

## THE JOINT EXAMINATION BOARD

PAPER D&C  
DESIGN AND COPYRIGHTThursday 14<sup>th</sup> November 2002  
2:00 to 5:00 p.m.

*Please read the following instructions carefully. Time allowed – THREE HOURS.*

1. You should **attempt ten questions**.
2. All questions carry **ten** marks. Questions answered in excess of ten will not be marked.
3. Where a question permits, reasons should be given for the conclusions reached.
4. Please note the following:
  - i) Start each question (but not necessarily each part of each question) on a fresh sheet of paper.
  - ii) Enter the Paper number, the Question number and your Examination number in the appropriate boxes at the top of each sheet of paper.
  - iii) Write on one side of the paper only, within the printed margins using a **BLACK** pen.
  - iv) **DO NOT** use coloured pens or highlighters within the answers – they will not photocopy.
  - v) **DO NOT** staple or join pages together in any way.
  - vi) **DO 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. **ALL** mobile phones and electronic aids **must be** switched off and stored away.
7. Answers **MUST** be legible. If the examiners cannot read a candidate's answer no marks will be awarded.
8. **NO WRITING OF ANY KIND WILL BE PERMITTED AFTER THE TIME ALLOTTED TO THIS PAPER HAS EXPIRED. At the end of the examination assemble your answer sheets in question number order and place in the WHITE envelope provided.**

This paper consists of 5 pages, including this page, **together with** 6 pages of additional material; making eleven pages in all.

1. How are the following defined in the Registered Designs Act 1949 (as amended)?

- (i) "Design" (3 marks)
  - (ii) "Product" (4 marks)
  - (iii) "Complex product" (3 marks)
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2. (a) According to the Registered Designs Act 1949 (as amended), what condition must be fulfilled for a design to have individual character? What factor must be taken into account in determining the extent to which a design has individual character?

(2 marks)

(b) Describe two sets of circumstances in which a UK design application may be treated as filed on a date other than the date the documents making up that application were lodged at the Designs Registry.

(3 marks)

(c) In what circumstances may a disclosure of an identical design not be novelty-destroying, despite being earlier than the date on which a UK design application was made or treated as having been made (ignore the specific provisions relating to component parts of a complex product).

(5 marks)

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3. Your client, Dudley Drivers Limited, is an English company of Unit 7, Dibdale Industrial Estate, Dibdale Road, Dudley DY1 0BD, West Midlands. Last January it exhibited for the first time in public a new range of screwdrivers at "D-I-Y Expo 2002". This is a trade fair well-known and attended by D-I-Y tool and equipment suppliers from throughout the European Union. Since then sales of the novel range have been steady, but not spectacular. Your clients' MD is however hopeful of better things, following an advertising campaign which he is about to launch in the national press. He has instructed you to apply for registration of the novel screwdriver designs, asking that you keep all his options for UK registered design protection open, but keeping costs to a minimum until the effects of the advertising campaign are known. Besides the screwdrivers shown, your client is also intending to introduce further variants having identical handles, but different tips, adapted for use with other kinds of threaded fasteners with heads of various known standard forms.

- i) Use such of this material as you consider appropriate to prepare an application for UK design protection on behalf of your client. Do not write your name on the application documents. You need only produce one set of representations.
- ii) What else do you need to do in order to secure a filing date?
- iii) Briefly explain your filing strategy.

Attached to this question paper are:

- (a) Two blank designs forms 2A
- (b) A set of representations of the new screwdriver range, as supplied by your client. (an addition set is provided for rough working).

