

## Introduction

The pass rate for the FC4 examination this year was 88%. Of the candidates who passed the examination, a number achieved marks in the 70s or low 80s. The majority of unsuccessful candidates scored in the 30s or 40s.

Most candidates scored very well in Part A. Variation in marks was much more apparent for Part B. Many candidates performed well across the whole paper. Candidates who scored poorly demonstrated knowledge of select parts of the syllabus as opposed to knowledge across the breadth and depth of the syllabus.

Questions on parts of the syllabus that tend to be examined each year were generally answered better than those on parts of the syllabus that have been examined less frequently in recent years.

No one area of the syllabus was of particular concern.

In general, candidates demonstrated a welcome systematic approach to the Part B questions, which helped to ensure that they maximised marks through consideration of each issue in turn.

There was no evidence of time pressure being an issue in this examination.

## Questions

### Part A

Question number	Comments on questions
<b>Question 1</b>	Most candidates scored highly for this question. Several candidates did not mention that the 30 month deferment period is calculated from the priority date, if priority is claimed. A number of candidates incorrectly stated that publication always needs to be requested 3 months before the publication date. However, publication can be obtained as soon as possible, potentially well within 3 months from the fee payment date, as long as the request/fee is submitted by 27 months at the latest.
<b>Question 2</b>	Candidates scored reasonably well on parts (a) to (d) of this question. Only a few knew the relevant provisions for part e).
<b>Question 3</b>	This question was generally well answered. Marks were not awarded if the meaning of the term “solely” was missing from the technical function exclusion.

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<b>Question 4</b>	Most candidates scored reasonably well on this question. Some candidates missed out on marks by not specifying that the term of UDR lasts until the end of the relevant calendar year. Often the definition for when a design is deemed to have been made available to the public in respect of CUD was not provided.
<b>Question 5</b>	This question was generally well answered. Candidates are reminded that exclusion (d) relates to the act of using equipment on ships/aircraft. Referring to ships/aircraft without specifying the infringing act did not obtain marks.
<b>Question 6</b>	Candidates scored reasonably well on this question.

**Part B**

<b>Question number</b>	<b>Comments on question</b>
<b>Question 7</b>	<p>This question was the least well answered in Part B.</p> <p>This question was based loosely on the <i>Shnuggle Ltd v Munchkin, Inc.</i> IPEC decision (2019) relating to baby baths, although no actual knowledge of that case was required to answer the question.</p> <p>Some candidates discussed the nature of car seats although the question only mentioned baby seats.</p> <p>Good answers for part (a) considered the scope and validity of each CRD in turn before considering infringement. Some candidates did not consider the relevance of CRD1/seat 1 in relation to the validity of CRD2 and missed out on many marks as a result.</p> <p>Candidates are reminded that enforceability and validity are different concepts. A registered design can be in force (e.g. fully registered and renewed) whilst also potentially being invalid (e.g. due to prior art).</p> <p>In relation to part (b), some candidates confused novelty and originality. Originality in relation to UDR means a feature is not commonplace. This is not equivalent to novelty.</p>
<b>Question 8</b>	<p>This question mostly involved copyright. It was answered reasonably well by the candidates who attempted it.</p> <p>Part (a) required a systematic approach to considering whether copyright might subsist in the various parts of the App that were</p>

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	<p>described. Most candidates did this reasonably well although few obtained all of the marks available.</p> <p>In part (b), some candidates missed out on marks by not specifying that the term of copyright lasts until the end of the relevant calendar year.</p> <p>In part (c), few candidates discussed ownership of copyright in relation to a potential infringement action.</p> <p>Part (d) was answered reasonably well.</p>
<p><b>Question 9</b></p>	<p>This was the highest scoring question in Part B. Most candidates scored well on all parts of this question, with a few scoring close to full marks.</p> <p>Part (a) required a systematic approach that considered the qualifying criteria for UDR and applied this to the scenario described.</p> <p>Some candidates considered nationality or domicile as opposed to habitual residence as criteria for a qualifying person.</p>
<p><b>Question 10</b></p>	<p>This question related to an international filing strategy for registered designs.</p> <p>In part (a), most candidates discussed options including filing multiple applications, claiming priority from a first application, filing in individual countries, filing an EU application and filing a Hague international application. Some candidates did not know that China is not a member of the Hague Agreement.</p> <p>Most candidates considered cost implications and ease of filing/management but few considered any impact of the differences in requirements for design protection in each territory.</p> <p>In part (b), many candidates confused a 6 month grace period for an abusive disclosure with a general 12 month self-disclosure grace period, which China does not have.</p> <p>In part (c), several candidates did not consider whether the silver spoon designs might be treated differently to the wooden spoon design.</p> <p>Parts (d) and (e) were reasonably well answered.</p>