

FACULTY OF LAW
POSTGRADUATE DIPLOMA IN INTELLECTUAL PROPERTY LAW
AND PRACTICE 2012-13

Examiners' Report 2013

PART ONE

A. Statistics

1. Numbers and percentages in each category

The number of candidates taking the examinations was 61 (including five candidates who re-took one or more papers).

Category	2013		2012		2011		2010	
	No	%	No	%	No	%	No	%
Distinction	8	13.11	8	11.76	4	7.41	6	11.76
Pass	47	77.05	54	79.41	43	73.63	42	82.35
Fail	6**	9.84	6*	8.82	7	12.96	3	5.88
Total	61		68		54		51	

*includes 4 candidates who failed one or more papers and are eligible to re-take those papers in 2012-13

** candidates who failed one or more papers and are eligible to re-take those in 2013-14

2. Vivas

Vivas are not used in this Diploma.

3. Marking of scripts

Double marking of scripts is not routinely operated. 124 out of 391 scripts (31.71%) (36.58% in 2012; 44.27% in 2011; 50.5% in 2010; 46.32% in 2009) were second marked. Third marking may be used in exceptional cases but no script was third marked this year (0.48% in 2012; 0.31 in 2011; 2.01% in 2010; 2.15% in 2009). Further details about second marking are given in Part Two (A.1.).

B. New examining methods and procedures

The Diploma is jointly taught and examined by senior law practitioners (solicitors) who are members of the Intellectual Property Law Association (IPLA) and by members of the Faculty of Law. Teaching commences with a two-week residential programme in Oxford

in August/September followed by nine workshops (two of which are revision workshops) spaced over the academic year. The candidates are all newly qualified or trainee solicitors or barristers. The Diploma examination is divided into Part I and Part II. Part I focuses on the practice of intellectual property (IP) law and consists of five coursework assignments (two in Michaelmas, two in Hilary and one in Trinity Term). Each coursework assignment is preceded by a one-day workshop on the relevant IP topic(s). Part II consists of two unseen two-hour examination papers covering the range of IP law, and are written at the end of Trinity Term.

In each paper (coursework assignment or examination paper) a proportion of scripts chosen at random were second marked as a check to ensure that markers were adopting similar standards. Where any significant discrepancy was found, scripts were second marked and markers adjusted their marks (for all scripts) if they were out of line with other marker(s). In addition, all scripts with borderline marks (ie. 47, 48, 49, 67, 68, 69, also 53 and 54 as a sub-55 mark bars a Distinction), all failing marks (49 or below), and any incomplete scripts were second marked.

C. Possible changes to examining methods, procedures and conventions

1. Setting and checking the question paper for each coursework assignment (Part I) and examination paper (Part II) and the marking of candidates' scripts are the responsibility of a team of two (or more) members. The leader of the team has a considerable additional responsibility to ensure that procedures are carried out and deadlines met.
2. The examiners applied the marking and results conventions as agreed by the Law Board and notified to candidates. For the award of the Diploma a candidate must have no mark below 50 in any of the seven papers (five coursework assignments plus two examination papers).
3. A Distinction was awarded to four candidates who did not qualify under the results convention (3 marks of 70 or above, including 70 or above in at least one of the two examination papers, and no mark below 55). One of these candidates had three marks of 70 or above supported by very good marks in all other papers, but none of the 70 marks was in an examination paper. Two candidates had two marks of 70 or above supported by a 69 or a 68. One candidate had two marks of above 70 supported by a 67 and other good marks.
4. A fully worked out proposal for a Merit Award was forwarded to the Social Sciences Division in February 2013. During 2012-13 the Examinations Panel of the University's Education Committee considered the possibility of introducing the classification of Merit within the University, based on comments included in reports of some external examiners (including the Diploma's external examiner) but the Panel decided to defer any in-principle decision until after the report of a Working Group set up by the Panel in February 2013 to review classifications. This Working Group is expected to report in Michaelmas Term 2013. In view of these developments, consideration by the Division of the details of the

proposal for a Merit Award in the Diploma has been postponed until the outcome of the Examinations Panel's review is known. The Board of Examiners regret this delay which means that the earliest date for introduction of a Merit Award in the Diploma will now be 2014-15.

D. Examination conventions

The Notice to Candidates (known as the Examiners' Edict) is attached (see Appendix 2) and the examination conventions are detailed in paragraph C.1. thereof.

PART TWO

A. General Comments

1. Second and third marking

The procedures for second marking were identified in Part One, B., above. First and second markers were required to discuss their marks and, wherever possible, agree the mark. This worked well with all second marked scripts receiving an agreed mark. No scripts were third marked.

2. Medical certificates, dyslexia/dyspraxia and special cases

Special arrangements were required for two candidates. No medical certificates in respect of candidates were forwarded to the examiners under Part 11.8 to 11.10. of the *Examination Regulations*.

3. Materials in the examination

Candidates are permitted, under strict conditions, to take into the examination room their own copy of the current edition (10th in 2013) of Butterworths Intellectual Property Law Handbook. Their copy has to be absolutely clean and unmarked, and all copies are inspected before the start of the examination. All candidates supplied themselves with the Handbook, and no problems were encountered. In addition, candidates were provided in the examination room with a set of loose documents (see Appendix 2 – Second Notice to Candidates). All candidates remembered to bring with them their University card (which has to be displayed on their desk to enable their identity to be checked).

4. Legibility

No candidate was required to have either of their examination paper scripts typed (none typed in 2012, 2011 and 2010; 2 typed in 2009).

5. External Examiner

Dr. Dev Gangjee joined the Board as our External Examiner. He was actively involved at all stages of the examination process, and we are very grateful for his help and advice.

6. IPLA Examiner

We are also very grateful to Mr. Robert Anderson of Hogan Lovells who, as coursework co-ordinator, organised and supervised the teams of practitioners involved in the teaching and examining of the coursework assignments. He was also fully involved in every part of the examination process.

7. Thanks

In addition to the examiners, 20 colleagues were assessors, and we owe our thanks to them all. Mrs. Ellen Moilanen, Diploma Administrator, ensures that the Diploma runs smoothly for examiners, assessors and candidates and we rely very heavily on her. We are very fortunate to be in her hands and very grateful for all her hard work.

B. Equal Opportunities issues and breakdown of results by gender

Category	2013				2012				2011				2010			
	Male		Female		Male		Female		Male		Female		Male		Female	
	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%
Distinction	2	6.67	6	19.35	7	20	1	3.03	1	4.77	3	9.09	1	5.26	5	15.15
Pass	23	76.67	24	77.42	26	74.29	28	84.85	16	76.19	27	81.82	17	39.47	26	78.79
Fail	5	16.67	1	3.23	2	5.71	4	12.12	4	19.05	3	9.09	1	5.26	2	6.06
Total	30		31		35		33		21		33		19		33	

C. Percentage distribution of marks by paper

	70 plus		60-69		50-59		Under 50		Total
	No.	%	No.	%	No.	%	No.	%	
Part I									
Patents 1	5	9%	36	63%	16	28%	0	0	57*
Patents 2	4	7%	33	56%	21	36%	1	2%	59**
Trade Marks and Passing Off	4	7%	34	61%	17	30%	1	2%	56
Copyright	2	3%	31	53%	25	43%	0	0	58** *
Design	10	17%	21	36%	24	41%	4	7%	59**

	70 plus		60-69		50-59		Under 50		Total
Part II									
Intellectual Property I	5	9%	47	84%	3	5%	1	2%	56
Intellectual Property II	17	30%	37	66%	2	4%	0	0	56

* includes 1 candidate who re-took the paper

** includes 3 candidates who re-took the paper

*** includes 2 candidate who re-took the paper

D. Comments on individual papers

These appear in Appendix 3.

Mr. R. Anderson (IPLA)
 Professor G. Dinwoodie
 Dr. D. Gangjee (External)
 Ms A.S. Kennedy (Chair)

Appendix 1 – External Examiner’s Report
 Appendix 2 – Notices to Candidates
 Appendix 3 – Reports on individual papers

FACULTY OF LAW**POSTGRADUATE DIPLOMA IN INTELLECTUAL PROPERTY LAW
AND PRACTICE 2012-13****EXTERNAL EXAMINER'S REPORT 2013****1. Introduction**

This was the fifth year of the Postgraduate Diploma in Intellectual Property Law and Practice and my first as external examiner. I have adopted the general format of my predecessor in writing this report. The programme ran smoothly and I confirm that (i) the academic standards of the Diploma were appropriate, (ii) assessment processes were conducted fairly and in accordance with institutional regulations, while (iii) the performances of students were satisfactory and in keeping with the standards achieved at comparable institutions. A more detailed assessment is set out below.

2. Academic standards set for the award of Diploma

The academic standards set for the Diploma are entirely in keeping with an award of this nature. The course covers the major intellectual property rights and expects candidates to have a thorough knowledge of the key principles, controversies, and debates relevant to these rights. In the assignments, candidates are expected to apply their legal knowledge and legal reasoning skills to realistic and challenging factual scenarios. In the examinations, candidates engage with some of the wider policy debates occurring in the intellectual property field, in part because they are expected to answer one essay question as well as one problem question during the exams. Discussions during exam board meetings indicate that the essay question requirement is now relatively settled and accepted.

Compared with most postgraduate intellectual property programmes in the UK, the Oxford Diploma gives as much weight (if not more) to patents and designs as it does to trade marks and copyright. While there are several convincing reasons for this emphasis and I am in favour of maintaining the present arrangement, the Exam Board was open to keeping a watching brief on this distribution, in light of student feedback in the future.

The teaching was delivered at a two-week residential course in Oxford in September 2012 and at eight workshops spread over the academic year. This represents significantly more face-to-face teaching time than is available on other comparable Diploma courses – I am familiar with a similar course at Brunel University in my capacity as external examiner there. A mixture of academics and senior law practitioners teaching on the Diploma makes for a rich learning experience for students. A core consistency has been maintained between the different teachers by the efforts of the Management Committee. As far as I am aware, on only one occasion was a group released slightly earlier than their peers during a workshop and there was an immediate follow up action to investigate why this was the case. To my mind, this exemplifies the commitment and vigilance displayed by those who are responsible for course delivery.

3. Assessment processes

In Part I, candidates had to undertake five pieces of assessed coursework – two on patents, and one each on designs, copyright and trade marks. This ensures that candidates are tested across the breadth of the syllabus. In Part II, candidates sat two unseen two-hour examinations, also covering the range of topics covered in the syllabus.

Part I focuses on the practice of intellectual property law by presenting candidates with realistic factual scenarios and asking them to apply their legal knowledge and legal reasoning skills. I had the opportunity to comment on all of the assignment questions, in advance of them being released to candidates, and was satisfied that they were directed at key issues and were appropriately challenging.

Part II comprises two unseen two-hour examinations relating to the major intellectual property rights. I was given adequate opportunity to comment on the content and structure of the examinations and was satisfied that they reflected a good balance between problem and essay questions and an appropriate level of difficulty.

I was reassured (and often impressed) at all stages of the assessment process, which was comprehensive and encouraged attention to detail. To take one example from the paper setting process, several questions on both exam papers were carefully scrutinised and redrafted to ensure that they: (i) fell within the mainstream of the syllabus and were 'fair game'; (ii) drew on content prior to the cut-off date without straying beyond it, which is always difficult in such a fast moving area affected by new appellate decisions; and (iii) were suitably worded to invite responses addressing particular issues, yet also open textured enough to allow the better students to think creatively about their responses.

The Scrutiny panel was given ample opportunity to comment on the forms of assessment and assessors carried out their marking duties promptly. Consistency of marking between assessors was enhanced through the use of an agreed set of marking guidelines. Like my predecessor, I would encourage this practice to continue. Thus at present there is co-ordination within the subject groups responsible for marking each written assessment and the Exam Board monitors overall marking distribution profiles across the groups, to ensure that there are no unexplained swings or variations in marking standards across the subjects. The standards achieved in the coursework and examinations were in keeping with comparable institutions that offer Diploma courses. As an aside, I was struck by the internal variation in performance, since in several instances a candidate obtained distinction marks for some papers and bare passes or even a fail in others. This is unsurprising for a professionally orientated part-time diploma (e.g. caused by variation in work pressures over the course of the year, or workplace specialisation) but – in my experience – different from the results profiles for a full time degree (e.g. 2:1 students generally having 2:1 marks across the Board). This is merely an observation.

I confirm that I was present at all Examination Boards, which were conducted with efficiency and entirely in keeping with the Examination regulations. The one exception was a follow up meeting after the exam paper scrutiny meeting, which I attended via conference call. As expected, the final exam board involved a detailed discussion of individual candidates and more general marking patterns. During this meeting I was convinced by the thorough explanations provided (for e.g. by those responsible for the Designs coursework) to explain particular patterns of results. Having gone through all the individual candidate's results and overall profiles for 2012-13, I find myself once again echoing my predecessor and strongly supporting the creation of a Merit classification. Placing candidates with a 68 (or even a 69 in some cases) in the same bracket with candidates obtaining 51 does not adequately recognise the difference in quality. I understand that this issue is being revisited as part of a broader University Education Committee review and I hope it will be resolved in time for the next cohort to benefit from its incorporation.

4. Standards of student performance

In the Diploma cohort, the standards of performance were high, with an appropriate number of candidates being awarded Distinctions. While there are several resits for individual assessments, this is understandable given the range of subjects covered and the rigour of the assessment standards and procedures. It suggests the system is in good health.

Dr Dev Saif Gangjee
Senior Lecturer
Law Department
London School of Economics
2 August 2013

IMPORTANT – TO BE RETAINED FOR FUTURE REFERENCE**UNIVERSITY OF OXFORD****FACULTY OF LAW****DIPLOMA IN INTELLECTUAL PROPERTY LAW AND PRACTICE 2012-13****NOTICE TO CANDIDATES**

This document is traditionally known as the Examiners' Edict. It is the means by which the Examiners communicate to the candidates information about the examination. It is very important that you should read it carefully; there are procedures to be followed and deadlines to be observed.

ROLE OF THE PROCTORS

The University Proctors act as independent overseers of the conduct of examinations. They have a statutory duty (Statute IX) to see that examinations are properly conducted in accordance with the statutes and regulations concerning them. The University's *Examination Regulations* reserve to the Proctors certain powers in connection with the conduct of examinations, such as granting permission for late submission of written work. These powers are exercised independently of the University's Education Committee and of all divisional or faculty boards or other bodies responsible for the academic content of examinations. Fairness is thereby enhanced because candidates in all examinations are treated by the Proctors on the same terms. For the same reason candidates may not make direct contact with the Chair or Board of Examiners; any special applications concerning a candidate must be made through the Proctors. Candidates may not make direct contact with the Proctors; any special applications must be made by the Diploma Administrator on the candidate's behalf.

ROLE OF THE DIPLOMA ADMINISTRATOR

Any queries or difficulties concerning examination matters should be referred at once to the **Diploma Administrator, Mrs. Ellen Moilanen, in the Law Faculty Office (St. Cross Building, St. Cross Road, Oxford OX1 3UL). Telephone: (01865) 271457. E-mail address: ellen.moilanen@law.ox.ac.uk.** Should it be necessary to apply to the Proctors, the Diploma Administrator will contact them on your behalf. Where the *Examination Regulations* refer to action by a candidate's college or the Senior Tutor of a candidate's college, please **substitute** the Diploma Administrator.

CANDIDATE'S EXAMINATION NUMBER

In all examinations candidates are identified only by their examination number which will be notified to you by the Diploma Administrator. Only your examination number (not your name) should be quoted on written work or examination scripts submitted to the examiners.