(10 marks)

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4. In relation to UK registered design applications:
- (a) What happens if no address-for-service is included in the application?  
(2 marks)
  - (b) How many sets of representations/specimens of the design do you need to file?  
(1 mark)
  - (c) If you are filing a Convention application, what in all cases must you file/specify additionally, and when?  
(3 marks)
  - (d) If the Registrar objects in writing to an application, what is the time period normally specified for a response?  
(2 marks)
  - (e) What is the length of the time period normally allowed for settling all objections? On what conditions and for how long can this period be extended?  
(2 marks)
- 
5. (a) What acts does Council Regulation (EC) No. 6/2002 of 12/12/01 on the Community Design recite as being covered by the exclusive right to use an unregistered Community design?  
(3 marks)
- (b) From what condition must the contested use result if the acts listed under (a) above are to infringe unregistered Community design? Under what circumstances is this condition specifically deemed to be unfulfilled?  
(2 marks)
- (c) What acts falling within (a) and (b) above are acts against which Community unregistered design rights cannot be exercised? In what other circumstances can a design in which Community unregistered design right exists, be exploited by someone else, without authorisation from the right holder? (Ignore exhaustion of rights issues.)  
(5 marks)
-

6. Explain whether and, if so, why, each of the following would infringe copyright or unregistered design right, if done in the UK, without the consent of the owner of the rights. Assume all of the works concerned were created less than 10 years ago. If any of these acts infringe copyright, what is the likely term of copyright protection?
- (a) Copying a unique and famous building, much admired for its architectural excellence and fine workmanship. *(4 marks)*
  - (b) Making a miniature of a Japanese sports car, to be sold as a key ring. *(3 marks)*
  - (c) Copying a wall hanging, whose design was first recorded as a line drawing, made by a graphic artist employed by a Swedish furniture retailer. *(3 marks)*
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7. Who is the first owner of:
- (i) a UK registered design
  - (ii) a UK unregistered design right
  - (iii) a copyright work made in the UK

in each case in respect of:

- (a) works created in the course of employment, or
- (b) commissioned works, or
- (c) computer-generated works.

Assume in each case that the works were created on or after 12<sup>th</sup> December 2001. *(10 marks)*

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8. (i) Explain what is meant by “moral rights” under the CPDA 1988.  
Which, if any, of such rights have to be “asserted”?  
(7 marks)
- (ii) Under what circumstances can a person who is not the copyright owner prevent public issuance, exhibition or broadcasting of a photograph or film?  
(3 marks)
- 

9. (i) What is the duration of copyright in a computer-generated work?  
(3 marks)
- (ii) How is joint authorship of an artistic or literary work defined? What is the duration of copyright in such a work?  
(3 marks)
- (iii) What is the duration of copyright in a work of unknown authorship?  
(4 marks)
- 

10. What are the conditions of qualification for UK unregistered design right to come into existence?  
(Ignore issues of originality and recordal).  
(10 marks)
- 

11. Your client registered a design in UK in 2000, in respect of the shape and configuration of a fork.

In 2002 a competitor puts on the market a spoon which (except for its bowl) embodies the same design. The Design Registration is in force.

Explain how the transitional provisions of The Registered Design Regulations 2001 affect the question of infringement of your client’s Design Registration.

(10 marks)

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12. Under what conditions may an article alleged to infringe copyright, be seized by the copyright owner?  
(10 marks)
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## Designs Form 2A

Registered Designs Act 1949  
(Rules 6, 12 to 14 and 16)

The  
Patent  
Office

StudentBounty.com

The Patent  
Designs Register

Cardiff Road  
Newport  
Gwent NP9 1RH

### Application for registration of a design

(See the notes on the back of this form)

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1. Your reference

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2. Full name, address and postcode of the or  
of each applicant  
*(Names of individuals including all partners in a firm  
must be given in full. Underline the surname or family  
name, for a corporate body give its company name.)*

Designs ADP number *(if you know it)*

If the applicant is a corporate body, give  
country/state of incorporation

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3. Name of agent *(if you have one)*

"Address for Service" in the United Kingdom to  
which all correspondence should be sent  
*(including the postcode)*

Designs ADP number *(if you know it)*

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4. Name the particular article or set of articles  
to which the design applies

Write the fee code S, T or O *(see note (f))*

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5. Association: Enter the number of any earlier  
design application or registration with  
which the applicant seeks association under  
section 4

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6. Declaration of Priority: <i>(If any)</i>	Country	Date of filing <i>(day / month / year)</i>
Give the Convention country and filing date of any previous application made abroad from which priority is claimed under section 14		

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7. If 6 above applies, and the previous  
application was not made in the name(s) given  
at part 2, give details of the instrument *(for  
example, deed of assignment)* which gives the  
applicant the right to apply for registration.  
Include appropriate names(s) and date(s).

