

PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session

Unit Title: FD4 Infringement and Validity

1 Aims of the PEB Final Diploma

The aim of the PEB Final Diploma is to assess whether a candidate has built on knowledge gained at the Foundation level and reached the minimum level of competency at which the candidate will be safe to practice and be admitted to the Register as a patent attorney.

The four Final Diploma examinations are designed to ensure that candidates meet the requirements of IPReg as to the knowledge, understanding, skills, values and attitudes that a patent attorney should possess. These attributes are those set out in the versions of the Admission and Authorisation requirements in the IPReg Standard Operating Procedure that are in force at the time of the assessment.

In order to achieve the aims of the qualification candidates will have to pass each of the following examinations which meet IPReg's core requirements and so are mandatory to qualification as an attorney:

FD1 (P2) Advanced IP Law and Practice

FD2 (P3) Drafting of Specifications*

FD3 (P4) Amendment of Specifications*

FD4 (P6) Infringement and Validity

* Information on the EQE examinations that IPReg recognises for exemption purposes can be found at <https://ipreg.org.uk/>.

2 About this Unit

In order to pass the FD4 examination, candidates will need to demonstrate:

- full understanding of the law and practice of patent infringement and validity issues in the UK; and
- the ability to advise lay clients on their best course of action in matters related to patent infringement and validity.

3 Qualification Level

The level descriptors shown in the table on page 2 below are those used for Level 7 in the Regulated Qualifications Framework (RQF) and the European Qualifications Framework (EQF). Levels 4-8 are intended to be consistent with the five levels within the Framework for Higher Education Qualifications in England, Wales and Northern Ireland (FHEQ).

PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session

RQF Level 7	Knowledge descriptor (the holder ...)	Skills descriptor (the holder can ...)
	<ol style="list-style-type: none"> 1 Reformulates and uses practical, conceptual or technological knowledge and understanding of a subject or field of work to create ways forward in contexts where there are many interacting factors. 2 Critically analyses, interprets and evaluates complex information, concepts and theories to produce modified conceptions. 3 Understands the wider contexts in which the area of study or work is located. Understands current developments in the area of study or work. 4 Understands different theoretical and methodological perspectives and how they affect the area of study or work. 	<ol style="list-style-type: none"> a. Use specialised skills to conceptualise and address problematic situations that involve many interacting factors. b. Determine and use appropriate methodologies and approaches. c. Design and undertake research, development or strategic activities to inform or produce change in the area of work or study. d. Critically evaluate actions, methods and results and their short- and long-term implications.

The table on page 3 below shows the FHEQ Level 7 Descriptor.

- The shaded areas in the table are those elements of the Level 7 Descriptor that the candidate who has passed all four Final Diploma examinations would not have evidenced. However, they could potentially have evidenced them in a training programme undertaken as part of relevant employment.
- The unshaded areas in the table are those elements of the Level 7 Descriptor that the candidate who has passed all four Final Diploma examinations would have achieved.

Syllabus provisional paper

PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session

FHEQ Level 7	<p>Students will have demonstrated:</p> <ul style="list-style-type: none"> • a systematic understanding of knowledge, and a critical awareness of current problems and/or new insights, much of which is at, or informed by, the forefront of their academic discipline, field of study or area of professional practice • a comprehensive understanding of techniques applicable to their own research or advanced scholarship • originality in the application of knowledge, together with a practical understanding of how established techniques of research and enquiry are used to create and interpret knowledge in the discipline • conceptual understanding that enables the student: <ul style="list-style-type: none"> ○ to evaluate critically current research and advanced scholarship in the discipline ○ to evaluate methodologies and develop critiques of them and, where appropriate, to propose new hypotheses.
	<p>Typically, holders of the qualification will be able to:</p> <ul style="list-style-type: none"> • deal with complex issues - both systematically and creatively, make sound judgements in the absence of complete data, and communicate their conclusions clearly to specialist and non-specialist audiences • demonstrate self-direction and originality in tackling and solving problems, and act autonomously in planning and implementing tasks at a professional or equivalent level • continue to advance their knowledge and understanding, and to develop new skills to a high level.
	<p>And holders will have:</p> <ul style="list-style-type: none"> • the qualities and transferable skills necessary for employment requiring: <ul style="list-style-type: none"> ○ the exercise of initiative and personal responsibility ○ decision-making in complex and unpredictable situations ○ the independent learning ability required for continuing professional development.