EXAMINATION ENTRY DETAILS

The Examination Schools will automatically attach compulsory papers to your academic record on registration. It is your responsibility to ensure your examination entry details are correct via the Student Self Service in OSS. See <http://www.ox.ac.uk/studentselfservice/?path=studentselfservice>.

STATUTES AND OTHER SOURCE MATERIAL IN THE EXAMINATION ROOM

As part of a pilot scheme in the 2010-11 and 2011-12 examinations, candidates were permitted under certain conditions to bring into the examination room their own copies of the Butterworths Intellectual Property Law Handbook (Butterworths Handbook). The scheme has been reviewed by the Proctors and has now been made permanent. You will be permitted to bring into the examination room for the two examination papers (Part II) your own copy of Butterworths Handbook, 10th edition subject to conditions which **it is essential to observe throughout the academic year. Full details are given in Part B.8. below** and include that the copy of the 10th edition taken into the examination room **must be absolutely clean and unmarked.** .

UNIVERSITY OF OXFORD EXAMINATION REGULATIONS 2012 (for academic year 2012-13)
 Available on <http://www.admin.ox.ac.uk/examregs/>; extracts are given in Schedule IV attached hereto.
 This Examiners' Edict provides a guide to the rules for this Diploma programme, but in case of any conflict, the *Examination Regulations* prevail.

**A. INFORMATION FOR CANDIDATES REGARDING THE COURSEWORK ASSIGNMENTS
 (PART I)**

1. Timing

(i) First Coursework Assignment: Patents 1

Saturday 6 October 2012 - Assignment question paper will be handed out during the Workshop on this day, and will also be available from the Diploma Administrator on Monday 8 October.

Friday 2 November 2012 (1.00 pm) - Candidates must submit the required work to the Clerk of Schools, Examination Schools, 75-81 High Street, Oxford OX1 4BG. (See further A.3. below).

(ii) Second Coursework Assignment: Patents 2

Saturday 24 November 2012 - Assignment question paper will be handed out during the Workshop on this day, and will also be available from the Diploma Administrator on Monday 26 November.

Friday 4 January 2013 (1.00 pm) - Candidates must submit the required work to the Clerk of Schools, Examination Schools, 75-81 High Street, Oxford OX1 4 BG. (See further A.3. below).

(iii) Third Coursework Assignment: Trade Marks and Passing Off

Saturday 19 January 2013 - Assignment question paper will be handed out during the Workshop on this day, and will also be available from the Diploma Administrator on Monday 21 January.

Friday 15 February 2013 (1.00 pm) - Candidates must submit the required work to the Clerk of Schools, Examination Schools, 75-81 High Street, Oxford OX1 4BG. (See further A.3. below).

(iv) Fourth Coursework Assignment: Copyright

Saturday 16 March 2013 – Assignment question paper will be handed out in the Workshop on this day, and will also be available from the Diploma Administrator on Monday 18 March.

Friday 16 April 2013 (1.00 pm) - Candidates must submit the required work to the Clerk of Schools, Examination Schools, 75-81 High Street, Oxford OX1 4BG. (See further A.3. below).

(v) Fifth Coursework Assignment: Designs

Saturday 27 April 2013 – Assignment question paper will be handed out in the Workshop on this day, and will also be available from the Diploma Administrator on Monday 29 April.

Monday 29 May 2013 (1.00 pm) - Candidates must submit the required work to the Clerk

of Schools, Examination Schools, 75-81 High Street, Oxford OX1 4BG. (See further A.3. below).

You may complete and submit a coursework assignment although you were not able to attend the relevant Workshop. It is your responsibility to obtain a copy of the question paper from the Diploma Administrator; an extension of the time for submission may not be granted solely because of non-attendance at the Workshop at which the question paper was handed out (see further A.3.(ii) below).

2. *Methods of Assessment and Format of Assignment*

Each coursework assignment shall be examined by means of an assessed written exercise of 3,000 words unless otherwise stated in the question paper (inclusive of footnotes) (see also A.4. below). For Marking Conventions see C.1. below, and for Assessment Standards see attached Schedule I. Each assignment will take the form of a practical exercise, such as drafting of statements of case or instructions to counsel.

The University has strict regulations governing assessment. Marks may not be disclosed to candidates until they have been agreed as final marks by the Board of Examiners. It is therefore not possible to disclose the marks for the coursework assignments (Part I) until after the final meeting of the Board in July (see E.1. below) when the Board will decide the final result of the Diploma, having reviewed and agreed the complete marks profile (Part I and Part II) for each candidate. The Board may need to make adjustments to marks after scrutinising the marking profiles of markers across each paper and across all papers and after considering other relevant information, such as medical evidence. If the marks for Part I had already been agreed by the Board as final marks and disclosed to candidates at an earlier date, it would not be possible to revisit those marks later. The Board has also taken the view that knowledge of their marks would not necessarily be helpful to candidates approaching the examination papers (Part II) in a few weeks time; some would be encouraged but others discouraged by their earlier performance and have little time for additional preparation.

The University does not permit assessors to provide detailed feedback on their performance in written papers to individual candidates, hence you will receive only a mark for each coursework assignment (and each examination paper) and no comments on how that mark was reached. General comments on each paper and how questions were tackled will be included in the Report of the Examiners on the year's examination, but this Report will not be available until several months after completion of the Diploma. To assist candidates as they progress through the course, the Board of Examiners has asked assessors after completion of the marking of each coursework assignment to prepare general comments on the issues raised by the questions and the points which might be included in the answers, and to comment generally on the performance of the cohort in completing the assignment. The document will not be a model answer, and will not provide a comprehensive analysis of the scripts submitted, but will identify some of the most common mistakes seen by the assessors. As soon as each text has been approved by the Board, it will be released to candidates. This is dependent on the timing of the completion of the marking process and may not always be possible.

The Reports of the Examiners and of the External Examiner on the previous years' examination are available for consultation on the Faculty website, <http://www.law.ox.ac.uk/publications/handbooks.php>. These reports contain (inter alia) information on examining methods and statistical analyses of performance.

3. *Submission of Coursework Assignments*

(i) *Submission Requirements*

Candidates are required to submit **two typewritten copies** of each coursework assignment. The coursework assignment must be typed or printed on one side of A4 paper only, with a margin of 3 to 3.5 centimetres on the left-hand side of each page. The text should be double spaced and the footnotes and quotations should be single-spaced. Pages should be numbered and stapled together, not held together by a paper clip. You must **not** write your name anywhere on the coursework assignment or envelopes. All written work must be submitted in English.

Each coursework assignment should have a cover sheet attached to it containing the title and your examination number. It should also state the year of submission and the number of words (inclusive of footnotes).

Two copies of each coursework assignment must be delivered in an envelope to the Clerk of Schools, Examination Schools, 75-81 High Street, Oxford. The envelope should be addressed to: The Chair of Examiners for the Diploma in Intellectual Property Law and Practice, and your examination number should be printed in the top right hand corner of the envelope. With each coursework assignment you must include: (a) a statement, signed by yourself, that, except where otherwise stated, the coursework assignment is entirely your own work, and that no help was received, even bibliographical, with its preparation; and (b) a second statement indicating which part or parts of the coursework assignment have formed part of a submission in another context. To assist you, these statements have been incorporated into the template **Declaration of Authorship** for completion (see Schedule V and D. (second paragraph thereof) below). Delivery may be by hand, by courier or by registered post, but, if not made by hand, the envelope containing your written work (and addressed as instructed above) must be placed inside a delivery envelope which should be addressed to The Chair of the Diploma in Intellectual Property Law and Practice Examiners, c/o The Clerk of Schools, Examination Schools, 75-81 High Street, Oxford OX1 4BG. However delivery is made, the package **must arrive** by the deadline. **You are strongly advised to obtain proof of collection by a courier service or proof of posting.** (NB promises by the Post Office of ‘next day delivery’ may not be reliable). At the same time as you submit hard copies of each coursework assignment to the Examination Schools, you must also submit electronically a copy of that assignment to the Diploma Administrator for the Examiners. A random sample of coursework assignments will be checked for plagiarism using the *Turnitin* plagiarism software. See further D. below.

(ii) **Late submission**

Application to the Proctors for permission for late submission of coursework assignments should be made by the Diploma Administrator, on the candidate’s behalf, before the submission date. Written work submitted late (even a few minutes past the deadline) will not be released to the Examiners, but will be held by the Examination Schools and the Proctors informed. The Diploma Administrator, on the candidate’s behalf, may write to the Proctors explaining the reason for late submission. The Proctors may permit the candidate to remain in the Diploma examination and to submit the work late, but will impose a late presentation fee (to cover administrative costs). In addition, the Proctors may give leave to the Examiners to impose an academic penalty, which will take the form of a reduction in the mark by up to one class (or its equivalent – 10 marks). In determining the amount of the reduction, the Examiners will be guided by the evidence forwarded to them by the Proctors and (insofar as the following matters are dealt with by such evidence):

- (1) the degree of advantage gained by the extra time made available to the candidate relative to the time that was available to complete the coursework assignment by the original deadline;
- (2) the weight to be attached to the excuse given, if any, for late submission;
- (3) his or her performance in the coursework assignments (Part I) submitted by the deadline and the written examination papers (Part II);
- (4) the effect of any proposed reduction on the candidate’s Diploma result as a whole.

Factors (2) – (4) may require a final decision on penalty to be delayed until all the marks for the written examination papers (Part II) are known. See further Schedule IV - *Examination Regulations* 2012, Part 16.8. Candidates should consult the Diploma Administrator if any of these provisions apply to them. See also B.6. below.

A candidate who fails to apply for or to obtain permission from the Proctors for the late submission of any written work, or non-submission (i.e. withdrawal from this examination unit (see B.7. below) will be deemed to have failed the entire Diploma examination (not just the coursework assignments (Part I)). Non-submission includes where the Examiners refuse to examine work which exceeds the word limit (see A.4. below).

4. *Length*

Candidates should take seriously the word limit imposed (see A.2. above). If the word limit is exceeded 'the examiners, if they agree to proceed with the examination of the work, may reduce the mark by up to one class (or its equivalent – 10 marks).' (See Schedule IV - *Examination Regulations* 2012, Part 16.6). The Examiners are naturally bound by this. It is necessary, however, to give guidance on the meaning of a 'word' in this context. Because of the manner in which word count software operates, legal citations often inflate the count. The Examiners have therefore determined that an allowance of an extra 3% should be permitted to candidates (should they wish to use it) above the figure of 3,000 words. The word count which appears on the coursework assignments must be the actual word count produced by the software. The word count must include all footnotes. You must ensure that any automatic word-count on the word-processing programme you use is set to count footnotes.

5. *Academic integrity – avoidance of Plagiarism*

See D. below.

6. *Illness or other Causes affecting Candidates for examination*

See B. 6. below.

7. *Withdrawal from entire Diploma examination*

See B.7. below.

B. INFORMATION FOR CANDIDATES REGARDING THE WRITTEN EXAMINATION PAPERS (PART II)

1. *Timing and Place of Examination*

Monday 1 July 2013

Intellectual Property I	9.30am-11.30am
Intellectual Property II	2.30pm-4.30pm

The written examination papers will be taken at the Examination Schools in the 75-81 High Street, Oxford. Candidates are advised to reach the Examination Schools not less than fifteen minutes before the stated time of the examination. A bell will be rung some minutes before the examination to give candidates time to move to the examination room. Notices will direct candidates to the appropriate room. Seating in the examination room will be by desk number only. Seating charts will be displayed in the reception area, displaying candidates' names and desk numbers, as well as outside the examination room. You will need your University Card for each paper (see B.3.(i) below). Dark formal attire must be worn (eg lounge suit).

See also B.8.(i) below concerning the conditions under which you may have a copy of approved statutory materials in the examination room.

2. *Method of Assessment and Examination Technique*

The substantive law elements of the course covered in the residential programme shall be examined by means of two written examination papers, each of two hours (see also B.10) below. For

Marking Conventions see C.1. below, and for Assessment Standards see Schedule I. Sample questions will be provided and discussed in the three revision workshops, Saturdays 17 November 2012, 8 June 2013 and 15 June 2013.

3. *Scripts*

(i) **Anonymity**

You will be informed of your examination number and you should bring to the examination room the note advising you of that number. You must **not** write your name on any answer book. **Write your examination number only** in the appropriate place in each answer book you use. Please also bring with you to each examination your University Card. This must be placed face up on the desk at which you are writing.

(ii) **Legibility**

Candidates must not write in pencil. Candidates submitting illegible scripts will be required to have them typed at their own expense. The examiners will make every effort to identify such candidates to the Diploma Administrator as early as possible. Please provide the Diploma Administrator with details of where you can be contacted by telephone and email in the week following the date of the examination papers. If any of your scripts have to be typed, you will be asked to return to Oxford to dictate your answers to a typist in the presence of an invigilator. At that time, further instructions will be given to you by the Diploma Administrator.

(iii) **Rough work**

If you wish to write plans or rough drafts, you may do so either in the same booklet as your answers (but cross out the rough work) or in a separate booklet (indicating that this is rough work) which must be handed in along with your answer booklets.

(iv) **Handing in scripts**

It is the **candidate's own duty to hand in his or her scripts when collected from your desk by an invigilator**. Any candidate who does not hand in a script **must** inform an invigilator.

(v) **Incomplete scripts**

In a change to previous practice, the mark for a completely absent answer in any script will be zero, and the mark for a part answer, or a "skimped", "rushed final", "short" or "weak" answer, will be such a mark above zero as is appropriate, relative to more successful answers, in terms of the quality of what has been written, and the extent to which it covers the question.

The overall mark for a script will be arrived at by averaging the number of marks, including zeros, over the number of questions that should have been answered on the paper.

If a candidate completes the correct number of questions, but fails to answer a question which is compulsory (eg where the candidate does not answer a problem question as required by the rubric of that paper), marks will be deducted and this may affect the final result. It is therefore of the utmost importance that candidates comply with the rubric of the paper and answer the number and type of questions stipulated.

Candidates who write answers in note form may also expect to have their overall mark for the paper reduced.

4. *Leaving the examination room, arriving late and failing to attend*

(i) **During first half hour and last half hour of examination**

No candidate may leave the examination room within half-an-hour of the beginning of the examination and, to avoid disturbance to other candidates, candidates may not leave the examination room within half-an-hour of the end of the examination.

(ii) Examination Protocol

An Examination Protocol giving practical advice on the conduct of the examination is attached as Schedule II. This should be read before the examination. The document does not have official status and will not be placed on desks in the examination room. The Protocol also refers you to the Proctors' Disciplinary Regulations (see Schedule IV – *Examination Regulations* 2012, Part 19) and Administrative Regulations for Candidates in Examinations (see Schedule IV – *Examination Regulations* 2012, Part 20). (See also E.3. below).

(iii) Illness during the examination

A candidate who is taken ill while sitting a written paper may (with the invigilator's permission) leave the room and return while the examination is in progress to resume the paper on **one** occasion only (and no extra time shall be allowed). If the candidate is unable to complete the paper concerned because they have been taken ill a second time, they should inform an invigilator so that the incomplete script can be handed in. It is the candidate's responsibility to obtain a medical certificate explaining how the performance in the paper concerned may have been affected by illness. The examiners will only be made aware of any difficulties suffered by a candidate in the examination room if the candidate subsequently obtains a medical certificate and that, plus any other relevant information, is submitted to the Proctors and passed on by them to the examiners. For the procedure to be followed see B.6. below.

