General Comments

The quality of the answers for this exam was generally very good. Most students were able to identify the primary issues that arose in the exam and more than half were able to properly identify and analyse the subtler issues that arose. Students generally had a firm understanding of the relevant law and cases for all of the questions. Some students were able to analyse the relevant issues with a high level of detail.

Patents (Question 1) (25 marks)

Most students were able to properly identify and address the issues regarding the patentability of the invention and infringement. In particular, most students were able to distinguish and apply the various authorities which relate to computer programs. However, the level of detail and analysis varied amongst the students. Almost all of the students were able to identify the relevant case law for question 1(b) and apply it to the facts.

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, such as in relation to the photograph and section 65 of the CA. Most students correctly identified the issues relating to substantiality and compilations.

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, particularly in relation to comparing the two designs and applying the relevant principles.

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, for example in discussing the factors relating to the necessary quality of confidence. As to question 4(b), some students confused the iniquity and public interest defences. The answers to this question were generally of a high standard.