

THE JOINT EXAMINATION BOARD

PAPER LAW – Basic English Law

Tuesday 31 October 2006

3.00 – 5.00 p.m.

*Please read the following instructions carefully. **Time Allowed – 2 HOURS***

1. You should attempt **four of the five questions from Part A** and **four of the five questions from Part B**.
2. Each question in Part A carries 10 marks and each question in Part B carries 15 marks. Marks for sub-sections of a question are also indicated as appropriate. If five questions are answered in either Part A or Part B, they will be marked in the order presented and the fifth ignored.
3. Please note the following:
 - a. Start each question (but not necessarily each part of each question) on a fresh sheet of paper;
 - b. Enter the Paper Name (Law), the question number and your Examination number in the appropriate boxes at the top of each sheet of paper;
 - c. The scripts are photocopied for marking purposes. Please write with a **dark inked pen** on one side of the paper only and within the printed margins. Do not use highlighters in your answer;
 - d. Do not staple or join pages together in any way;
 - e. Do not state your name anywhere in the answers;
 - f. Write clearly, as examiners cannot award marks to scripts that cannot be read;
 - g. Reasoning should always be given where appropriate.
4. Under the Examination Regulations **you may be disqualified from the examination and have other disciplinary measures taken against you if:**
 - a. you are found with unauthorised printed matter or other unauthorised material in the examination room;
 - b. your mobile phone is found to be switched on;
 - c. you copy the work of another candidate, use an electronic aid, or communicate with another candidate or with anyone outside the examination;
 - d. you continue to write after being told to stop writing by the invigilator(s). **NO WRITING OF ANY KIND IS PERMITTED AFTER THE TIME ALLOTTED TO THIS PAPER HAS EXPIRED.**
5. At the end of the examination assemble your answer sheets in question number order and put them in the WHITE envelope provided. **Any answer script taken out of the examination room will not be marked.**

This paper consists of **Five** pages, including this one.

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Part A

1. Explain what is the Overriding Objective under the Civil Procedure Rules.
10 Marks
2. Explain what is meant by each of the following terms:
 - 2.1 ratio decidendi;
4 marks
 - 2.2 res judicata; and
3 marks
 - 2.3 obiter dicta.
3 marks**10 Marks**
3. Explain the function and roles of each of the following in civil litigation:
 - 3.1 Judge;
4 marks
 - 3.2 Barrister; and
3 marks
 - 3.3 Solicitor.
3 marks**10 Marks**
4. Identify three sources of English law and for each explain how they are created.
10 Marks
5. Identify and explain each element necessary to establish malicious falsehood.
10 Marks

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Part B

6. Identify and explain the various criteria necessary in order to establish grounds for an interim injunction.

15 Marks

7. Richard, a partner in a leading patent and trade mark practice, was instructed by his long-term client Jeremy to file a UK Registered Design application. The Patent Office objected to the application on a technical ground. Richard advised Jeremy that the objection could not be overcome and the application was finally rejected without any right to appeal.

The following week Jeremy was sitting next to a colleague at a dinner party and realising his opportunity for free advice told the colleague the facts of the case. It became apparent that, due to a very recent change in the law, Richard had made a mistake and that the technical objection could have been overcome to enable the application to proceed to grant.

7.1 Leaving aside any complaint to Richard's professional body, **advise Jeremy as to what legal rights (if any) he has against Richard and his firm.** Your answer should identify and explain the necessary elements to establish each cause of action identified.

10 Marks

7.2 Explain how your answer could be different if Richard was known to Jeremy as his conveyancing solicitor with no experience of design rights but who had agreed, as a favour to Jeremy, to help him out?

5 Marks

15 Marks

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8. Mildred attends her local antiques auction. In the catalogue she spots a dresser that she wants for her house. The catalogue clearly states that payment is to be made on delivery or collection of items, whichever is earlier. She bids on the dresser at the auction making an initial bid at £80. Another person places a higher bid and exceeds Mildred's original limit of £150. However, she is so caught up in the excitement that she raises her paddle and places a bid for £270 and then the auctioneer's gavel falls. Suddenly realising her horror she tells the auctioneer that she isn't bound to buy the dresser. He tells her she is and takes her address. Two days later the dresser is delivered to Mildred's house. The delivery men demand the £270 payment. Mildred hands them £150 explaining that she didn't want to pay more than that and that the £150 is all that the auction house is getting from her. The delivery men take the £150. Four days later she receives a letter from solicitors on behalf of the auction house demanding payment of the balancing sum of £120.

8.1 Was Mildred obliged to buy the dresser as the auctioneer told her?

10 Marks

8.2 Is the auction house entitled to the balancing sum of £120?

5 Marks

In each case your answer should include a full discussion as to why you reach your conclusion and a detailed analysis of the various elements required to establish legal obligations. Explain your reasoning.

15 Marks

9. Your client wants to understand each of the principal procedural steps that are taken from commencement of a copyright infringement claim through to trial and judgment.

Write notes explaining each step in sequence.

15 Marks

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10. Explain with examples what is meant by the following terms in so far as they relate to a property right:

10.1 Legal title;

4 Marks

10.2 Equitable title;

4 Marks

10.3 Tenants in common; and

4 Marks

10.4 Joint tenants.

3 Marks

15 Marks