

Introduction

The pass rate for the FC4 examination this year was 90.91%. Of the candidates who passed the examination, a large number achieved marks in the 60 and 70 mark range. Those who failed performed poorly across both Part A and Part B of the paper. No one area of the syllabus was of particular concern. There was no evidence of time pressure being an issue in this examination.

Questions

Part A

Question number	Comments on questions
Question 1	Candidates scored well on this question, given that it was essentially asking them to repeat the duration of various rights.
Question 2	A large number of candidates failed to understand that the reference to “scope of protection” was asking them to define what rights the registration of a design under the Act gives to the registrant i.e. what does Section 7 RDA say. A large number did not perform well on this question accordingly. Stronger candidates did understand what was being sought.
Question 3	This question was generally well answered. Marks were not awarded if candidates stated that the client could file a Hague application designating USA, Japan and China, as China was not a member at the date of the examination.
Question 4	Part (a) was generally well answered. Part (b), was generally not as well answered across the board. The Part (b) question requires more detailed and nuanced knowledge about the relevant law and a number of candidates failed to identify that the question related to Sec 77(2) and the right of the author to be identified, and simply stated things like “can prevent copying”, which was not sufficient. It acts as a reminder to candidates that they need to have broad knowledge of the entire syllabus.

Examiner's Report 2021
FC4 – Design and Copyright Law

Question 5	This question was generally well answered and enabled candidates to demonstrate their knowledge of Brexit's impact on qualification too.
Question 6	Candidates scored reasonably well on this question.

Part B

Question number	Comments on question
Question 7	<p>Part (a) required a systematic approach to considering whether the vases and pattern met the requirements for design registration in the UK. The candidates that performed better used a systematic approach by defining the features that are capable of protection and defining the novelty and individual character requirements, then applying the law to the shape and then to the surface decoration. The better-prepared candidates also made reference to the nature of the informed user and the nature of the technical restraints placed on a vase designer, and their impact on the facts.</p> <p>Part (b) was generally well answered as it required comments on filing strategy.</p> <p>In Part (c), the question was seeking candidates' knowledge of copyright, supplementary unregistered design right, and surface decoration protection (via registered design application). Many candidates lost marks by not referring to copyright that subsists in the pattern and by not referring to a multiple application for the shape and surface decoration separately.</p> <p>Part (d) was answered reasonably well.</p>
Question 8	<p>This was the highest scoring question in Part B. Most candidates scored well on all parts of this question.</p> <p>Parts (a) and (b) required knowledge of Section 7 and 7A of the Act and candidates who had clearly focussed on the syllabus were able to answer this question very well.</p> <p>Part (c) required knowledge of renewals and restoration processes and the majority of candidates answered this question well.</p> <p>Part (d) was generally answered well across the board in relation to the marks for invalidity. Better-prepared candidates showed knowledge of infringement issues and knowledge of RDA 8 B.</p>

Examiner's Report 2021
FC4 – Design and Copyright Law

Question 9	<p>This question related to issues relating to ownership/first author of designs, transfer of rights, and licences. The question was generally answered well at Part (a) as candidates were generally able to identify the legal requirements relating to employees and apply the facts of the question.</p> <p>Fewer candidates had as well rounded a knowledge of the implications of not recording an assignment or of what rights are enjoyed by exclusive licensees, as required by Part (b) and (d).</p> <p>Part (c) was generally well answered. Again, this is a reminder to candidates that they need to focus on all parts of the syllabus in their revision.</p>
Question 10	<p>This question was answered well. Part (a) required knowledge of what unregistered designs do and do not protect, and most candidates identified this. The better-prepared candidates were able to identify that the question was also looking for comments on the exclusion of surface decoration from protection and on the protection of the unicorn design by copyright.</p> <p>Part (b) required knowledge of infringing acts and, whilst it was answered relatively well, if candidates had learned Sec 226-227 in more detail then they would have picked up more marks generally.</p> <p>A large number of candidates lost marks in part (c) because they did not refer to what the requirements for CUDR are, i.e. novelty and individual character, before defining what Supplementary UDR is.</p>