

Question 1

- District judge has limited powers compared to judge
- District judge cannot order injunction, ✓1 only damages
- Judge has full powers (e.g. can order on injunction)
- District just hears fast track claims

1

MARKS AWARDED 1/2**Question 2**

- a) This means that judges must follow precedent ✓1 on previous cases (e.g. ratio decidendi). There must be a hierarchy of courts in which precedent follows.
- b) Rehearing of the case i.e. on points of law. Based on facts before appeal.
- c) Quickly as possible within 3 ✓1 months

2

MARKS AWARDED 2/3**Question 3**

- Illegality: ✓1
 - tethering of power
 - error in law
 - unallowed delegation
- Procedural: ✓1
 - did not follow correct procedure
 - discrimination
- Irrational: ✓1
 - No reasonable person would come to the conclusion arrived at by public body

3

MARKS AWARDED 3/3

Question 4

- must not submit untrue statements
- must not coach witnesses/experts
- must not coerce client into doing something unjust/untrue
- must not be frivolous/vexacious

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MARKS AWARDED 0/2**Question 5**

- keep client and attorney money separate (i.e. attorney cannot use client money to run the business)
- to ensure trust between client + attorney

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MARKS AWARDED 0/1**Question 6**

- Complexity of case ✓1
- Competency of attorney (eg. technical field) ✓1
- Amount of money involved (e.g. in litigation)
- Whether someone else is more suitable (e.g. for litigation).

2

MARKS AWARDED 2/4**Question 7**

- Not absurd
- Best interests of both parties
- Within other statutes and regulations/laws
- Equitable + fair
- Not excluded by explicit terms ✓1

MARKS AWARDED 1/5

Question 8

- Legal title is official owner, for example in the patent register.
- Equitable owner is who owns the right in legal equity (i.e. fairly and justly in the eyes of the law).

The equitable owner may have an equitable contract etc. which states the right belongs to them. Therefore they own the right in equity ✓ $\frac{1}{2}$

MARKS AWARDED $\frac{1}{2}$ /2

Question 9

- a) - Contract requires consideration

The consideration therefore passes from the promisee to the promiser

- Deed requires no ✓1 consideration. Therefore no passing of promise

1

- b) · Must indicate the deed is a deed ✓1

- Must be signed by a witness ✓1 + parties
- Must use standard terms

2

- c) 2 years

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- d) Land sales (conveyancy) ✓1

1

4

MARKS AWARDED 4/8

Question 10

- Must be secret
- Must have value because it is secret ✓1
- There must be effort to keep it secret ✓1

2

MARKS AWARDED 2/7

Question 11

- They owe money ✓1
- Written communication (e.g. letter) ✓½
- Easily recorded ✓1

2½

MARKS AWARDED 2½/3**Question 12**

- Tulip says she could make the plant pot
 - "Could" appears to be a declaration of intent, rather than an offer (perhaps puff or boast) ✓
 - Not capable of acceptance
 - Also no consideration as Tulip or William not required to promise anything
- William says she should give 10% of profits
 - Probably a valid offer
 - Has consideration as Tulip promises to pay 10% in return for manufacturing permission ✓
- Tulip makes 15% counter offer
 - Counter-offer ✓ makes 10% offer invalid and not capable of acceptance
 - William says nothing, therefore no acceptance
 - Not implied by conduct
- There are in an informal ✓ environment e.g. charity event and not an explicit business event
 - might not be intention to create legal relations
 - However they are not family, and are opening discussing manufacture and business, so might be have legal intentions ✓

Offer : YES (15% offer invalidating 10% offer)
 ACCEPTANCE : NO – William quiet
 CONSIDERATION : YES – (15% for, manufacturing rights)
 INTENTION TO : Maybe ✓
 CREATE LEGAL RELATION

ICC 2½
 OA 4
 C 2

→ No contract due to no acceptance

8½

b) Malicious falsehood :

- (i) Statement was untrue
- (ii) Statement was malicious
- (ii) Caused special damage ✓

(i) Statement was untrue

- Statement must be untrue and cause damage to the claimant or claimant's property

→ In this case it is not clear that anything untrue was said (is chairman's pot better?).

→ Chairman said his product was best in the market

→ Merely puff ✓ or boast and makes no objective claims of William's pot

→ does not appear to satisfy (i)

(ii) Statement was malicious

- Defendant must know statement was false (or reckless ✓ to the fact) and was done out of spite or malice to cause damage.

→ Again, unclear whether this was malicious

→ Chairman makes no specific reference to William's pot

→ However, may be reckless if he didn't test William's pot. ✓

(iii) Special damage :

- Statement must have caused real damage to the claimant
- However special damage not required if in permanent written form and direct against claimant's business ✓

- ⇒ loss of manufacturing license causes loss of profit ⇒ special damage ✓
- ⇒ loss may be mitigated as other people dispose of pamphlet. ✓
- ⇒ Not needed regardless as statement in written form.
- ⇒ Not likely to bring action
- Evidence to how the pot's were tested or results thereof, will allow to determine whether chairman's pot is better or not. ✓
- ⇒ allow to know whether statement is untrue or not.
- ⇒ if determines statement untrue, may bring action.