(iv) Late arrival

A candidate who arrives more than half-an-hour after the time when the examination begins will be allowed by the invigilator to attempt the paper, finishing at the same time as the others. The circumstances will be reported to the Proctors, and the work shall not be taken into account by the Examiners without the consent of the Proctors. The candidate should contact the Diploma Administrator as soon as possible so that a submission explaining the reasons for late arrival may be made to the Proctors.

(v) Failure to attend the examination

Candidates who fail to attend a written examination paper without having obtained the prior permission of the Proctors are deemed to have failed the entire Diploma examination (not just that particular part of the examination), unless the Proctors give instructions to the Examiners about reinstating them (see Schedule IV - *Examination Regulations* 2012, Part 14). This means that the names of such candidates have to be included on the results list under 'fail'. For the procedure for withdrawal (from the entire Diploma examination and from a particular part of the examination) before the Diploma examination and after the Diploma examination has started, see paragraph B.7. below (Schedule IV - *Examination Regulations* 2012, Part 14). The point of completion is deemed to be 'the conclusion of the last paper for which the candidate has entered, or the time by which a dissertation or other written material is due to be submitted, whichever is the later' (Schedule IV – *Examination Regulations* 2012, Part 20.6.). Candidates should consult the Diploma Administrator if any of these provisions apply to them.

5. Academic Integrity – avoidance of Plagiarism

See D. below.

6. Illness or other Causes affecting Candidates for examinations

The Proctors have authority to authorise special arrangements for candidates who for medical or other sufficient reasons are likely to have difficulty in writing their scripts or completing the examination in the time allowed (see Schedule IV - *Examination Regulations* 2012, Part 10). If this applies, you should consult the Diploma Administrator. Applications for such arrangements **must be submitted to the Proctors by Friday 2 November 2012**. Where a candidate's performance in any part of an examination is likely to be, or has been, affected by factors, such as illness or disability, of which the Examiners have no knowledge, the candidate may, through the Diploma Administrator, inform the Proctors of these factors. Usually this will involve submitting a medical certificate to the Proctors, in

which as much detail as possible should be recorded by the certifying doctor to explain the case. The certificate should indicate the medical reason for the special request. The candidate should request the certificate from the doctor at the time when the doctor is able to certify the facts. Once the final Examiners' meeting has taken place (19 July 2013) only in the most exceptional circumstances will the Proctors forward to the Examiners retrospective evidence that a candidate's performance may have been affected by medical or other factors. The Proctors will pass the information to the Chair of Examiners if, in their opinion, it is likely to assist the Examiners in the performances of their duties. See further Schedule IV - *Examination Regulations* 2012, Part 11. The Examiners cannot take account of any special circumstances other than those communicated by the Proctors. See also B.4.(iii) – (v) above.

The Proctors also have authority to authorise special arrangements for candidates who are forbidden for reasons of faith from taking examinations on religious festivals or other special days which may coincide with days on which examinations are set (see Schedule IV – *Examination Regulations* 2012, Part 12). If this applies, you should consult the Diploma Administrator. Applications for such arrangements **must be submitted to the Proctors by Friday 2 November 2012**.

7. *Withdrawal from the Diploma Examination*

A candidate may withdraw from the entire Diploma examination at any time before the date for submission of the first coursework assignment (Part I). Withdrawal will be effected by the Diploma Administrator on the candidate's behalf. A candidate may not withdraw from the entire Diploma examination, or any part of it, after the start of the first paper or date for submission of the first paper or other exercise unless by reason of illness or other urgent cause (see Schedule IV - *Examination Regulations* 2012, Part 14). A candidate may not withdraw from the Diploma examination after the written parts of the examination are complete. The point of completion is deemed to be the conclusion of the last paper for which the candidate has entered, or the time by which a dissertation or other written material is due to be submitted, whichever is the later. See further paragraph C.2. for provisions for re-examination. Candidates should contact the Diploma Administrator at once if any of these provisions apply to them; it may be necessary for the Diploma Administrator to apply to the Proctors on the candidate's behalf, and there are administrative consequences too.

8. *Materials in the Examination Room*

(i) **Statutes and other Source Materials**

Statutes and other source materials may only be brought into the examination room with the prior approval of the Proctors and then only subject to strict conditions. For Intellectual Property I and Intellectual Property II in 2012-13 candidates will be permitted to bring into the examination room their own copies of Butterworths Intellectual Property Law Handbook, 10th edition (Butterworths Handbook). The following regulations will apply:

- (1) The copy of Butterworths Handbook which you bring into the examination room must be **absolutely clean and unmarked**. As an aid to finding individual materials in the Handbook collection, tabs may be attached to the edge of relevant pages. These tabs may be of different colours but must be **absolutely clean and unmarked**. These regulations will be strictly enforced. Particular attention will be paid to personal possession markings (eg your name, the name of your chambers/firm) which **must do no more than identify the ownership of the Handbook**.
- (2) Your copy of Butterworths Handbook will be inspected by the examiners/invigilators in your presence immediately before the start of the first examination paper (Intellectual Property I). This will be carried out as quickly as possible, but may result in a short delay to the start of the paper. Thereafter during the examination scrutiny will be conducted as part of invigilation and will be random. Your copy of Butterworths Handbook must remain **absolutely clean and unmarked** (see (1) above) **for the duration of the first and second examination paper** (Intellectual Property II), so do not write or mark it in any way during the first and second papers.

- (3) At the end of the first paper your copy of Butterworths Handbook must be left on your desk in the examination room. The inspection (see (2) above) will be repeated for the second examination paper (Intellectual Property II).
- (4) In the event of any infringement or breach of regulations specified above, your copy of Butterworths Handbook will immediately be confiscated and the matter reported to the Proctors. You will be permitted to continue and complete the two examination papers but without access to the collection of materials in Butterworths Handbook. Similarly, if for some reason you forget to bring your copy of Butterworths Handbook to the examination, you will be permitted to write the papers but without access to the materials in Butterworths Handbook.
- (5) The Proctors will suspend the candidate's examination while they fully investigate (including interviewing the candidate) the reported infringement or breach of the regulations. If they come to the view that a breach of the Disciplinary Regulations has occurred, the Proctors are empowered to refer the matter to the Student Disciplinary Panel. Further information about these Regulations and disciplinary procedures may also be found on <http://www.admin.ox.ac.uk/proctors>. Students who breach the Disciplinary Regulations for University Examinations may have their marks reduced, or may be failed in that examination or, in the most serious cases, may be expelled. Serious breach of University discipline may also be reported to the Bar Standards Board/Solicitors Regulation Authority.

The following materials will be placed on the desks in the examination room. In the event of any change or addition, this will be notified specifically to candidates.

- *SI 1989 No. 1294: The Design Right (Reciprocal Protection) (No. 2) Order 1989*
- *Council Regulation (EC) 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the "Brussels Regulation")*

(ii) Dictionaries

No dictionaries are allowed in the examination room.

(iii) Other materials

No other books or papers whatever, and no calculators may be taken into the examination room.

(iv) Food and drink

Candidates are permitted to take non-carbonated water, in a spill-proof bottle (this is strictly enforced), into the Examination Room. No other drinks and/or foods will be permitted except on medical grounds, and with prior approval. Water is also available in the lobby just outside the room. Diabetic students are permitted to take a Silent blood testing kit, a glucose drink (e.g. Lucozade) and/or glucose tablets (e.g. Dextro energy tablets), and insulin with syringes into the Examination room and asthmatic students may take in an asthma inhaler, provided that the Diploma Administrator has informed the Examinations Team in advance. If these provisions apply to you, please contact the Diploma Administrator.

9. Academic Integrity – avoidance of Plagiarism

See D. below.

10. The Question Papers

An Examiner will be present during the first half-hour of each examination paper to address any question concerning the paper.

(i) **Format and Rubric of papers**

Intellectual Property I and Intellectual Property II – in each of the two papers there will be 4 questions. Candidates should answer two questions; of which one must be an essay question and one a problem question. Questions may cover more than one topic.

(ii) **Special announcements**

Intellectual Property I and Intellectual Property II – candidates will not be expected to have detailed knowledge of developments after Friday 8 March 2013.

C. MARKING CONVENTIONS, ASSESSMENT STANDARDS AND RE-EXAMINATION

1. *Marking Scale, Classification Conventions and Assessment Standards*

The University requires examination scripts and other written work to be marked on a scale from 1 to 100. In this Diploma, marks of 70 and above are Distinction marks and marks of 50 – 69 are Pass marks. Marks of 49 or below are Fail marks. For the Assessment Standards see Schedule I. Marks are awarded for each coursework assignment and for each written examination paper, giving a profile of seven marks.

It is important to appreciate that the classification conventions set out here are not inflexible rules. The Examiners have a residual discretion to deal with unusual cases and circumstances. Subject to that caveat, the conventions that will normally be applied are as follows:

- (a) For the award of the Diploma in Intellectual Property Law and Practice there must be no mark below 50. A mark below 50 may not be compensated by very good performance elsewhere
- (b) For the award of a Distinction in the Diploma in Intellectual Property Law and Practice a candidate must achieve marks of 70 or above in three or more papers, including in at least one of the written examination papers (Part II), and must have no mark below 55 in any paper. For this calculation, the coursework assignments count as five papers, and the examination papers count as two papers (making a total of seven papers in all).

As for the discretion to depart from the normal conventions, candidates may be assured that it is not exercised except in very unusual circumstances (eg medical) in which the Examiners are convinced that the convention would yield an indefensible result. The discretion has to be exercised rationally, and the primary component of rationality in this context is that all candidates should be subjected to exactly the same rules. It follows that the discretion will not be exercised in favour of a candidate merely because the marks very narrowly fail to satisfy the convention or against a candidate merely because they only very narrowly succeed in satisfying the convention.

2. *Re-examination*

Candidates who fail any of the seven papers (five coursework assignments and two examination papers), or who withdraw before submission of all the seven papers, may re-take in the immediately following academic year **only** any paper in which they achieved a mark of 49 or below, and may carry forward the marks of any paper they passed (mark of 50 or above). But nothing in this paragraph shall prejudice the powers of the University's Education Committee and Proctors to permit partial re-takes in exceptional circumstances. If since the previous year there has been a change of syllabus, coursework assignments or examination papers shall nevertheless be set on the previous syllabus for the candidate who is re-taking them, but may not be taken by any other candidate.

D. ACADEMIC INTEGRITY – AVOIDANCE OF PLAGIARISM

Plagiarism is the copying or paraphrasing of other people's work or ideas into their own work without full acknowledgement. All published and unpublished material, whether in manuscript, printed or electronic form, is covered under this description. Collusion is another form of plagiarism involving the unauthorised collaboration of students (or others) in a piece of work. The Proctors Disciplinary Regulations concerning conduct in examinations (Schedule IV – *Examination Regulations* 2012, Part 19.4. and 19.5.) state that 'No candidate shall present for an examination as his or her own work any part of the substance of any part of another person's work. In any written work (whether thesis, dissertation, essay, coursework, or written examination) passages quoted or closely paraphrased from another person's work must be identified as quotations or paraphrases, and the source of the quoted or paraphrased material must be clearly acknowledged.' See further Schedule III - the introductory text of the guidance issued by the University's Education Committee. Examples of plagiarism and how to avoid it are given on <http://www.ox.ac.uk/students/academic/goodpractice/about/you> are strongly advised to consult this website.

Guidance and examples are also given in the Faculty Handbook for the Diploma 2012-13 (see Part 4. thereof). The University reserves the right to use software applications to screen any individual's submitted work for matches either to published sources or to other submitted work. Any such matches respectively might indicate either plagiarism or collusion (see A.3.(i) (last paragraph thereof) above).

In this connection, you are required to complete and submit with each coursework assignment a **Declaration of Authorship**, including acknowledgement of the University's right to check for plagiarism or collusion. A blank Declaration of Authorship for your use is attached as Schedule V. When submitting one of the coursework assignments (Part I) (see A.3.(i) above), **please complete a copy of this Declaration and enclose it in the envelope with the two hard copies of the assignment**. If the Declaration is submitted late, the Proctors may recommend that the examiners apply an academic penalty (Schedule IV – *Examination Regulations* 2012, Part 16.8.(6)).

If the Examiners believe that material submitted by a candidate may be plagiarised, they will refer the matter to the Proctors. The Proctors will suspend the candidate's examination while they fully investigate such cases (including interviewing the candidate). If they consider that a breach of the Disciplinary Regulations has occurred, the Proctors are empowered to refer the matter to the Student Disciplinary Panel. For further information see the Proctors' and Assessor's Memorandum (E.3. below).

E. GENERAL INFORMATION

1. *Publication of Results*

The individual examination results can be viewed within the Student Self Service webpage in OSS (<https://www.studentsystem.ox.ac.uk/>). Individual Diploma Confirmation Letters will also be sent by the Examination Schools to candidates' home addresses (as contained within the Student Self Service webpage in OSS). Please note that results will not be available over the telephone from the Examination Schools and a results list will not be posted in the Examination Schools. Results will also not be available over the telephone from the Diploma Administrator, but an informal transcript will be sent by post to each candidate (and by email attachment if so authorised by the candidate concerned). See also A.2. above.

2. *Appeals from Decisions of the Proctors and Examiners*

For the procedures for appeals from decisions of the Proctors, see Schedule IV – *Examination Regulations* 2012, Part 18.1.). The appeal must be made within 14 days of the date of the Proctors' decision. For appeals from the decisions of the Examiners, see Schedule IV – *Examination Regulations* 2012, Part 18.2., and Part 20, paragraph 7. If you wish to raise a query or make a

complaint about the conduct of your examination you should consult urgently the Diploma Administrator. Queries and complaints must not be raised directly with the Examiners, but must be made formally to the Proctors through the Diploma Administrator, and no later than three months after the notification of the results. The Proctors are not empowered to consider appeals against the academic judgment of examiners, only complaints about the conduct of examinations. Further information about complaints procedures may be found in the Proctors' and Assessor's Memorandum, particularly section 13 (see E.3. below).

3. *Proctors' and Assessor's Memorandum*

Essential Information for Students (known as the Proctors' and Assessor's Memorandum) contains much useful information and is available on <http://www.admin.ox.ac.uk/proctors>. Sections 9, 10, 11 and 13 have relevance for examinations.

Ms A.S. Kennedy (Chair)
Mr. R. Anderson (IPLA)
Professor G. Dinwoodiejee
Dr. D. Gangjee (External)

3 October 2012

Schedule I – Assessment Standards (Page 13)

Schedule II – Examination Protocol (Page 14-15)

Schedule III – Academic Integrity; avoidance of plagiarism (Page 16-18)

Schedule IV – Extracts from *Examination Regulations* 2012 (Page 19-36)

Schedule V – template Declaration of Authorship (Page 37-38)

SCHEDULE I

DIPLOMA IN INTELLECTUAL LAW AND PRACTICE 2012-13

ASSESSMENT STANDARDS

The University requires examination scripts and other written work to be marked on a scale from 1 to 100. Marks of 70 or above are Distinction marks, and marks of 50 – 69 are Pass marks. Marks of 49 or below are Fail marks. The standards applied to the assessment of the Coursework Assignments (Part I) and Written Examination Papers (Part II) are as follows:

Distinction (70 and above): Distinction answers are those that represent an excellent level of attainment for a student at postgraduate level. They exhibit the following qualities:

- acute attention to the question asked;
- a deep and detailed knowledge and understanding of the topic addressed and its place in the surrounding context;
- excellent synthesis and analysis of materials, with no or almost no substantial errors or omissions, and coverage of at least some less obvious angles;
- excellent clarity and appropriateness of structure, argument, integration of information and ideas, and expression;
- identification of more than one possible line of argument;
- advanced appreciation of practical arguments concerning the topic, substantial critical facility, and personal contribution to debate on the topic.

