Registered Design.

(15 marks)

7. Write notes on the scope of protection afforded by and the different tests for infringement of Design Right and Registered Design.

(15 marks)

8. Your U.K. clients manufacture paving blocks for forming pavements and driveways. The basic shape of the blocks was designed in 1987 by your clients and, although your clients have drawings of the original block, no Registered Design protection was sought. At present, the blocks manufactured by your clients are only produced in grey concrete. Your client now wishes to use coloured concrete to make the blocks and to supply the blocks in packs, each pack containing an equal number of red, black and white blocks and illustrations of different possible repeating patterns

for form pavement. When the blocks are laid, the resulting pavement has a novel startling visual effect as a result of both the use of the different colours and a new way of juxtaposing the blocks. Advise upon the rights on which your client could rely to prevent a competitor from making such coloured blocks.

(15 marks)

9. Your client is a manufacturer of oil filters for cars. About three years ago, a French company introduced a new design of oil filter having a base that is permanently secured to the car engine and a replaceable cartridge that can be attached to the base by an arrangement that interlocks with the base. When introduced, the competitor's design was highly unusual and was adopted by a major car manufacturer. Your client has asked you to advise whether he can make replacement oil filters.

The client has come up with two possible designs; both designs have an arrangement for securing the oil filter cartridge to the base that is identical to the competitor's design. In one of your client's proposed designs, the rest of the oil filter cartridge is visually very similar to the competitor's cartridge and your client explains that this is his preferred design because customers will be wary about choosing a cartridge that looks different to the

competitor's cartridge. In the second design, the client's cartridge (apart from the arrangement for securing the cartridge to the base) is very different in construction and visual appearance from that of the competitor. State what points you would take into account in advising your client. Also, state what other steps you would take prior to advising your client.

(15 marks)

10. Your client specialises in photographic reproduction of old masters and other paintings for commercial use. He has recently been approached by a Mr. X who is upset at the cost of prints that Snapwed Limited want to charge for producing prints of photographs taken by a photographer from Snapwed Limited at Mr. X's wedding. Mr. X explains that he commissioned Snapwed Limited to take the photographs and, as far as he is concerned, all the photographs belong to him and his wife. He paid Snapwed Limited in full. The client says that he can easily reproduce prints from the wedding album at a competitive price and he feels that this sort of service could form a useful extension to his existing business. Outline the advice you would give to your client about reproduction of the prints and any other problem that might arise from his existing business.

(15 marks)