*(If this information is not given at the time this form  
is filed you must supply it before the design is  
registered.)*

Designs Form 2A

**Designs Form 2A**

8. Divisional application: Give the number and filing date of any relevant earlier application whose filing date is claimed under rule 34	Number	Date (day / month / year)
9. Declaration	I/We apply to register the design shown in the accompanying representations or specimens. I/We declare that the applicant(s) claim(s) to be the owner(s) of the design in relation to the article or set of articles specified at part 4 overleaf and to be the owner of any design right that exists in this design. I/We also declare in respect of any entry at part 6 above that the application made in the convention country upon which the applicant relies is the first application made for registration of the design in a convention country.	
	Signature(s)	Date
10. Name and daytime telephone number of person to contact in the United Kingdom		
11. Checklist		
Make sure you have enclosed:		
<ul style="list-style-type: none"> <li>• representations or specimens of the design (See note (c))</li> <li>• any continuation sheets (See note (e))</li> <li>• the relevant fee (See note (f))</li> </ul>		

**Notes**

- a) *If you need help to fill in this form or you have any questions, please contact the Patent Office on 0645 500505*
- b) *Write your answers in capital letters using black ink or you may type them.*
- c) *This form should be accompanied by four (five if the application is for a set of articles) identical representations (for example, drawings or photographs) or specimens of the design. Except in the case of an application for a design applied to lace, a textile article or wallpaper (or similar wall covering), a statement of the features of the design for which the novelty is claimed (a "statement of novelty") should appear on each representation or specimen. In the case of representations or specimens which consist of more than one sheet, the statement of novelty should only appear on the first sheet. If it is impracticable for the statement of novelty to appear on a specimen, it may be given on a separate sheet. Specimens may sometimes need to be replaced by representations.*
- d) *If words, letters or numerals appear in the design, the Registrar will normally require a disclaimer of any right to their exclusive use to appear on each representation or specimen.*
- e) *If there is not enough space for all the relevant details on any part of this form, please continue on a separate sheet of paper and write "see continuation sheet" in the relevant part. Any continuation sheet should be attached to this form.*
- f) *Different fees are payable according to whether the application relates to a design for:*
  - *a set of articles (fee code S)*
  - *a single lace article or textile article mainly of checks or stripes (fee code T)*
  - *any other single article (fee code O)*

*For details of the fees and ways to pay please contact the Designs Registry of the Patent Office.*

- g) *Once you have filled in the form you must remember to sign and date it.*

## Designs Form 2A

Registered Designs Act 1949  
(Rules 6, 12 to 14 and 16)



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The Patent  
Designs Register

Cardiff Road  
Newport  
Gwent NP9 1RH

### Application for registration of a design

*(See the notes on the back of this form)*

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1. Your reference

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2. Full name, address and postcode of the or  
of each applicant  
*(Names of individuals including all partners in a firm  
must be given in full. Underline the surname or family  
name. For a corporate body give its company name.)*

Designs ADP number *(if you know it)*

If the applicant is a corporate body, give  
country/state of incorporation

---

3. Name of agent *(if you have one)*

"Address for Service" in the United Kingdom to  
which all correspondence should be sent  
*(including the postcode)*

Designs ADP number *(if you know it)*

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4. Name the particular article or set of articles  
to which the design applies

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Designs Form 2A



## Designs Form 2A

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Number

Date  
(day / month)

9. Declaration

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Signature(s)

Date

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11. Checklist

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- any continuation sheets (See note (e))
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