Pass (50 – 69): Pass answers represent a level of attainment which, for a student at postgraduate level, is within the range acceptable to very good. They exhibit the following qualities:

- attention to the question asked;
- a clear and fairly detailed knowledge and understanding of the topic addressed and its place in the surrounding context;
- good synthesis and analysis of materials, with few substantial errors or omissions;
- a clear and appropriate structure, argument, integration of information and ideas, and expression;
- identification of more than one possible line of argument;
- familiarity with practical arguments concerning the topic, and (especially in the case of high pass answers) a significant degree of critical facility.

Fail (below 50): Qualities required for a pass answer are absent.

SCHEDULE II

DIPLOMA IN INTELLECTUAL PROPERTY AND PRACTICE 2012-13

EXAMINATION PROTOCOL

NB This is an unofficial practical guide to conduct and procedures in the Examination Schools. In addition, you should before the examination familiarize yourself with the Proctors' Disciplinary Regulations for Candidates in Examinations (see Schedule IV - Examination Regulations 2012, Part 19) and the Proctors' Administrative Regulations for Candidates in Examinations (see Schedule IV - Examination Regulations 2012, Part 20). (The Proctors also draw attention to these Regulations in the *Proctors' and Assessor's Memorandum* – see Examiners' Edict, para. E.3.).

1. Please check that you are seated at the right seat in the examination room. This will be identified by desk number, not by name.
2. In order to prevent impersonation of examination candidates, during every written paper you must display your University Card face up on the desk at which you are writing.
3. Do not turn over the examination paper or begin writing until you are told you may do so.
4. You may remove jackets and ties during the examination, but you must be correctly dressed before you leave the examination room.
5. Do not put your name on any answer book. Write only Diploma in Intellectual Property and your examination number in the spaces provided.
6. Please read the instructions on the front of your answer book and observe them.
7. You may for your use take into the examination room an absolutely clean and unmarked copy of Butterworths Intellectual Property Law Handbook, 10th edition (2011). As an aid to finding individual materials in the Handbook collection, tabs may be attached to the edge of relevant pages. These tabs may be of different colours but must be absolutely clean and unmarked. The Handbook should be placed on your desk and may be inspected at any time before or after the beginning of the examination. These conditions will be strictly enforced. Full details of the Proctors' regulations and the procedures for enforcing them are given in the Examiners' Edict, para. B.8.(i).
8. You may not leave the examination room before 30 minutes after the beginning of the examination, nor in the last 30 minutes of the examination.
9. You are permitted to take non-carbonated water, in a spill-proof bottle (not standard screw top), into the Examination Room. Water is also available in the lobby just outside the room. No other drinks or food will be permitted except on medical grounds, and with prior approval of the Proctors. If you have been given prior permission by the Proctors to have items, such as food and drink, in the examination room, you must carry the permission letter with you and produce it if requested by an invigilator – see Examiners Edict, para. B.8.(iv).
10. Diabetic students are permitted to take Silent blood testing kits, and glucose drinks (e.g. Lucozade) and/or glucose tablets (e.g. Dextro energy tablets) in case of hypoglycaemia into the examination room, provided the Diploma Administrator has informed the Examinations Team in advance. Similarly syringes/supplies and asthma inhalers are permitted provided the Diploma Administrator has informed the Examinations Team in advance.

11. Do not bring mobile telephones or any other electronic devices into the examination room.
12. Do not bring any papers or personal belongings, such as coats and bags, into the examination room. All articles or equipment to be used in an examination must be carried into the examination room in a transparent bag. Non-transparent bags must be offered for inspection and, unless special permission is given by an invigilator, must be deposited at the place designated for the deposit of bags and other personal belongings.
13. If you require more paper, a drink of water or to visit the toilet please listen carefully to the instructions from the invigilator at the beginning of the examination to indicate your requirement.
14. Shortly before the end of the examination, you will be given an oral notice of the time remaining. At the end of the examination you will be orally notified to stop writing. If you have used more than one book, you must tag the books together using the tag provided.
15. At the end of the examination you must remain seated at your desk until the invigilator has collected your script from you.
16. At the end of the examination, please obey all instructions of the Proctors and their assistants and disperse quickly. In order to avoid nuisance to other members of the public, the Proctors' rules clearly prohibit you from assembling for any purpose in the entrance of the Examination Schools or on the streets outside. The Proctors' Code of Conduct for post-examination celebrations is available on <http://www.admin.ox.ac.uk/proctors>.

SCHEDULE III

DIPLOMA IN INTELLECTUAL LAW AND PRACTICE 2012-13

PLAGIARISM

What is plagiarism?

Plagiarism is the copying or paraphrasing of other people's work or ideas into your own work without full acknowledgement. All published and unpublished material, whether in manuscript, printed or electronic form, is covered under this definition. Collusion is another form of plagiarism involving the unauthorised collaboration of students (or others) in a piece of work.

- Why does plagiarism matter?
- Why should you avoid plagiarism?
- What to avoid
- What happens if you are suspected of plagiarism?
- Frequently asked questions

Why does plagiarism matter?

Plagiarism is a breach of academic integrity. It is a principle of intellectual honesty that all members of the academic community should acknowledge their debt to the originators of the ideas, words, and data which form the basis for their own work. Passing off another's work as your own is not only poor scholarship, but also means that you have failed to complete the learning process. Deliberate plagiarism is unethical and can have serious consequences for your future career; it also undermines the standards of your institution and of the degrees it issues.

Why should you avoid plagiarism?

There are many reasons to avoid plagiarism. You have come to university to learn to know and speak your own mind, not merely to parrot the opinions of others - at least not without attribution. At first it may seem very difficult to develop your own views, and you will probably find yourself paraphrasing the writings of others as you attempt to understand and assimilate their arguments. However it is important that you learn to develop your own voice. You are not necessarily expected to become an original thinker, but you are expected to be an independent one - by learning to assess critically the work of others, weigh up differing arguments and draw your own conclusions. Students who plagiarise undermine the ethos of academic scholarship while avoiding an essential part of the learning process. The Proctors regard plagiarism in examinations as a serious form of cheating for which offenders can expect to receive severe penalties.

You should not avoid plagiarism for fear of disciplinary consequences, but because you aspire to produce work of the highest quality. Once you have grasped the principles of source

use and citation, you should find it relatively straightforward to steer clear of plagiarism. Moreover, you will reap the additional benefits of improvements to both the lucidity and quality of your writing. It is important to appreciate that mastery of the techniques of academic writing is not merely a practical skill, but one that lends both credibility and authority to your work, and demonstrates your commitment to the principle of intellectual honesty in scholarship.

What to avoid

It is important to note that the necessity to reference applies not only to text, but also to other media, such as computer code, illustrations, graphs etc. It applies equally to published text drawn from books and journals, and to unpublished text, whether from lecture handouts, theses or other students' essays. You must also attribute text or other resources downloaded from web sites. An example of plagiarism has also been set out to illustrate how to avoid plagiarism.

There are various forms of plagiarism and it is worth clarifying the ways in which it is possible to plagiarise:

Verbatim quotation without clear acknowledgement

Quotations must always be identified as such by the use of either quotation marks or indentation, with adequate citation. It must always be apparent to the reader which parts are your own independent work and where you have drawn on someone else's ideas and language.

Paraphrasing

Paraphrasing the work of others by altering a few words and changing their order or by closely following the structure of their argument, is plagiarism because you are deriving your words and ideas from their work without giving due acknowledgement. Even if you include a reference to the original author in your own text you are still creating a misleading impression that the paraphrased wording is entirely your own. It is better to write a brief summary of the author's overall argument in your own words than to paraphrase particular sections of his or her writing. This will ensure you have a genuine grasp of the argument and will avoid the difficulty of paraphrasing without plagiarising. You must also properly attribute all material you derive from lectures.

Cutting and pasting from the Internet

Information derived from the Internet must be adequately referenced and included in the bibliography. It is important to evaluate carefully all material found on the Internet, as it is less likely to have been through the same process of scholarly peer review as published sources.

Collusion

This can involve unauthorised collaboration between students, failure to attribute assistance received, or failure to follow precisely regulations on group work projects. It is your responsibility to ensure that you are entirely clear about the extent of collaboration permitted, and which parts of the work must be your own.

Inaccurate citation

It is important to cite correctly, according to the conventions of your discipline.

Additionally, you should not include anything in a footnote or bibliography that you have not actually consulted. If you cannot gain access to a primary source you must make it clear in your citation that your knowledge of the work has been derived from a secondary text (e.g. Bradshaw, D. Title of Book, discussed in Wilson, E., Title of Book (London, 2004), p. 189).

Failure to acknowledge

You must clearly acknowledge all assistance which has contributed to the production of your work, such as advice from fellow students, laboratory technicians, and other external sources. This need not apply to the assistance provided by your tutor or supervisor, nor to ordinary proofreading, but it is necessary to acknowledge other guidance which leads to substantive changes of content or approach.

Professional agencies

You should neither make use of professional agencies in the production of your work nor submit material which has been written for you. It is vital to your intellectual training and development that you should undertake the research process unaided.

Auto-plagiarism

You must not submit work for assessment which you have already submitted (partially or in full) to fulfil the requirements of another degree course or examination, unless this is specifically provided for in the special regulations for your course.

What happens if you are suspected of plagiarism?

The regulations regarding conduct in examinations apply equally to the ‘submission and assessment of a thesis, dissertation, essay, or other coursework not undertaken in formal examination conditions but which counts towards or constitutes the work for a degree or other academic award’. Additionally, this includes the transfer and confirmation of status exercises undertaken by graduate students. Cases of suspected plagiarism in assessed work are investigated under the disciplinary regulations concerning conduct in examinations. Intentional or reckless plagiarism may incur severe penalties, including failure of your degree or expulsion from the university.

If plagiarism is suspected in a piece of work submitted for assessment in an examination, the matter will be referred to the Proctors. They will thoroughly investigate the claim and summon the student concerned for interview. If at this point there is no evidence of a breach of the regulations, no further action will be taken. However, if it is concluded that an intentional or reckless breach of the regulations has occurred, the Proctors will refer the case to one of two disciplinary panels. More information on disciplinary procedures and appeals is available on the [Student Conduct section](#) of the Student Gateway.

If you are suspected of plagiarism your College Secretary/Academic Administrator and subject tutor will support you through the process and arrange for a member of Congregation to accompany you to all hearings. They will be able to advise you what to expect during the investigation and how best to make your case. The [OUSU Student Advice Service](#) can also provide useful information and support.

SCHEDULE IV

DIPLOMA IN INTELLECTUAL LAW AND PRACTICE 2012-13

EXTRACTS FROM THE UNIVERSITY OF OXFORD EXAMINATION REGULATIONS 2012 (for academic year 2012-13)

The *Examination Regulations 2012* are available at <http://www.admin.ox.ac.uk/examregs/>. For ease of reference, the extracts below cover regulations for the conduct of examinations of particular relevance to Diploma candidates, and include (inter alia) those provisions specifically referred to in the Examiners' Edict.

NB Where the *Examination Regulations* refer to action by a candidate's college or the Senior Tutor of a candidate's college, please **substitute** the Diploma Administrator.

REGULATIONS FOR THE CONDUCT OF UNIVERSITY EXAMINATIONS

It is suggested that these regulations are read in conjunction with the Education Committee Policy and Guidance on Examinations and Assessment (available at: <http://www.admin.ox.ac.uk/epsc/guidance>).

Part I Introduction

1.1.

- (1) These regulations shall, unless otherwise stated in any statute or in these or any other regulations, apply to University Examinations (including the First as well as the Second Public Examination) for all degrees except those referred to in paragraph (3) below.
- (2) They also apply to University Examinations for all certificates and diplomas awarded by the University, and to any Examination described as a qualifying examination.
- (3)

1.2. In these regulations unless the context otherwise requires:

- (1) 'college' means any college, society, or Permanent Private Hall or any other institution designated by Council by regulation as being permitted to present candidates for matriculation;
- (2) 'examiners' includes all persons approved to examine candidates for University Examinations to which these regulations apply;
- (3) 'examination' includes the submission and assessment of a thesis, dissertation, essay, practical work, or other coursework and any other exercise which is not undertaken in formal examination conditions but counts towards or constitutes the work for a degree or other academic award;
- (4) 'University Examination' means a group or number of examinations which a candidate must pass to obtain a degree or other award or to qualify as a candidate for a degree or other award of the University;
- (5) 'supervisory body' means a Board of the Division or Faculty or other university body which has supervision over a University Examination;
- (6) 'Board of Examiners' means the body of examiners, including external examiners, who are appointed to conduct a University Examination but does not include assessors.

(7) 'Senior Tutor' means the Senior Tutor or other proper officer of a candidate's college.

(8) words and expressions in the singular include the plural and those in the plural include the singular.

....

1.7. Council may authorise a supervisory body to make special regulations for a University Examination modifying the effect of these regulations on that Examination to the extent permitted by Council.

Part 2 Number of Examiners

2.1. It is the duty of every supervisory body:

(1) to ensure that there is a sufficient number of suitably qualified examiners to prepare and examine every part of the University Examination for which it is responsible;

(2) to arrange for their nomination in accordance with Part 4 below.

....

Part 3 Qualifications of Examiners

3.1. Examiners, other than examiners appointed under regulation 2.4 above or external examiners appointed under Part 4 of these regulations, must be members of a Faculty or department of the University.

3.2. The Pro-Vice-Chancellor (Education) and Proctors may for good cause dispense with the requirements of regulation 3.1 above.

Part 4 Examiners: Nominations and Vacancies

....

Part 5 Examiners: Periods of Office, Casual Vacancies, Resignations, and Removal

....

Part 6 Chairmen of Examiners

6.1. The supervisory body responsible for a University Examination shall appoint a chairman of examiners as soon as practicable and in accordance with its standing orders and shall notify the Registrar of the appointment.

...

6.5. As well as performing the specific duties laid down in these or any other regulations the chairman shall be responsible generally for ensuring that the business of his or her Board of Examiners is properly conducted and that the requirements of these regulations are fulfilled by that Board.

6.6. It shall be the duty of each chairman of examiners to ensure that account is taken of the *Notes for the Guidance of Examiners and Chairs of Examiners* published periodically by the Proctors and of guidance provided by the Education Committee so far as they are applicable to the University Examination for which his or her Board of Examiners is responsible.

Part 7
Assessors

7.1. A Board of Examiners may in accordance with the provisions of this Part appoint as assessors other persons who are not examiners in the same University Examination to act with them in setting and/or marking any particular part of a University Examination.

....

Part 8
Approval of Conventions and Submission of Papers to Examiners

....

Part 9
Times for Holding Examinations and Entry of Names of Candidates

....

Part 10
Candidates with Special Examination Needs

Application of Part 10

10.1.

- (1) This Part is concerned with candidates for University Examinations who have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.
- (2) This Part shall apply to them if the impairment which they have significantly affects their ability to undertake any examination at or within the time allotted to it, or at the place where it is to be held, or in the manner in which it is normally undertaken by candidates.
- (3) This Part in any case applies to every candidate who has a specific learning difficulty such as dyslexia, dyspraxia, dysgraphia, dyscalculia or attention deficit disorder.
- (4) Candidates to whom this Part applies are called 'candidates with special examination needs' and those falling within paragraph (3) of this regulation are called 'candidates with specific learning difficulties'.

