

## **INTELLECTUAL PROPERTY LAW EXAM COMMENTS – MARCH 2018**

### **General Comments**

The quality of the answers for this exam was generally quite good. Most students were able to identify the primary issues that arose in the exam and around half were able to properly identify and analyse the subtler issues that arose.

### **Patents (Question 1) (25 marks)**

Most students were able to properly identify and address the issues regarding the patentability of the invention and infringement. However, the level of detail and analysis varied amongst the students. Question 1(c) was tricky in that it required thinking outside of the box and did not involve mere recitation of legal principles. Very few students answered it correctly but most were able to correctly identify the underlying legal principles.

### **Copyrights (Question 2) (25 marks)**

Most students were able to properly address the requirements for copyright subsistence, how infringement may have occurred and whether any defences to infringement may be available.

Similar to the Patents question, the level of detail and analysis varied amongst the students. There were a few issues that arose from the factual scenario that should have been addressed but were overlooked by some of the students. Overall, the students appear to have a solid understanding of copyright law.

### **Design (Question 3) (15 marks)**

This question was generally answered well by all of the students. The correct legal principles were usually identified but the level of detail and analysis varied greatly.

### **Confidential Information (Question 4) (15 marks)**

Most students properly identified and applied the test for determining breach of confidence. Some students provided a much more extensive and focussed analysis as to the separate elements of the test than others.

Most students were able to properly identify the relevant defence to breach of confidence as an iniquity but a few students incorrectly identified public interest as a defence.