

Introduction

There was a good pass rate on this paper. The marks demonstrated broad knowledge across the syllabus. However section A was answered poorly, generally. Questions 12 and 14 were answered by most candidates and was answered well. It is encouraging to see the very good knowledge of law and the confidence to apply that law to the facts. This demonstrated understanding of the law and the legal skill.

Questions

Part A

Question number	Comments on questions
Question 1	Few candidates knew this answer completely. Leniency was applied if candidates distinguished between small claims vs multi-track case remedies.
Question 2	Parts a), b) and c) were all well answered.
Question 3	Again this was well answered.
Question 4	Only one candidate knew the full answer to this. Most candidates did not know what an undertaking is, which was worrying, given the role that patent attorneys have as professionals and the potential personal liability arising from that.
Question 5	This was answered poorly. This update to the Guidance to Rule 11 of the Code of Conduct has its own page on the IPReg website.
Question 6	This was generally well answered. The language comes directly from the IPReg Code of Conduct.
Question 7	This question was lifted straight out of the syllabus. Candidates either knew all 5 principles or at least 4 or none at all.
Question 8	This topic arises each year in different forms and was generally well answered.

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Question 9	<p>Part a) Most candidates identified the basic difference. Candidates are advised to familiarise themselves with why they are different.</p> <p>Part b) Most candidates could name a couple of these formalities.</p> <p>Part c) Few answered this correctly, but is essential to know.</p> <p>Part d) Most candidates gave a transfer of land as the answer, which is not Intellectual Property. However, this should still be staple knowledge.</p>
Question 10	<p>Many candidates could not distinguish the Directive's definition from a general definition, which many appeared to have learnt by heart but which is not legally enforceable.</p>
Question 11	<p>There was an error in the IPReg Rule number quoted in the question paper. Measures were therefore put in place to ensure candidates were not disadvantaged.</p>

Part B

Question number	Comments on question
Question 12	<p>The mark scheme was flexibly applied according to the candidate's appreciation of the facts. These answers were pleasing in that candidates demonstrated knowledge of the law as well as understanding of how to apply the law to the facts.</p> <p>Part a) was very well answered. Most answered using idiosyncratic structures, which was fine and demonstrated understanding. Differing conclusions were not penalised provided they were justified using the correct law and reasonable application to the facts demonstrating understanding. Marking of consideration was flexible. Good answers should include appreciation that consideration relates to the making of the bargain itself not the subject of the bargain and is often the mutual promises of the parties (unlike in the Sales of Goods Act which prescribes the price paid as the consideration).</p> <p>Part b) was very well answered. Again, most used idiosyncratic structures, which was fine and demonstrated understanding. Differing conclusions were not penalised provided they were justified using the correct law and reasonable application to the facts demonstrating understanding.</p>

<p>Question 13</p>	<p>Part a) was generally answered well. Most candidates set out the <i>Coco-v Clark</i> test. From there, they were able to pick up most marks provided they discussed the facts of the question.</p> <p>Part b) was generally answered well. Most candidates spotted the commercial importance of customer lists and Pargit's responsibility as an employee for trade secrets or general knowledge during employment.</p> <p>Part c): Some candidates failed to spot that this is likely to be part of his general skill and knowledge that the court in <i>Faccenda Chicken</i> will allow an employee to take with him.</p> <p>Part d): Most candidates struggled with the complete answer. This is an example from a Supreme Court decision <i>Vestergaard v Bestnet</i> [2013] UKSC 31, that candidates should have picked up in some modest legal research.</p> <p>Part e): Better candidates were able to realise that a court needs to justify the period of a springboard injunction to prevent competition. The period is likely to depend on factors such as the length of time to develop the information or arrive at the information in other ways: this is not the only factor but it could be derived from the question. Many candidates correctly used the example of the time taken to reverse engineering as potential evidence to justify such a period.</p>
<p>Question 14</p>	<p>The mark scheme was flexibly applied according to the candidate's appreciation of the facts. In the first part either negligence or negligent misstatement analyses (but not both) were accepted as the primary purpose was for candidates to demonstrate the legal skill in applying law to the facts.</p> <p>Part a) was very well answered. Most answered used idiosyncratic structures which was fine and demonstrated understanding. Differing conclusions were not penalised provided they were justified using the correct law and reasonable application to the facts demonstrating understanding. Some discussion of causation was needed not just whether a duty is established.</p> <p>Part b)(i) was again very well answered. Most answers used idiosyncratic structures which was fine and demonstrated understanding. Differing conclusions were not penalised provided they were justified using the correct law and reasonable application to the facts demonstrating understanding. At least two alternative forms of misrepresentation were needed to demonstrate a candidate's understanding fully and as alternatives. Most did so.</p>

	<p>Part b)(ii): Most candidates knew the basic principles here but the best candidates saw that a court will not award damages purely on the basis of a claimant missing out on a better bargain.</p>
<p>Question 15</p>	<p>Part a): The question was aimed at discussion of implied terms (see <i>Ray v Classic FM</i>, <i>Lucasfilm v Ainsworth</i>). However most candidates considered this a question on equitable assignments. The mark scheme was applied accordingly. It was very worrying that a number of candidates stated categorically that copyright cannot be assigned.</p> <p>Part b) was generally answered well except that fewer candidates spotted that physical evidence is usually presented as an exhibit to a witness statement which is how such evidence enters into the proceedings.</p> <p>Part c)(i) was answered very well.</p> <p>Part c)(ii): Many candidates appreciated this. A complete answer might refer to a general interim application, but this level of detail was not required. Witnesses would tend to have been identified at the case management stage.</p> <p>Part d)(i): It was disappointing that candidates seemed unaware of the syllabus which lists this information. Calculations are not required but a number of candidates nonetheless set out detailed calculations.</p> <p>Part d)(ii): Candidates needed to demonstrate that a trial on quantum is a full new trial not just a moment at some time after deciding liability.</p> <p>Part d)(iii): Candidates either knew this or did not.</p>