General Rules

10.2. A candidate in any University Examination with special examination needs may apply to the Proctors through the Senior Tutor of his or her college:

- (1) for special examination arrangements relating to his or her condition; and
- (2) for the condition to be taken into account by the examiners as a special factor that may affect his or her performance in examinations.

10.3.

- (1) An application under regulation 10.2 above shall be made as soon as possible after matriculation and in any event not later than the date of entry of the candidate's name for the first examination for which special arrangements are sought.
- (2) The application must be supported by a statement from an educational psychologist or other suitably qualified medical practitioner (called in these regulations 'the consultant') approved by the Proctors.
- (3) The consultant's statement must be based on an assessment of the candidate carried out by that person and on such further assessment of the candidate as the consultant considers necessary in order to form a judgement.
- (4) The Proctors shall issue guidance periodically on the qualifications of consultants and the nature of the assessments that will be considered appropriate.

10.4.

- (1) Where an application is made in respect of a candidate who is confirmed under regulation 10.3 above to have special examination needs, the Proctors shall ensure that arrangements are made for the examination of that candidate which are appropriate for him or her and fair in all the circumstances.
- (2) These arrangements may include but are not limited to the provision of a room for the examination of the candidate, permission under Part 13 of these regulations for the dictation of papers and the use of a word-processor or other materials and equipment, the provision of an amanuensis, and the granting of extra time for the examination.
- (3) The Proctors shall have regard to any recommendation made by the consultant in deciding what arrangements they should make.

10.5. Candidates who are confirmed under regulation 10.3 above to have a specific learning difficulty shall, where appropriate, be given extra time by the Proctors. Additional examination adjustments may be permitted on the recommendation of the consultant.

10.6. In the case of a candidate with a specific learning difficulty the Proctors shall also ensure that the appropriate statements explaining the effects of a specific learning difficulty are supplied to the chairman of the examiners of the relevant University Examination and the Registrar shall ensure that they are placed on the candidate's examination scripts and any other work submitted for assessment, in order to assist the examiners in adjudicating the merits of the candidate's work.

Visually-impaired candidates

10.7.

- (1) This additional regulation applies to candidates who are visually-impaired.
- (2) Where any college has a visually-impaired candidate for any University Examination, the Senior Tutor shall, not less than three months before the date of the Examination, inform the Proctors who will make the necessary arrangements (including provision for papers in Braille if appropriate) in consultation with the Chairman of Examiners and the Registrar.
- (3) When papers in Braille or another format are required, the chairman concerned shall submit a copy of the necessary manuscripts to the Registrar at least eight weeks before the date of the beginning of the University Examination.

Codes of practice

10.8. In exercising their powers under this Part the Proctors and chairmen of examiners shall take full account of any relevant code of practice or other guidance adopted by the University in relation to persons who have a disability.

Invigilation

10.9. The invigilation of candidates with special examination needs for whom an examination room is provided shall be carried out in accordance with regulation 15.5 below.

Continuity of arrangements

10.10. Special arrangements approved by the Proctors under this Part shall normally apply to all University Examinations taken by the candidate during his or her course of study.

10.11

(1) It shall be the responsibility of the candidate to apply for any subsequent change to these arrangements which he or she may wish, and to inform the Proctors of any material change in his or her circumstances which might affect the suitability of those arrangements.

(2) In considering any request made under paragraph (1) the Proctors shall obtain and take into account the views of the consultant.

Appeals under this Part

10.12. A candidate who is dissatisfied with any decision made by the Proctors under this Part, or his or her college, may appeal against that decision in accordance with the provisions of regulation 18.1 below.

Costs

10.13. The costs of arrangements made under this Part shall not fall on the candidate.

Part 11

Acute illness or other urgent causes affecting candidates

Application of Part 11

11.1. This Part is concerned with candidates whose performance in a University Examination may be significantly affected by acute illness or some other urgent cause, not falling within regulation 10.1 above, which comes to the notice of a candidate's college before, during or after an examination.

Non-appearance at an examination

11.2.

(1) A candidate in any University Examination may, through his or her college, request the Proctors to accept a submission that the candidate will be or has been prevented by illness or other urgent cause from presenting himself or herself at the appointed time or place for any part of a University Examination.

(2) For the purposes of this regulation a candidate will be deemed to have presented himself or herself for a written paper if he or she was present in the place designated for that examination and had the opportunity to see the question paper there.

11.3.

(1) A request under regulation 11.2 above must be submitted in writing by the Senior Tutor or other proper officer of the candidate's college, with sufficient evidence to support it.

(2) Where non-appearance is caused by illness a medical certificate from a qualified medical practitioner must be sent, and this certificate must specify, with dates, the reason why the illness will prevent or has prevented the candidate from attending the examination.

11.4.

(1) If the Proctors accept a submission under regulation 11.2 above they shall send a copy of their decision promptly to the chairman of examiners of the University Examination concerned and inform the candidate's college and the Registrar.

(2) If the Proctors decide not to accept the submission they shall give reasons for their decision.

11.5. If the Proctors accept a submission under 11.2 above they may authorise the examiners either:

(1) to examine the candidate at another place or time under such arrangements as they deem appropriate; or

(2) if other work that the candidate has already submitted in the Examination is of sufficient merit, to act as if he or she had completed the part of the University Examination which he or she was unable to attend.

11.6. Where it is decided under paragraph (1) of regulation 11.5 above that a candidate is to be examined at a place or time other than that appointed for the examination the invigilation of the candidate shall be carried out in accordance with regulation 15.5 below.

11.7.

(1) Where it is decided under paragraph (2) of regulation 11.5 above that the examiners are to act as if the candidate had completed the part of the University Examination concerned, and the University Examination is one in which Honours may be awarded, the examiners may adopt one of the following courses:

(a) if they consider the candidate has submitted enough work to allow them to determine his or her proper class, they may award the candidate the class his or her performance merits;

(b) if they are unable to adopt course (a) but consider, on the basis of the work submitted, that but for the candidate's absence he or she would have obtained classified Honours, they may deem the candidate to have obtained Honours and publish his or her name accordingly at the foot of the Class List under the words 'declared to have deserved Honours';

(c) if they are unable to adopt course (a) or course (b) but are nevertheless satisfied with the work submitted, they may include the candidate's name on the Pass List to show that the candidate has satisfied the examiners;

(d) if they are unable to adopt course (a), (b), or (c) they shall fail the candidate.

(2) Where the examiners have adopted course (b), (c), or (d) above it shall be open to the candidate to apply to Council for consideration of his or her standing for Honours at a future examination.

(3) Where it is decided under paragraph (2) of regulation 11.5 above that the examiners are to act as if the candidate had completed the parts of the University Examination concerned, and the University Examination is one in which Honours are not awarded, the examiners may adopt one of the following courses:

(a) if they consider the candidate has submitted enough work to allow them to determine whether it is of a sufficient standard to enable the candidate to pass the Examination they may include his or her name in the Pass List;

(b) if they are unable to adopt course (a), they shall fail the candidate.

Factors affecting performance

11.8. If it comes to the notice of a candidate's college before, during or after an examination that the candidate's performance in any part of a University Examination is likely to be or has been affected by factors of which the examiners have no knowledge, that college shall through the Senior Tutor inform the Proctors of this factor.

11.9.

(1) The Proctors shall pass this information on to the chairman of the examiners unless in their judgement it is irrelevant to the performance of the candidate in the examination.

(2) If the Proctors decide not to pass the information on they shall give reasons for their decision.

(3) The Proctors will normally not pass such information to the chairman of examiners if it is received after the final meeting of the examiners.

11.10.

(1) If the University Examination is one in which Honours may be awarded the examiners may adopt one of the following courses, taking account of the information passed to them:

(a) if they consider the candidate has submitted enough work to allow them to determine his or her proper class, they shall award the candidate the class his or her performance merits;

(b) if they are unable to adopt course (a) but consider, on the evidence of the work submitted, that but for the illness or other urgent cause affecting the candidate's performance, he or she would have obtained Honours, they may deem the candidate to have obtained Honours and publish his or her name accordingly at the foot of the Class List under the words 'declared to have deserved Honours';

(c) if they are unable to adopt course (a) or course (b) but are nevertheless satisfied with the work submitted, they may include the candidate's name on the Pass List to show that the candidate has satisfied the examiners;

(d) if they are unable to adopt course (a), (b), or (c) they shall fail the candidate.

(2) Where the examiners have adopted course (b), (c), or (d) above it shall be open to the candidate to apply to Council for consideration of his or her standing for Honours at a future examination.

(3) If the University Examination is one in which Honours are not awarded the examiners may adopt one of the following courses, taking account of the information passed to them:

(a) if they consider that the candidate has submitted enough work to allow them to determine that it is of sufficient standard to enable the candidate to pass the Examination, they shall include his or her name in the Pass List;

(b) if they are unable to adopt course (a) they shall fail the candidate.

Appeals under this Part

11.11 A candidate or his or her college who is dissatisfied with any decision made by the Proctors or by the examiners under this Part, may appeal against that decision in accordance with the provisions of regulations 18.1 or 18.2 below.

Part 12
Religious Festivals and Holidays Coinciding with Examinations

12.1. A candidate in any University Examination who is forbidden, for reasons of faith, from taking papers on religious festivals or other special days which may coincide with days on which examinations are set, may, through his or her Senior Tutor, apply to the Proctors for approval of special examination arrangements.

12.2. An application under 12.1 above shall be made as soon as possible after matriculation and in any event not later than the date of entry of the candidate's name for the first examination for which special arrangements are sought and shall specify the faith of the candidate concerned and the details of any days specially affected.

12.3.

(1) If the Proctors approve the application they shall notify the Registrar who shall make reasonable efforts to ensure that an examination timetable is set such that special arrangements are not required.

(2) If the Proctors do not approve the application they shall give reasons for their decision.

12.4. If it is not practicable to adjust the timetable in the manner described in regulation 12.3 (1) above, the Registrar shall notify the Proctors and the candidate's Senior Tutor and identify another date or time when the candidate must take that part, which will, whenever possible, be later than the date or time prescribed for the part in question.

12.5. Following such notification, the Senior Tutor shall make arrangements for the candidate to be examined at that alternative time and shall submit these arrangements to the Proctors for approval.

12.6. The Proctors shall notify the Chairman of Examiners and the Registrar of special arrangements approved under this regulation.

12.7. When a candidate is to be examined on a date or at a time fixed by the Registrar under regulation 12.4 above, the invigilation of the candidate shall be carried out in accordance with regulation 15.5 below.

Costs

12.8. The costs of arrangements made under this Part shall not fall on the candidate.

Appeals under this Part

12.9. A candidate who is dissatisfied with a decision made by the Proctors under regulation 12.3 above, or his or her college, may appeal against that decision in accordance with the provisions of regulation 18.1 below.

Part 13
Dictation of Papers and the Use of Word-Processors, Calculators, Computers, and other materials in Examinations

Dictation and the use of word-processors

13.1. Unless permitted by the Proctors under Parts 10 or 11 of these regulations or under any other regulation, the use of word-processing and the dictation of papers in any University Examination is prohibited.

13.2.

(1) If the Proctors permit the use of a word-processor, whether for the candidate's own use or for use by an amanuensis during the dictation of papers, the Proctors shall specify in each case such detailed arrangements as they deem appropriate for the preparation and use of any equipment and computer software during the examination and for the conduct of the examination.

(2) The Proctors shall also specify the detailed arrangements to be made for the printing, handing in and recording of the candidate's script, and the number of copies to be made.

(3) The Proctors shall send the details of these arrangements promptly to the chairman of the examiners of the relevant examination, with copies to the Senior Tutor, and to the Registrar.

(4) The arrangements for the collection of the examination paper by the invigilator and for the invigilation of the candidate shall take place in accordance with regulation 15.5 and 15.6 below.

13.3. The costs of arrangements made under regulation 13.2 above shall not fall on the candidate.

....

Use of pencils

13.6. Except for the drawing of diagrams, no candidate may use pencil for the writing of an examination unless prior permission has been obtained from the Proctors.

Use of dictionaries

13.7.

(1) Unless any regulation provides otherwise, the use of dictionaries of any kind shall not be permitted in any University Examination.

(2) This regulation shall not apply to candidates whose course of study commenced prior to Michaelmas Term 2009. Such a candidate whose native language is not English and who wishes to take into any examination a bilingual dictionary (covering English and the candidate's native language) must at the time of entering for the examination obtain permission from the Proctors through the Senior Tutor. Permission shall not be given where regulations or examiners' instructions have previously forbidden the use of dictionaries.

Part 14
Withdrawal from Examinations and Non-appearance

14.1. This Part provides for candidates who wish to withdraw from any University Examination after their names have been entered under Part 9 of these regulations or who do not appear at the time or place appointed for taking any examination for which they have been entered.

Withdrawal before the Examination begins

14.2. A candidate whose name has been entered for a University Examination may withdraw from that Examination at any time before the start or (as the case may be) date for submission of the first paper or other exercise in the Examination.

Withdrawal after the Examination has started

14.3. A candidate who wishes to withdraw from a University Examination at any time after the start of the first paper or date for submission of the first paper or other exercise must inform an invigilator and the Registrar at once and his or her college as soon as possible.

14.4.

(1) A candidate may not withdraw from a University Examination at any time after the start or date for submission of the first paper or other exercise in the Examination unless regulations 11.2-11.7 above apply to his or her case.

(2) If the candidate's college is satisfied with the reason given the Senior Tutor must as soon as possible notify the Registrar.

(3) On receipt of the notice given under paragraph (2) above the Registrar shall inform the chairman of the relevant examiners.

Non-appearance at an examination

14.5.

(1) Except in cases to which regulations 11.2-11.7 or 14.3 and 14.4 above apply a candidate who fails to appear for any part of a University Examination (including a viva voce examination other than as specified in (2) below) will be deemed to have failed the entire Examination or, in the case of a Second Public Examination taken over more than one year, the entire Part of the Examination.

(2) This regulation shall not apply where candidates (a) fail to appear for, or to submit work in respect of, optional papers supplementary to the compulsory elements of the examination; (b) fail to appear for a viva voce examination which has the sole purpose of confirming their final position in a class or pass list.

Part 15
Supervision and Invigilation of Examinations

....

Invigilation in cases to which Parts 10, 11 or 12 or regulation 13.2 apply

15.5.

- (1) When a candidate is to be examined on a date or at a time or place fixed by the Proctors, or as the case may be by a chairman of examiners, under Parts 10, 11 or 12 or regulation 13.2 above, paragraphs (2)-(6) of this regulation and regulation 15.6 below shall apply.
- (2) Whenever possible the examination shall take place in a room managed by the Registrar who shall be responsible for the appointment of an invigilator and other necessary arrangements.
- (3) If the examination takes place in a room provided by the candidate's college, the Senior Tutor shall appoint as invigilator for that part of the examination a person whose name is on the list of invigilators or some other suitable person whose name shall be approved by the Proctors.
- (4) If the examination is to take place at a time different from the time fixed for other candidates the Senior Tutor shall make arrangements to be approved by the Proctors for the isolation and supervision of the candidate during the period which begins at the time when the part of the examination is due to be taken by him or her and ends at the time at which it is taken by other candidates (or the other way round) which will ensure that the candidate is unable directly or indirectly to communicate in person, by telephone or by electronic or any other means with any other candidate, unless the Proctors otherwise permit.
- (5) When these arrangements are approved by the Proctors they shall communicate them to the chairman of the examiners and the Registrar.
- (6) The provisions of this regulation shall apply with any necessary modification to practical examinations.

