

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

21st April, 1994

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 no more than 4) questions from this section.

1. Write brief notes on ownership of copyright, of design right and of a Registered Design where the author in each case is:
  - (a) employed as a designer; and
  - (b) commissioned to produce the design.

(10 marks)
  
2. Comment briefly on the possibility of protecting each of the following by Design Registration. (Ignore copyright and design right, and assume novelty.)
  - (a) a dinner service
  - (b) a work of sculpture
  - (c) a handle for a car door
  - (d) a nut (for threading onto a bolt) in an attractive colour
  - (e) a flower arrangement

(10 marks)
  
3. An artist made an attractive drawing of a vulture in July 1990. Subsequently he had the idea of commercialising the drawing and entered into an Agreement with a company to manufacture on an industrial scale plaster vultures (based on the drawing) for wall decoration. Discuss the duration of copyright protection which the artist has.

(10 marks)

4. Discuss briefly whether design right can subsist in the following (assume)
  - (a) an exhaust system for a car
  - (b) a book jacket
  - (c) an idea for a new type of comb for the hair

(10 marks)
  
5. What are the advantages and disadvantages of relying on design right protection as opposed to Registered Designs?
 

(10 marks)

## **PART B**

You should attempt 4 (but no more than 4) questions from this section.

6. Your client has made and sold ornaments since January 1990. He receives a letter from a competitor threatening actions for infringement of a design registration, of artistic copyright and of unregistered design right. You ascertain that the competitor does indeed own a Registered Design which is in force and in respect of an ornament similar, but not identical, to the one sold by your client. List briefly the questions you need to ask your client and the initial points you will make to him. (Ignore court procedure and any documents involved therein.)
 

(15 marks)
  
7. Your client manufactures lamp shades. His chief designer left his employ to join a competitor in January 1994. Shortly before leaving, the designer prepared drawings for a new lamp shade having a frame of original shape and also a cover bearing an attractive surface pattern. The client has not yet begun production of the new lamp shade, and has not disclosed the drawings or details of the design to anyone else. He telephones you from a trade fair in Germany stating that he has seen lamp shades identical to the one designed by his former chief designer and displayed on the stand of the competitor who now employs the former chief designer. The competitor's shades are marked "UK DESIGN PENDING".

Discuss what rights the client has and what actions you would recommend.

(15 marks)

8. Your client writes:

"The subject of copyright was mentioned at our recent board meeting. As you know, we are an innovative company and are constantly devising new trade names, advertising slogans and advertising copy, and are involved in the production of photographs and point of sale devices. Please advise what our rights are generally in this area and what, if any, precautions we should be taking and if there are any pitfalls we should be avoiding. Please make it simple because our chairman will see your letter".

Draft a letter of advice to the client.

(15 marks)

9. Your client writes:

"You will recall the new tin opener which we designed and launched in 1991. As you know, we decided not to apply for a Registered Design, but to rely on our design right. One of our salesman recently called on a potential new retail customer and saw that he had in his office an identical tin opener, not of our manufacture, and marked "Made in South Korea". As far as we are aware, these products have not yet been put on sale but I assume that they soon will be.

Please outline what remedies are open to us and what we should do. Naturally I do not wish to upset a potential customer but would be prepared to do so if necessary. I am reluctant to believe that this particular person has deliberately infringed our rights. He has a reputation in the trade for being scrupulously honest."

Draft a letter to your client in reply, dealing with his rights and any recommended course of action.

(15 marks)

10. Your client writes:

"We publish a monthly periodical devoted to model railway enthusiasts. I would like to encourage the subscribers to write articles and submit them to us for publication, but a friend has recently mentioned "moral rights" to me.

Please let me have your comments on the proposed new source of articles, and let me know what these moral rights are".

Write notes which would be the basis for your letter in reply.

(15 marks)