

## **INTELLECTUAL PROPERTY LAW EXAM COMMENTS – MARCH 2019**

### **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. One matter of concern was that some students were unable to complete all of the questions which was likely due to time management issues.

### **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. More than half of the students were able to identify the relevant case law for question 1(b) although a few focussed on irrelevant matters related to patentability as opposed to infringement. Some students were able to identify and summarise the relevant cases but did not explain how those cases applied 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, particularly in relation to the “list”. Most students correctly identified the issues relating to the “photograph” and the “video clips”.

### **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. The answers to this question were generally of a high standard.