15.6.

- (1) Where the Proctors have given permission for an examination to be held in a place or at a time other than that appointed for the examination, the invigilator or another person approved by the Proctors shall attend the Examination Schools at least 15 minutes before the examination begins, to receive the examination paper and any necessary writing materials from the Examination Schools, and should bring their University Card or other reliable evidence of their identity.
- (2) The invigilator should sign the list kept by the Registrar of examination papers which are issued in this way.
- (3) The candidate's work must be handed as soon as possible after the time appointed for the collection of papers to the Registrar, who shall make the appropriate entry in his or her register.

Part 16 Marking and assessment

16.1.

- (1) Every examiner who takes part in adjudicating on the merits of a candidate shall give careful attention to the examination of such candidates.
- (2) No examiner adjudicating on the merits of any candidate shall take account of any circumstances, not forming part of, or directly resulting from, the examination itself, except as provided in Parts 10 or 11 of these regulations.
- (3) The work of any candidate to whom Part 10 or 11 of these regulations applies shall be assessed with due and careful regard to the circumstances of that candidate and any relevant code of practice or guidelines adopted by the University in relation to such candidates.
- (4) In the case of a candidate against whom an order has been made by a University Court under section 11 (3) or section 21 (1)(e) of Statute XI or by the Appeal Court in similar terms (intentional or reckless breach of examination regulations), the examiners shall give effect to that order.
- (5) Where the Proctors have a recommendation to the examiners in respect of a candidate under section 32 (3) of Statute XI (breach of examination regulations which is neither intentional nor reckless) the examiners shall give due weight to the recommendation in assessing the candidate's work.

Examination conventions

16.2.

- (1) In adjudicating on the merits of candidates the examiners shall follow and apply the conventions approved under regulation 8.1 above subject to the right of the Board of Examiners in exceptional circumstances to make minor adjustments to the conventions during any particular Examination.
- (2) In cases of doubt or difficulty arising under (1), the examiners shall consult the Proctors.
- (3) Nothing in this regulation shall affect the authority of the examiners in the making of academic judgements on the performance of each candidate.

....

Submission of theses or other exercises: exceeding word limits and departure from title or subject-matter

16.6.

- (1) Where a candidate for any University Examination in which a thesis (or other exercise) may be, or is required to be, submitted as part of that Examination presents a thesis (or other exercise) which exceeds the word limit prescribed by the relevant statute, or regulation, the examiners, if they agree to proceed with the examination of the work, may reduce the mark by up to one class (or its equivalent).[1](#)
- (2) Where a candidate submits such a thesis (or other exercise), the title or subject matter of which differs from that which was approved by the supervisory body concerned, the examiners (if they agree to proceed with the examination of the work) may similarly reduce the mark by up to one class (or its equivalent).[1](#)

Illegible scripts

16.7.

(1) If a chairman of examiners shall consider that a script or scripts of a candidate in an examination are illegible, he or she shall thereupon inform the Proctors and the Senior Tutor or other proper officer of that candidate's college or other society or approved institution, provided that, if there shall be a dispute as to the illegibility of a script or scripts, the question shall be referred to the Proctors, whose ruling on the question shall be conclusive.

(2) The Senior Tutor or other proper officer shall then arrange for the candidate to dictate his or her illegible script(s) to a typist under the invigilation of a Master of Arts of the University or any other person who in the opinion of the Proctors seems suitable; the typist and invigilator having been approved beforehand by the Proctors. The dictation and typing shall be undertaken in a place to be approved by the Proctors, but subfusc need not be worn; the candidate shall dictate his or her script to the typist in the presence of the invigilator and shall ensure that the typescript is in every respect identical in form and content to the original script. No copies may be taken. The use of a tape-recorder is not permitted.

(3) The cost of the typing and invigilation shall not be a charge on the University.

(4) The examiners shall read the typescript page by page with the original script beside it and shall immediately report any discrepancy to the Proctors.

Late submission of work

16.8.

(1) Where a candidate for any written examination in which a thesis (or other exercise) may be, or is required to be, submitted as part of that examination wishes on some reasonable grounds to be permitted to present such thesis (or other exercise) later than the date prescribed by any statute, or regulation, the procedure shall be as follows:

(a) the candidate shall apply in writing through the Senior Tutor to the Proctors for such permission enclosing the grounds for the application;

(b) the Proctors shall consult the chairman of examiners about any such application and shall then decide whether or not to grant permission.

(2) If permission is granted, the examiners shall accept and mark such a thesis (or other exercise) as if it had been submitted by the prescribed date.

(3) If a candidate fails to submit a thesis (or other written exercise) on time without prior permission, the Proctors may after making due enquiries into the circumstances permit the candidate to remain in the Examination and to submit the work late under arrangements similar to those set out in paragraph (1) above. It shall be a condition of any permission granted under this regulation that the candidate shall pay a late presentation fee, the amount of which shall be determined by the Proctors according to the facts of the particular case.

(4) In cases arising under paragraph (3) above, the Proctors may give leave to the examiners to impose an academic penalty according to any established conventions agreed by the relevant supervisory body or, if there is none, according to guidance issued by the Proctors.

(5) The examiners shall give due consideration to either the conventions or the guidance issued by the Proctors, and in either case report back to the Proctors on the penalty imposed. They shall give a reasoned justification for their decision where this differs from the conventions or the guidance.

(6) Where provided for by regulation, submissions must be accompanied by a declaration of authorship and originality. The examiners are under no obligation to mark any submission not so accompanied.

This declaration should be in a sealed envelope (which may be included inside the envelope used to hand in the written work). In the event that the Declaration of Authorship is submitted late, the Proctors may recommend that the examiners apply an academic penalty.

(7) A candidate who is dissatisfied with a decision made by the Proctors under this regulation may, or his or her college may, appeal against it in accordance with the procedure set out in regulation 18.1 below.

Voting on candidates

16.9.

(1) If in voting upon the place to be assigned to a candidate in any Class List the examiners shall be equally divided, the chairman of the examiners in that Examination shall (unless paragraph (2) below applies) have a second or casting vote.

(2) If the candidate in question shall be of the same college as the chairman of the examiners or of any college in which he or she is tutor or in which he or she has been tutor during the previous two years, or shall have been privately taught by him or her during the past two years, then the casting vote shall be with the senior of the examiners who is not disqualified on that ground.

Part 17

Class and Pass Lists

....

Preliminary or Qualifying Examinations for Master's Degrees, Diplomas and Certificates

17.7. The examiners in any Preliminary or Qualifying Examination or in any examination for a course of special study for the Degree of M.Phil. or Master of Science or in any examination for the degree of Master of Studies or for a diploma or certificate except the Diploma in Law or the Certificate in Management Studies shall:

- (1) determine the candidates (identified only by their examination number) who have satisfied them;
- (2) if the regulations governing the particular Examination permit, determine the candidates who have shown sufficient merit to obtain a distinction; and
- (3) forthwith provide the information determined under paragraphs (1) and (2) above to the Registrar.

17.8. In an Examination where a candidate is not required to pass in all subjects at one and the same Examination the examiners shall append to the names of those candidates who have not completed the requirements of the Examination a list of the subjects in which they have passed.

....

Candidates who have failed

17.10.

- (1) If a candidate in any University Examination has been judged by the examiners to have failed the examination the examiners shall give notice of that fact, together with the name and college of the candidate, at the close of the examination to the Registrar.
- (2) If no candidate has failed the Examination, the chairman of the examiners shall give notice of that fact at the close of the examination to the Registrar.

Notification of results

17.11. All notifications submitted to the Registrar under this Part shall be made in a form provided by the Registrar, unless he or she otherwise agrees.

17.12. All information submitted to the Registrar under this Part shall be certified by the signature of all the examiners who have acted together in the assessment of the candidates in the Examination.

17.13. On receipt of the information provided under regulations 17.11 and 17.12 above the Registrar shall arrange the production of Class and Pass Lists in a form which shall be determined by the Registrar from time to time.

17.14.

(1) All the lists drawn up under this Part shall be fair copies and shall show no name to have been added or erased or transferred from one position to another.

(2) After submission to the Registrar examiners shall have no power to alter such lists except under paragraphs (3) and (4) below.

(3) Examiners may with the written consent of the Pro-Vice-Chancellor (Education) and Proctors issue a supplementary list or lists correcting an accidental error or omission in the original.

(4) A list shall be altered by the examiners to give effect to the outcome of any appeal made under regulation 18.2 below which affects a candidate's standing in that list.

Custody of records

17.15. The Class and Pass Lists drawn up and duly signed shall be circulated and published by the Registrar according to the requirements of the Education Committee and subject to the provisions of the Data Protection Act and the signed copy shall remain in the custody of the Registrar, and any question thereafter arising, with respect to the result of any Examination, shall be determined by reference to such lists.

Forms of Certificates

17.16.

(1) Degree certificates and other certificates for diplomas and other certificate courses shall be issued to successful candidates in forms prescribed by the Registrar.

(2) When a candidate has obtained a distinction in his or her Examination, or in any part of it for which a distinction may be awarded, the certificate or diploma, as the case may be, which is issued shall record that fact.

Part 18**Appeals from Decisions of the Proctors and Examiners***Appeals from decisions under Parts 10, 11, 12, and regulation 16.8*

18.1.

(1) A candidate who is dissatisfied with a decision made by the Proctors under Parts 10, 11, 12, or regulation 16.8 above, may, or his or her college may, appeal against it in accordance with the procedures set out in this regulation.

(2) An appeal must be made within 14 days of the date of the Proctors' decision.

(3) Any such appeal must be made in writing to the Chairman of the Education Committee.

(4) The appeal shall be determined expeditiously by the Chairman or another member of the Committee, other than one of the Proctors, nominated by the Chairman.

Appeals from decisions of examiners

18.2. Appeals from decisions of examiners shall be made in accordance with the Procedures for Handling Complaints (including Academic Appeals) laid down and published by the Proctors under section 20 of Statute IX and any Council Regulations made under that section and not otherwise.

Part 19
Proctors' Disciplinary Regulations for Candidates in Examinations

Made by the Proctors on 1 October 2003

Approved by Council on 30 October 2003

1. These regulations are made by the Proctors in the exercise of their powers under section 22 of Statute IX and are designated by Council as disciplinary regulations under section 6 (2) of Statute XI.

2. In these regulations: (1) 'examination' includes where the context so permits the submission and assessment of a thesis, dissertation, essay, Transfer of Status materials, Confirmation of Status materials, or other coursework which is not undertaken in formal examination conditions but is a requirement for, counts towards or constitutes the work for a degree or other academic award; and (2) 'examination room' means any room designated by the University's Registrar or his or her deputy or approved by the Proctors as a place for one or more candidates to take an examination.

3. No candidate shall cheat or act dishonestly, or attempt to do so, in any way, whether before, during or after an examination, so as to obtain or seek to obtain an unfair advantage in an examination.

4. No candidate shall present for an examination as his or her own work any part or the substance of any part of another person's work.

5. In any written work (whether thesis, dissertation, essay, coursework, or written examinations) passages quoted or closely paraphrased from another person's work must be identified as quotations or paraphrases, and the source of the quoted or paraphrased material must be clearly acknowledged.

6. Unless specifically permitted by the special Subject Regulations for the examination concerned, no candidate shall submit to the Examiners any work which he or she has previously submitted partially or in full for examination at this University or elsewhere. Where earlier work by the candidate is citable, he or she shall reference it clearly.

7. No person shall dishonestly give help to a candidate before, during or after an examination so as to give, or attempt to give, that candidate an unfair advantage in an examination.

8. No candidate shall take, or attempt to take, into an examination any unauthorised material (including revision notes), item or device (including a mobile telephone or any device capable of receiving or communicating information) nor use or attempt to use such material, item or device.

9. No candidate shall copy from the script of another candidate or in any other way dishonestly receive help from another person in an examination.

10. Candidates may not communicate with any person other than an invigilator during an examination.

11. No candidate may leave or re-enter an examination room unless permitted by an invigilator.
12. No candidate shall enter an examination room more than thirty minutes after an examination has started except with the permission of the Proctors or an invigilator.
13. No candidate shall unless permitted by the Proctors or an invigilator leave an examination room:
 - (1) within thirty minutes of the beginning of an examination; or
 - (2) within thirty minutes of the time at which it is due to end.
14. No candidate may smoke in an examination room or in any building in which an examination is being held, or behave in any other way which distracts or is likely to distract other candidates.
15. Candidates may not use paper in an examination except that which is provided for them.
16. At the end of each examination candidates must hand back to an invigilator all the paper provided for writing their answers, including paper used for rough drafts and paper which has not been used. No paper shall be removed from the examination room other than the question-paper for the examination that has just been completed.
17. Unless regulation 17 below applies, all articles or equipment to be used in an examination must be carried into the examination room in a transparent bag.
18. Candidates must offer non-transparent bags for inspection and, unless special permission is given by an invigilator, must deposit them at the place designated for the deposit of bags and other personal belongings.
19. Candidates must present themselves for examinations in full academic dress.
20. Candidates must follow the directions of the invigilators and the Proctors during an examination, including a direction to leave the examination room and the building in which the examination is being held.

Part 20
Proctors' Administrative Regulations for Candidates in Examinations

Made by the Proctors on 1 October 2005

1. These regulations shall apply to all university examinations, including any examination described in any regulation as a qualifying examination.
2. In these regulations 'college' means any college, society, or Permanent Private Hall or any other institution designated by Council by regulation as being permitted to present candidates for matriculation.
3. It is the responsibility of each candidate to ensure that he or she hands in all the material he or she wishes to be considered by the examiners and to comply with regulations relating to the submission of written work such as dissertations, essays and project reports. Once a candidate has submitted a piece of work, he or she may not withdraw that piece of work and substitute a revised version in the same examination without the Proctors' consent.
4. During every written paper, each candidate shall display his or her University Card face up on the desk at which he or she is writing.
5. A candidate who is taken ill while sitting a written paper may (with an invigilator's permission) leave the room and return while the examination is in progress, to resume the paper on one occasion only (and no extra time shall be allowed). If the candidate is unable to complete the paper concerned because he or she has been

taken ill a second time, he or she should inform an invigilator so that the incomplete script can be handed in. It is the candidate's responsibility to obtain a medical certificate, in accordance with the relevant provisions of the General Regulations for the Conduct of University Examinations, explaining how his or her performance in the paper concerned may have been affected by illness.

6. A candidate may not withdraw from an examination after the written part of the examination is complete. The point of completion shall be deemed to be the conclusion of the last paper for which the candidate has entered, or the time by which a dissertation or other written material is due to be submitted, whichever is the later.

7. Concerns about the conduct of an examination must not be raised directly with Examiners. A candidate on a taught course may communicate with Examiners about such matters only through the Senior Tutor or equivalent officer of his or her college. If such a candidate wishes to raise a query or make a complaint about the conduct of his or her examination, such query or complaint must be notified to the Senior Tutor or equivalent officer of his or her college not later than three months after the notification of the results of the examination concerned (when the matter will be dealt with in accordance with the Council Regulations governing the handling of complaints submitted to the Proctors). A candidate for a research degree or higher doctorate may communicate a query or complaint about the conduct of his or her examination direct to the Proctors: this must be done not later than three months after the notification of the results of the examination concerned (in accordance with the procedures set out in the Council Regulations governing the handling of complaints submitted to the Proctors).

SCHEDULE V

DIPLOMA IN INTELLECTUAL PROPERTY LAW AND PRACTICE

DECLARATION OF AUTHORSHIP

Name (in capitals):

Examination number:

Title of Coursework Assignment (in capitals):

Word count:

There is extensive information and guidance on academic good practice and plagiarism on the University website: www.admin.ox.ac.uk/epsc/plagiarism.