MF1
P 1
M 2
D 4

8

16½

MARKS AWARDED 16½/20

Question 13

- a) Test for whether it's a trade secret ✓1
 - (i) Does it have the necessary quality of confidence? ✓½
 - (ii) Do the circumstances impact on obligation of confidence on the reciever? ✓½
 - (iii) Would disclosure cause a detriment to the company?
- (i) Quality of confidence:
 - not trivial
 - each direction publically known, Therefor not confident
 - However the collection of directions is not publically known (i.e. like a company contact list)
 - ⇒ Has quality of confidence ✓1½
- (ii) Obligation of confidence:
 - would a reasonable person in the circumstances know or be obvious to know, that there was an obligation to confidence
 - She is technical + actively involved in company

- Intends to be in senior position in company, so is serious and should wish to further aims of business
 - ⇒ did not overhear or casually hear directions
 - ⇒ Has obligation to confidence ✓1
- (iii) Detriment to company
 - ⇒ allows Coolt to get head start on Boardit
 - ⇒ loss to Boardit (e.g. profits)
 - ⇒ list is trade secret
 - ⇒ against Tina's contract
 - ⇒ Boardit may take action
- b) Applying same test:
 - (i) Has value, not publically available, not trivial
 - ⇒ YES
 - (ii) Manager, senior employee, would reasonably expect information to be confidential
 - ⇒ YES
 - (iii) Would allow Coolt to poach customers
 - ⇒ YES, cause damage ✓1½
 - ⇒ Trade secret ⇒ can take action despite not in contract
- c) (i) likely to be publically available information + easy to find
 - ⇒ NO
 - (ii) as discussed in (b)
 - (iii) damage unlikely – manufacturer may be able to have many customers, so unlikely to cause. loss to Boardit
 - ⇒ No action possible
 - ⇒ No trade secret

✓ 4½

✓ 1½

0

0

- d) – Can use springboard injunction. ✓1
- This puts at a temporary injunction on CoolIt, preventing them launching
 - This reduces CoolIt's head start ✓½
 - Only short term to allow Boardit to catch up (e.g. less than 3 months) ✓½
 - Evidence :
 - Tina's/Pargets contract
 - The collection of directions
 - Any financial loss
 - loss of profits
 - loss in preparation for releasing product.
 - Expect demonstrating collection not easily derivable from public information ✓1

9

MARKS AWARDED 9/20

3

Question 14

- a) Negligence Test:
- (i) Duty of care
 - (ii) Breach of duty
 - (iii) Factual causation
 - (iv) Legal causation ✓1
- (i) Duty of care
- Priti is professional, which imposes higher standard of care
 - Late night, in a pub with alcohol etc. ✓1
 - Outside of office and office hours

- Group of friends, no professional relationship between Priti and others.
- ⇒ Priti has no professional proximity to Sangita + Ernest
- ⇒ Unlikely to be duty of care

(ii) Breach of duty

- Objective test
- Foreseeable damage may occur to Ernest with poor advice ✓½
- Mitigation of possible damage not really relevant
- Damage is financially serious
- Damage not important (ie Ernest wont suffer serious harm) ✓½
- ⇒ Yes, breach of duty

(iii) Factual causation

- Ultimately loss due to Priti tell Ernest not to worry ✓1
- ⇒ Yes

(iv) Legal causation:

- Ernest made no effort to seek proper legal advice ✓1
- Priti made no promise to look at the case at a later date (i.e. took no responsibility). ✓1
- Priti was unaware of previous relationship between Ernest + Sangita ✓1
- Ernest was negligent in seeking proper advice within the two week period
- ⇒ Ernest's intervening ✓1 negligent act resulted in his loss
- ⇒ Priti unlikely to be resonsible
- Sangita my not be honest or clear with Ernest
- ⇒ Intervening third party
- ⇒ Legal causation broken

b) Misrepresentation : ✓½

– When one person knowingly or recklessly misrepresents the facts to induce a person into a contract ✓1

– Wilful – where person willingly knows statement is untrue

Remedies : • Rescission of contract ✓½

• Damages

• Sue under tort

– Negligent – reckless to the truth of statement

Remedies : • Rescission of contract ✓½

• Damages

– Innocent : Unintentionally true

Remedies : • Rescission of contract ✓½

– In this case, it's unclear whether it was wilful, negligent or innocent.

– Though, as Mendip could ✓1 not hear, it was likely innocent

⇒ rescission of contract only

ii) Damages :

Percuniary : loss of profits

Only sell 2000 with Mendip or 5,000 with other at 2x profit

⇒ must be put into position

would be without breach of contract ✓1

⇒ ~ 2x(5000–2000) = 6,000

⇒ Therefore damage equals to 6000 units sold by ✓½ Mendip

13½

MARKS AWARDED 13½/20

✓5½