

THE JOINT EXAMINATION BOARD

BASIC ENGLISH LAW

Tuesday 3rd November 2009

3.00 p.m. – 5.00 p.m.

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

1. You should attempt **four of questions 1 to 5** in Part A and **four of questions 6 to 10** in Part B.
2. The marks awarded to each question are shown at the foot of the question and, where applicable, after each sub-section. If more than the required four questions are answered in either Part, only the first four presented will be marked.
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, and do not use highlighters in your answer;
 - d. Do not state your name anywhere in the answers;
 - e. Write clearly, examiners cannot award marks to scripts that cannot be read;
 - f. 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.** Do not staple or join your answer sheets together in any way. Any answer script taken out of the examination room will not be marked.

This paper consists of three sheets, including this page.

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Part A (10 marks per question)

1. Describe and summarise a party's disclosure obligations under the Civil Procedure Rules.

(10 Marks)

2. Identify and briefly explain each of the three tracks to which a case can be allocated under the Civil Procedure Rules and, for each, explain the implications and the criteria for allocation, both generally and with reference to intellectual property cases.

(10 Marks)

3. Identify the main sources of English law and for three of those sources explain how they are created, including who or what is responsible for their creation.

(10 Marks)

4. Describe the differences between a contractual condition and a warranty, including the consequences of a breach of each term.

(10 Marks)

5. Describe the main differences between a debenture and a floating charge.

(10 Marks)

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Part B (15 marks per question)

6(a). Identify and describe each element necessary for the formation of a contract.
(8 Marks)

6(b). Identify and describe what remedies are available for breach of contract.
(7 Marks)

(15 Marks)

7. Identify and describe each ground under which judicial review of a public body's decision can be sought.

(15 Marks)

8. Your firm has an agreement with a client to pay all renewal fees on their UK intellectual property portfolio as they become due. Your firm has been fulfilling these obligations. However, your firm has failed to pay the renewal fees on one of the client's most important registered designs and has only just noticed the omission after it is too late to restore the registration. Describe what legal action(s) the client could bring against your firm (including an explanation of each element that must be proven) and what remedies, if any, are available to the client against your firm.

(15 Marks)

[Candidates are not expected to include an analysis of restoration of a registered design right nor comment on consequences that may be imposed by a professional body or insurer.]

9(a). In so far as the terms relate to an intellectual property right, explain what are the differences between:

(i). Legal title and an Equitable title; and
(6 Marks)

(ii). Tenants in Common and Joint Tenants.
(7 Marks)

9(b). Explain what is meant by equal undivided shares.
(2 Marks)

(15 Marks)

10(a). Discuss the principles governing award of costs in High Court litigation.
(2 Marks)

10(b). Summarise the powers of the High Court to control costs.
(13 Marks)

(15 Marks)