Please tick to confirm the following:

I have read and understood the University's disciplinary regulations concerning conduct in examinations and, in particular, the regulations on plagiarism (*Essential Information for Students. The Proctors' and Assessor's Memorandum*, Section 9.6; also available at www.admin.ox.ac.uk/proctors/info/pam/section9.shtml).

I have read and understood the Education Committee's information and guidance on academic good practice and plagiarism at www.admin.ox.ac.uk/edc/goodpractice.

The coursework assignment I am submitting is entirely my own work except where otherwise indicated.

It has not been submitted, either partially or in full, for another Honour School or qualification of this University (except where the Special Regulations for the subject permit this), or for a qualification at any other institution.

I have clearly indicated the presence of all material I have quoted from other sources, including any diagrams, charts, tables or graphs.

I have clearly indicated the presence of all paraphrased material with appropriate references.

I have not copied from the work of any other candidate. _

I have not used the services of any agency providing specimen, model or ghostwritten work in the preparation of this thesis/dissertation/extended essay/assignment/project/other submitted work. (See also section 2.4 of Statute XI on University Discipline under which members of the University are prohibited from providing material of this nature for candidates in examinations at this University or elsewhere:

http://www.admin.ox.ac.uk/statutes/352-051a.shtml#_Toc28142348.)

I agree to retain an electronic copy of this work until the publication of my final examination result, except where submission in hand-written format is permitted.

I agree to make any such electronic copy available to the examiners should it be necessary to confirm my word count or to check for plagiarism.

I agree that the Faculty of Law may retain the two hard copies and the electronic copy of this work until the publication of my final examination result. I agree to make any such electronic copy available to the examiners should it be necessary to confirm my word count or to check for plagiarism.

Candidate's signature:

Date:

.....

Please submit this Declaration of Authorship inserted into the envelope in which you submit the two hard copies of the Coursework Assignment.

**IMPORTANT – FOR IMMEDIATE ATTENTION AND TO BE
RETAINED FOR FUTURE REFERENCE**

UNIVERSITY OF OXFORD

FACULTY OF LAW

DIPLOMA IN INTELLECTUAL PROPERTY LAW AND PRACTICE 2012-13

SECOND NOTICE TO CANDIDATES

Part II – Two Written Examination Papers

MATERIALS IN THE EXAMINATION ROOM – NEW REGULATIONS

You were asked (in your initial letter) to bring with you to the residential programme your copy of Butterworths Intellectual Property Law Handbook, 10th edition (2011) (hereafter ‘Butterworths Handbook’), and told that you were likely to be permitted to bring your own copy of Butterworths Handbook into the examination room subject to conditions imposed by the Proctors, and warned that your copy of the 10th edition must be kept absolutely clean and unmarked. The Proctors have now reviewed the pilot scheme run in the last two years and have made the scheme permanent. Full details of the regulations and procedures for their enforcement are given in the Notice to Candidates (known as the Examiners’ Edict) dated 3 October 2012 (see Part B.8.(i) thereof). The purpose of this Notice is to ensure that they are brought immediately to your attention and not missed, as they affect your use of Butterworths Handbook throughout the course. **Please note and obey the following:**

1. The copy of Butterworths Handbook which you bring into the examination room must be **absolutely clean and unmarked**. As an aid to finding individual materials in the Handbook collection, tabs may be attached to the edge of relevant pages. These tabs may be of different colours but must be **absolutely clean and unmarked**. These regulations will be strictly enforced. Particular attention will be paid to personal possession markings (eg your name, the name of your chambers/firm) which **must do no more than identify the ownership of the Handbook**.
2. Your copy of Butterworths Handbook will be inspected by the examiners/invigilators in your presence immediately before the start of the first examination paper (Intellectual Property I). This will be carried out as quickly as possible, but may result in a short delay to the start of the paper. Thereafter during the examination scrutiny will be conducted as part of invigilation and will be random. Your copy of Butterworths Handbook must remain **absolutely clean and unmarked** (see 1. above) **for the duration of the first and second examination paper** (Intellectual Property II), so do not write or mark it in any way during the first and second papers.
3. At the end of the first paper your copy of Butterworths Handbook must be left on your desk in the examination room. The inspection (see 2. Above) will be repeated for the second examination paper (Intellectual Property II).

4. In the event of any infringement or breach of regulations specified above, your copy of Butterworths Handbook will immediately be confiscated and the matter reported to the Proctors. You will be permitted to continue and complete the two examination papers but without access to the collection of materials in Butterworths Handbook. Similarly, if for some reason you forget to bring your copy of Butterworths Handbook to the examination, you will be permitted to write the papers but without access to the materials in Butterworths Handbook.
5. The Proctors will suspend the candidate's examination while they fully investigate (including interviewing the candidate) the reported infringement or breach of the regulations. If they come to the view that a breach of the Disciplinary Regulations has occurred, the Proctors are empowered to refer the matter to the Student Disciplinary Panel. Further information about these Regulations and disciplinary procedures may also be found on <http://www.admin.ox.ac.uk/proctors>. Students who breach the Disciplinary Regulations for University Examinations may have their marks reduced, or may be failed in that examination or, in the most serious cases, may be expelled. Serious breach of University discipline may also be reported to the Bar Standards Board/Solicitors Regulation Authority.

Ms A.S. Kennedy
Chair of Examiners
3 October 2012

IMPORTANT – TO BE RETAINED FOR FUTURE REFERENCE**UNIVERSITY OF OXFORD****FACULTY OF LAW****DIPLOMA IN INTELLECTUAL PROPERTY LAW AND PRACTICE 2012-13****THIRD NOTICE TO CANDIDATES****Part I – Coursework Assignments: Copyright and Designs****AMENDMENT - DEADLINE FOR COPYRIGHT AND DESIGNS**

Please amend the following in your ‘Notice to Candidates’ (Examiners’ Edict) sent to you in October 2012.

- 1) On Page 2, Section A 1 (iv), under Fourth Coursework Assignment: Copyright, please change Friday 16 April 2013 (1pm) to Tuesday 16 April 2013 (1pm).
- 2) On Page 2, Section A 1 (V), under Fifth Coursework Assignment: Designs, please change Monday 29 May 2013 (1pm) to Wednesday 29 May 2013 (1pm).

The submission dates given are correct but the days given on the ‘Notice to Candidates’ are incorrect.

Ms A.S. Kennedy
Chair of Diploma in Intellectual Property Law and Practice Examiners
21 January 2013

IMPORTANT – TO BE RETAINED FOR FUTURE REFERENCE

UNIVERSITY OF OXFORD

FACULTY OF LAW

DIPLOMA IN INTELLECTUAL PROPERTY LAW AND PRACTICE 2012-13

FOURTH NOTICE TO CANDIDATES

Part II – Two Written Examination Papers

The purpose of this Notice is to explain the arrangements for the two written examination papers (Part II) on Monday 1 July 2013.

A. Examiners' Edict (pages 5 – 9 and Schedule II Examination Protocol))

INFORMATION FOR CANDIDATES REGARDING THE WRITTEN EXAMINATION PAPERS (PART II)

Candidates are strongly advised to re-read Part B of the Examiners' Edict (pages 5 – 9) and the Examination Protocol (Schedule II); what follows in this Notice supplements the information in the Edict **and paragraph 4. and 6. below require action by you.**

1. Location, timing and title of examination papers

Examination Schools, 75-81 High Street, Oxford OX1 4BG
(<http://www.admin.ox.ac.uk/schools/contact.shtml>)

Monday 1 July 2013 9.30 – 11.30 am Intellectual Property I

2.30 – 4.30 pm Intellectual Property II

Dark formal attire must be worn. For the men, it would be dark lounge suits (like black or grey etc, not pink, white, yellow etc) and for the ladies, its equivalent. You may remove jackets and ties during the examination, but must be correctly dressed before you leave the examination room.

You are advised to reach the Schools no less than fifteen minutes before the timed start of the examination. A bell will be rung some minutes before the examination to give candidates time to move from the entrance of the building to the examination room. **Seating in the examination room will be by desk number only. Seating charts will be displayed in the reception area,**

displaying candidate and desk numbers, as well as outside the examination room.

2. Anonymity and University Card

Please bring with you to each examination paper your University Card which must be placed face up on the desk at which you are writing. You should also bring the examination timetable sent to you by email and post as a reminder of your examination number. You must **not** write your name on any answer book. **Write your examination number only** in the appropriate place in each answer book you use. (NB if you do not have your University Card with you, you may be required to return to Oxford at a later date to undergo a handwriting test).

3. Materials in the Examination Room

Candidates are permitted to bring their own copy of the Butterworths Intellectual Property Law Handbook, 10th edition (2011) but only subject to strictly enforced regulations. **It is extremely important to read paragraph 8(i) in the Examiners' Edict and the Second Notice to Candidates** (for ease of reference also attached hereto).

The following materials will be placed on the desks in the examination room. In the event of any change or addition, this will be notified specifically to candidates.

- *SI 1989 No. 1294: The Design Right (Reciprocal Protection) (No. 2) Order 1989*
- *Council Regulation (EC) 44/2001 OF 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the "Brussels Regulation")*

4. Water and medication in the Examination Room

Candidates are permitted to take non-carbonated water, in a spill-proof bottle (not standard screw top), into the Examination Room. No other drinks and/or foods will be permitted except on medical grounds, and with prior approval. Water is also available in the lobby just outside the room. Diabetic students are permitted to take into the examination room Silent blood testing kits, and glucose drinks (e.g. Lucozade) and/or glucose tablets (e.g. Dextro energy tablets) in case of hypoglycaemia, also Insulin syringes/supplies, and asthmatic students may take in asthma inhalers, provided that in all these cases the Diploma Administrator has informed the Examinations Team in advance. If these provisions apply to you, please contact the Diploma Administrator **by Monday 17 June**.

5. Legibility

Candidates must not write in pencil. Candidates submitting illegible scripts will be required to have them typed at their own expense. The examiners will make every effort to identify such candidates to the Diploma Administrator as early as possible. Please provide the Diploma Administrator with details of where you can be contacted by telephone and email in the week following the date of the examination papers. If any of your scripts have to be typed, you will be asked to return to Oxford to dictate your answers to a typist in the presence of an invigilator. At that time, further Instructions will be given to you by the Diploma Administrator.

6. Arriving late and failing to attend

A candidate who arrives more than half-an-hour after the time when the examination begins will be allowed by the invigilator to attempt the paper, finishing at the same time as the others. The circumstances will be reported to the Proctors, and the work shall not be taken into account by the Board of Examiners without the consent of the Proctors. The candidate should contact the Diploma Administrator as soon as possible so that a submission explaining the reasons for late arrival may be made to the Proctors.

Candidates who fail to attend a written examination paper without having obtained the prior permission of the Proctors are deemed to have failed the entire Diploma examination (not just that particular part of the examination) , unless the Proctors give instructions to the Examiners about reinstating them.

If you are not present at the beginning of an examination paper, the Examination Schools staff will contact the Diploma Administrator and ask her to account for your absence. It is therefore vital that you inform the Diploma Administrator at once of any difficulties, and, in advance, **by Monday 17 June please give to the Diploma Administrator a telephone number where you (or someone who knows you) may be contacted on Monday 1 July.** Only in an emergency, the Diploma Administrator may be contacted that day on (07570) 245890 and in an emergency the Examination Schools may also be contacted on (01865) 286223.

To assist you, space for your contact details has been added to the attached template document.

Ms A.S. Kennedy
Chair of Examiners of Diploma in Intellectual Property Law and Practice
29 May 2013

Coursework AssignmentsPatents 1

Question 1:

A number of students assumed that the person named as proprietor on the cover sheet of the patent is the registered proprietor, when in fact all it means is that that person was the registered proprietor when the cover sheet was first printed. A search of the register to identify the current proprietor is therefore necessary.

A surprising number of students failed to identify that a number of possibly infringing acts took place before grant and infringed only by virtue of section 69. Those who noted the possible importance of considering what rights to sue for past infringement had been assigned gained extra credit.

A number of students thought that there was infringement under PA77s60(1)(c). Consideration of claims 6 and 7, the process claims, shows, however, that they relate to processes which do not produce a product, and therefore section 60(1)(c) is irrelevant. A number of students thought that the conversion kits fell within section 60(1)(a), without considering whether the kits were “systems” within the meaning of the claims. A number of students who correctly indicated that supply of the kits was covered by section 60(2) failed to address the “knowledge” requirement.

Question 2:

A number of students, having decided that the device did not infringe a particular claim, chose not to address infringement of the claims dependant on that claim. Although they were not marked down for this, they sometimes deprive themselves of an opportunity to demonstrate that knowledge with regard to issues arising on the subsidiary claims.

Although one is required to construe a claim in the context of the specification, this does not mean that fortuitous characteristics of the preferred embodiment should be read into the claim as limitations. For example, a number of students thought (incorrectly) that the sensor in claim 3 was required to be about 1 metre from the ground.

A number of students construed the claim integers exclusively – for example, the requirement that the system “identifies the presence of a person on the crossing or at the kerbside...” was said not to be infringed if the sensor also identified the presence of people in other locations (compare claim 7- “which *only* activates the lights when a person is on the crossing...”). This is a matter for construction, and although there is an argument that the claim is not infringed if the lights change when a person is detected somewhere other than on the crossing or at the kerbside, this needs to be explained.

It is helpful, although not essential, for answers to include a claim chart (this applies also to question 3). It is helpful for students' thought processes (although not necessary for the written answer) to identify where in the accused device or prior art a particular integer is actually found – a failure to do this meant that a number of answers lacked rigour.

When answering the *Improver/Protocol* or (in question 3) *Windsurfing/Pozzoli* questions, it is important to focus on “why?”; a number of students tended simply to make assertions as to the answers to these questions.

Question 3:

In addition to the points made above, students need to be careful to characterise the “inventive concept” in the fourth *Pozzoli* question with a sufficient degree of particularity; for the invention to be obvious, it must be shown that what is obvious falls within the scope of all the integers of the claim.

On insufficiency, the history of Dr Doppelganger's work gives an indication of some problems which might lead to the insufficiency of certain claims. In addition, there is a possible *Biogen* point on claims 4 and 6. Few students identified both types of insufficiency.

Those who did not consider arguments based on all possible available art (e.g. the Ministers' car system which may have formed part of the state of the art or the “button thingies” (Pelican Crossings) also limited their chances of scoring more highly).

Patents 2

The main focus of the problem was to examine candidates' knowledge of the construction and infringement of second medical use claims.

Question 1 – Particulars of Claim, Particulars of Infringement and accompanying notes

The first issue to resolve was to look at the claims of the 222 patent – the only patent which was relevant to the proceedings. The claims fall into three groups: (i) Claim 1 is an EPC 2000 style second medical use claim – i.e. a purpose bound product claim; (ii) Claims 2-4 are Swiss-type claims directed to the second medical use of a known drug – i.e. process claims; (iii) Claim 5 appears to be drafted as a first medical use claim. One or two candidates quibbled with the precise wording of the claims and most spotted that Claim 5 was probably invalid according to current UK law. Some candidates had looked at the dates when EPC 2000-style claims were allowed and when Swiss-type claims were rejected by the UKIPO and were given credit for this.

The next step was to identify the correct claimant. In this case it is clear that there should be only one claimant, Innovative Laboratories plc (“Innovative”). Some candidates spent quite a considerable amount of their word allowance in the notes discussing the position of the inventors and Professor Brain in particular but this probably not necessary.

A much more delicate issue was the identification of the Defendants. Most candidates elected to name Corsair Limited (“CL”), the parent company which manufactures farahglide, Corsair Footcare Limited (“CFL”) and Corsair Oncology Limited (“COL”). Some candidates did not name COL as a Defendant as on its face, COL is not selling medicines for the treatment of fungal infections. However, in the circumstances it was intended that candidates should allege that COL has infringed the 222 patent since it knows, or at the very least, ought to know that its medicine is being used in this way.

Thus CL, COL and CFL should have been named as Defendants. Some candidates discussed whether to name any of Corsair’s directors as Defendants. The particular facts were not strong enough to satisfy the test in MCA v Charly Records and other such cases. Some candidates were tempted into pleading that CL and COL and/or CL and CFL were acting pursuant to a common design. This probably over-complicated matters where CL was undertaking infringing acts on its own accord. A take-home message for all candidates is that simplest and shortest can often be best. Quite a few candidates noted that parties downstream of the Corsair companies such as pharmacists were potentially undertaking infringing acts but that it was not appropriate for Innovative to sue them.

Having looked at the claims and the parties, the next issue was construction. Many candidates were able to consider the various possibilities surrounding the construction of Swiss-type claims – do they relate literally to the formulation and packaging of the medicine in the factory (“...*manufacture of a medicament for...*”) or are they directed to the use of medicine in the treatment of the claimed condition (as per the inventive concept of the claim)? What does “for” mean in the context of a second medical use claim?

As regards infringement, most candidates took the various Corsair defendants in order and alleged infringement of the claims in the following way

(i) CFL (selling CorsAide 100mg tablets for use in athlete’s foot)

- Claim 1 was infringed by CFL undertaking relevant acts within the scope of Section 60(1)(a).
- Claim 2 – if the claim is construed according to the literal wording, then CFL would infringe pursuant to section 60(1)(b) – using the patented process. There would also be infringement under Section 60(1)(c) – acts in relation to products obtained directly by means of the patented process. As noted above, certain candidates observed that if the claim is construed according to the inventive concept, then it would be necessary to sue a downstream party e.g. the physician or the pharmacist and sue CFL as an indirect infringement pursuant to Section 60(2).
- Claim 3 – should be infringed as per claim 2.
- Claim 4 – Since CorsAide is sold in tablet form, this claim was not infringed.
- Claim 5 – This claim is probably not infringed although maybe a case under Section 60(2) is just about feasible.

(ii) COL (selling CorsKlear 50mg for use in cancer)

- COL might conceivably be liable for indirect infringement under Section 60(2). It could be argued that COL has supplied means relating to an essential element of the invention with the requisite knowledge as defined in the case law.

(iii) CL (supplying farahglide to CFL and COL)

- It was most appropriate to plead CL as indirect infringer pursuant to Section 60(2) for supplying the means essential (farahglide API) to CFL with the requisite knowledge.

Question 2 – Defence and Counterclaim, Grounds of Invalidity and accompanying notes

Invalidity is probably the only defence. There is no Section 64 Defence. Certain candidates postulated that farahglide might be a staple commercial product. The law was uncertain at the time the coursework was set and answered. Now of course, in the Nestec v Dualit case, Arnold J has clarified the law on the definition of staple commercial product and it is clear that farahglide would not be a staple commercial product.

Most candidates alleged anticipation and lack of inventive step. Almost all candidates noticed that (provided priority could be maintained) The Labcoat article was not prior art although the event it specifically reported, namely the internal seminar in 2006 would have been.

As regards lack of novelty, the strongest prior art was: (i) the lecture by Professor Brain and (ii) the internal seminar at the University of Oxblood. The article in The Planet was probably not strong enough. As regards whether the lecture from Professor Brain was an enabling disclosure, many candidates looked for guidance to the EPO case law as well as the UK cases. Turning to inventive step, the lecture and the seminar were worth pleading and probably the article in The Planet too.

About half the candidates pleaded insufficiency although the specification of the 222 was stated to be an abridged version and so candidates were not given credit for this but not analyzed either. There was a hint, but just a hint that there could be a priority issue if the priority document was filed in the names of the inventors rather than Innovative but the question did not state the name in which the priority document was filed and so candidates were not expected to raise it.

Trade Marks

Question 1.

Comment upon the merits of Herring pursuing the following actions against Shark (ignoring any contractual and/or copyright issues):

- a. opposition proceedings (15 marks);

Candidates should have noted that a CTM opposition can be based on relative grounds only. Some candidates erroneously advised Opposing on absolute grounds and on bad faith which are not available at CTM level.

Consideration should have been given to the merits of an opposition based on relative grounds, which should include consideration of:

- i) whether the marks are identical (under *LTJ Diffusion*)/similar either visually, orally or conceptually (*Sabel*) and specifically the impact of the device element of Herring's mark when assessing similarity of the marks;**
- ii) which goods that Herring might rely upon for the purposes of the opposition under *Canon* and**
- iii) whether there is a likelihood of confusion under *Sabel* and *Canon***

Candidates might also have considered whether FISH is a mark with reputation for the purposes of an opposition based on Article 8(5) of the CTMR and consider *GM v Yplon*.

- b. a claim for trade mark infringement (15 marks);

Candidates should have noted that the title of the book is MORE FISH, not just FISH.

Candidates should have dealt with the standard infringement tests under Statute (e.g. Trade Marks act 1994 (TMA) S10(1), S10(2) and S10(3) e.g. global appreciation and likelihood of confusion under *Sabel* and similarity of goods/services under *British Sugar*.

Candidates should have considered whether Shark has a defence under TMA s.11(2)(b) and, in particular, whether Shark's use of the MORE FISH mark is in accordance with honest practices (taking into account the guidance in *Starbucks* and *Samuel Smith*).

- c. a claim for passing off (10 marks).

First, candidates should have considered the Classic Trinity of Goodwill, Misrepresentation and Damage under *Jif Lemon/Advocaat/Parma Ham*.

In considering the grounds for passing off, candidates should have considered whether the FISH brand has residual goodwill despite the book being out of print for 3 years (*AdLib Club v Granville*).

Candidates should also have considered the effect of the descriptiveness of the MORE FISH name, and apply *Office Cleaning Services*.

Candidates should have considered whether there are issues of false endorsement as a result of the photograph featuring Herring on the back cover – *Irvine v Talksport*

Question 2

Comment upon the registrability of Jellyfish's strapline THERE'S PLENTY OF FISH IN THE SEA as a UK trade mark. (5 marks)

Candidates should have identified the legislative issues relating to the registration of slogans eg TMA s 3(1).

Candidates should then have noted and applied the CJEU's judgments in *Audi* and *Smart Technologies*.

Whilst most candidates recognised the key legislative issues few analysed the authorities and applied them to the facts.

Question 3

Comment upon the merits of Herring pursuing a claim for trade mark infringement against Jellyfish specifically in relation to:

- a Jellyfish's use of the slogan THERE'S PLENTY OF FISH IN THE SEA (10 marks);
and

Candidates should have applied the judgments in *Specsavers* and *Red Bull*. Very few candidates did this to a sufficient degree and generally this question was answered poorly.

- b Jellyfish's purchase and use of the Adword "Fish". Are there any other actions that Herring might take against third parties e.g. Bongle? (10 marks).

Candidates should have applied the CJEU's judgment in *Interflora*. Good candidates should have considered joint tortfeasorship of Bongle and considered the implications of *Google France*.

Question 4

Comment upon the risks that Herring should be aware of in commencing proceedings against Shark and/or Jellyfish. (15 marks)

Candidates were expected to note that Herring's mark might be vulnerable to challenge based on:

- Non-use, noting the different periods of use meaning that the class 21 goods and class 43 services have not been used, and the possible limitation of class 16 goods;
- Referring to *Starbucks*, TMA s.3(1)(b) and s.3(1)(c), noting that both FISH and the simple outline of a fish indicate the intended purpose of Herring's recipe books, to the extent that the recipes are for seafood; and
- Potentially TMA s.3(3)(b), noting that Herring's recipe books were not exclusively about seafood cookery.

Candidates should also have considered whether Herring might be able to rely upon acquired distinctiveness, particularly noting the length of use prior to the date of filing.

Question 5

Outline the strategy that you would recommend to Herring in relation to Shark and Jellyfish, bearing in mind that Herring does not want to incur costs unnecessarily. (20 marks)

Candidates were expected to set out a coherent strategy against Shark and Jellyfish which might include consideration of:

- which claims (both infringement and Opposition claims) are worthwhile in light of the merits and against whom;
- whether there could be any commercial settlement eg licensing or co-existence arrangements;
- Threats issues under TMA s 21 relating to any letters before action;
- the possibility of an application for a quia timet injunction against Shark and potential downsides of this course of action (eg the cross undertaking in damages);
- the possibility of proceeding in the Patents County Court;
- evidence gathering, eg. whether Herring should conduct a survey in light of the Court of Appeal's guidance in *Interflora*.

Most candidates focussed on the merits of the claims available to Herring without concentrating on the procedural strategy and potential settlement. Whilst this was sufficient for a pass mark, good candidates also dealt with the procedural benefits of any particular course of action eg saving costs in the PCC.

Examination Papers

Intellectual Property I

This year's examination paper covered a broad variety of topics and encompassed the full breadth of the syllabus, touching upon topics such as the 'Bolar' exception, data exclusivity and medical/regulatory approval. In general, the essay questions seemed to present candidates with most difficulty, with some receiving a full 15-20% lower mark in Part A compared to Part B. The problem questions were dealt with more effectively, with the majority of answers adopting a clear and methodical structure. The most successful answers were those that were able to identify and address the more obscure/trickier points raised by the facts. Notably, a surprising number of candidates failed to state the relevant statutory provision and/or identified the incorrect provision.

Part A - Question 1.

This question was slightly more popular than question 2. It was divided up into two sections, with candidates required to answer both. This presented a problem for some candidates who, whilst able to address one part, lacked sufficient knowledge to adequately answer both components. Part a), broadly speaking, address the issue of claim construction. The better answers fully engaged with the quotation to consider the value (or not) of the patent office file as an aid to construction. Many candidates considered the approach adopted in the US as a comparator, drawing inspiration from the US experience. The weaker answers merely gave a run-through of the UK's approach to claim construction. Part b) – Many candidates related this question to the topic of sufficiency, whereas others took it to cover patentable subject matter. Either approach was acceptable to the examiners. Generally, the most successful answers incorporated elements from both areas.

Part A – Question 2

This question was dealt with better than question 1. It opened up a range of factors for the candidate to consider. In general, the better answers covered the key points of fragmentation – i.e. infringement vs validity; multiple patent systems/regimes (national, regional and international) - and then went on to critically analyse the value of an EU governed patent system, drawing upon the experience of the current EU involvement in patent law. The weaker answers tended to include a superficial analysis of a variety of problems with the current patent system without directing the answer to the question in hand.

Part B – Question 3

Both question 3 and 4 were attempted by an equal number of candidates. Question 3 required the candidate to advise both parties. In addressing the patentability of the new inventions, most answers covered the points well. The patenting of second medical use/dosage regimes, methods of treatment was nearly always covered, as was the application of the morality exception. The stronger answers were able to draw on existing case law to support their positions. The issue of infringement and potential remedies was again covered well, but the availability of defences was not always addressed with most candidates missing the relevance of the 'Bolar' exemption. The

question of regulatory approval and use of regulatory data was also an element of the question, yet few candidates addressed this point.

Part B – Question 4

This question directed the candidate to address numerous issues including the subject matter of the invention, the question of novelty, and the issue of inventive step. The more successful answers included an assessment of novelty that focussed not only on the dates of the relevant activities but also what it means to be ‘made available to the public’. Thus the nature of the private members club and the use of the device out on the road warranted analysis. Most candidates noted that breach of confidence may be an issue in relation to novelty, but few went on to advise the client as to any action that may be brought against the employee in breach of confidence. Most candidates noted correctly that the question of patentable subject matter and obviousness will be approached differently by the EPO.

Intellectual Property II

There were four questions on this paper, of which candidates were required to answer two: one had to be an essay and one a problem question. The essay questions required discussions of trade mark law and design law (including copyright treatment of designs), respectively. Fewer candidates answered the design essay question than the trade mark question. One problem question was on trade mark (and *not* passing off), while the other raised issues of copyright. More candidates opted to answer the trade mark problem rather than the copyright problem. The quality of answers to all questions was generally good, with a high number of distinctions.

On Question 1, the examiners took a broad view of what could constitute an “exclusion” from design protection, and thus while candidates’ answers typically focused on exclusions for functional features, must-fit and must match designs, good papers also covered (among things) the subject matter exclusions from UK unregistered design law (noting the backup of copyright law for some features). The best papers also picked up on extant judicial disagreements over the scope of some exclusions, as well as subtle differences between similarly labelled provisions in UK and European instruments. The second part of the question (appropriately) comprised a much smaller part of all answers. Almost every paper recognised the important difference between UK registered rights and the Community regime(s), which was very heartening (even if the government is proposing to align the rules). Some papers failed to address the copyright part of this part of the question, which effectively required students to draw from their knowledge of ownership in both the copyright and design sessions. This is an especially important skill in practice, where problems rarely come as pre-packaged as might course notes.

Question 2 required students to critically discuss the overlaps between registered trade mark law and passing off. Overall, the answers to question 2 displayed a very good knowledge of the law from many students. There were numerous avenues the critical analysis could take, with better papers including (for instance) engagement with litigation strategy, consideration of the policy goals of trade mark law and passing off, and/or discussion of the impact of registration on the

subsistence and content of trade mark rights. Strong but not excellent papers were able to map and compare principles within trade mark law and passing off, but did not include the critical engagement of the better answers. The weaker answers simply described the mechanics of a passing off and registered trade mark action, without adequately comparing the two regimes. One piece of advice for future students may be that “critically discuss” does not mean “be critical of”, but rather to provide a critique. As noted above, there are a variety of forms such analysis can take.

Question 3 (the trade mark problem) contained a wide variety of trade mark issues, and allowed candidates the chance to demonstrate a wide breadth of knowledge; they did so, and the question was on the whole very well answered. The question was limited to registered trademark infringement, and so no credit was given for candidates providing an answer grounded in passing off. (In contrast, passing off was a big part of the trade mark essay question). It is important to read the question carefully, and there was plenty to answer on registered trade mark infringement alone. The treatment of infringement doctrine was uniformly good, revealing good knowledge of recent case law. Better candidates briefly explored the potential differences between analysis of the UK and CTM claims. Some candidates failed to consider the validity of the marks, which was expected to be analysed even if only briefly in the case of the word marks. And a couple of papers failed to appreciate that use of a trade mark that amounts to a breach of the Comparative Advertising Directive does not of itself constitute trade mark infringement.

The copyright problem in Question 4 was less popular than the trade mark problem, but those who attempted this question tended to perform very well. The question required students to analyse the subsistence and ownership of copyright in a variety of possible works, and consider whether those rights had been infringed (including possible defences). The stronger answers included some engagement with the impact of European law on the scope of protected works in the UK, and discussed whether funding by an external agency might impact on the ownership of works created by the claimant-artist. On the infringement aspect, better answers engaged thoughtfully with the nature of rights, and considered questions regarding the substantiality of the part taken. Discussion of fair dealing was expected, however some of the higher scoring answers also noted other possible exceptions, for instance for incidental inclusion, or for certain artistic works on public display. Less strong answers tended to respond to key issues raised by the question, but with less finesse and nuance than the better papers.