4 Prior knowledge, skills or understanding

The Final Diploma is the final stage of professional training prior to admission as a patent attorney in accordance with the Rules for the Examination and Admission of Individuals to the Registers of Patent and Trade Mark Attorneys 2011 (“Examination and Admission Rules”) which are currently found at <https://ipreg.org.uk/pro/regulations/rules-for-examination-and-admission-of-individuals-2011>

In order to be eligible to undertake any of the PEB Final Examinations candidates must have passed either:

- the Foundation Certificate examination FC1 (set by the PEB); or

**PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session**

- the Foundation level examinations set by any other examination agency approved by IPReg listed in Rules for Examination and Admission of Individuals 2011 (link above).

5 Notional Learning Time

Under the QAA's Credit Framework, 1 credit is equivalent to 10 hours of study/notional learning hours. The table below shows the credit values and the notional learning hours that candidates are expected to undertake before sitting the FD4 examination.

The notional learning hours are based on the amount of study that an average candidate would be expected to undertake before successfully completing the examination. There may, however, be variations in the time spent by different candidates.

Notional learning hours includes all time expected to be spent by a student in pursuit of the qualification. This may include:

- on-the-job training
- work in professional practice;
- independent/self study and reading
- attendance at training courses
- coursework, revision and assessment (formative and summative).

Unit	Title	Credit values/notional learning hours
FD4	Infringement and Validity	40 credits/400 notional learning hours

Candidates are recommended to devote a minimum of 1,000 notional learning hours, over at least two years, to preparing for the Final Diploma examinations.

Candidates should view preparing for the Final Diploma as a whole: study for one examination will support preparation for the other examinations.

The Final Diploma examinations assess candidates' professional competence: experience gained in day-to-day professional practice provides numerous learning opportunities and forms an essential part of preparation for the examinations.

Syllabus Provisional pending consultation

PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session

6 Syllabus Content

Learning Outcomes The successful candidate will:	Assessment Criteria The successful candidate can: For a UK patent case	Knowledge and understanding
1. apply knowledge and understanding of patent law and practice	a. Apply the law and practice governing patentable inventions to a case b. Construe a patent claim using relevant principles c. Determine the prior art d. Apply the law and practice governing infringement to a case	Law and practice relating to patentable inventions Patents Act 1977 and European Patent Convention 2000 PA 1 – Patentable inventions PA 2 – Novelty PA 3 – Inventive step PA 125 – Extent of invention Protocol to Art 69 EPC2000 <i>Actavis v Eli Lilly</i> [2017] UKSC 48 <i>Pozzoli SpA v BDMO SA</i> [2007] EWCA Civ 588

Syllabus provisional pending consultation

PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session

Learning Outcomes The successful candidate will:	Assessment Criteria The successful candidate can:	Knowledge and understanding
2. critically analyse and evaluate information from a range of sources	a. Determine the acts relevant to infringement b. Apply the claim construction to the acts identified, using the principles from <i>Actavis v Eli Lilly</i> [2017] UKSC 48 c. Apply the claim construction to the identified prior art and any other grounds of invalidity applying <i>Pozzoli SpA v BDMO SA</i> [2007] EWCA Civ 588 where relevant d. Reach a conclusion as to the likelihood that the patent is valid e. Reach a conclusion regarding whether there is infringement f. Assess possible amendments and amendment strategies to improve prospects of enforcement g. Assess the implications of amending the patent	PA 27 – General powers to amend PA 75 – Amendment of patent in infringement or revocation proceedings* PA 76 – Amendments of applications and patents not to include added matter PA 117 – Correction of errors in patents and applications PA 60 – Meaning of Infringement PA 61 – Proceedings for Infringement of patent PA 125 – Extent of invention * Candidates will not be required to show detailed knowledge of procedural aspects of amendment.

Syllabus provisional pending consultation

PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session

Learning Outcomes The successful candidate will:	Assessment Criteria The successful candidate can:	Knowledge and understanding
3. independently synthesise information and ideas to create a response to a problem	a. Provide an opinion on infringement b. Identify and evaluate the available procedures for challenging the validity of the patent c. Identify any other patent-related legal issues pertinent to the facts presented d. Summarise conclusions from the analysis e. Evaluate whether there are 'design around' possibilities to avoid the protection offered by a patent under consideration	
4. proficiently communicate the results of the analysis	a. Based on conclusions drawn, summarise the options for a lay client b. Recommend and justify action(s) to strengthen the client's legal position	

Syllabus provisional pending consultation

**PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session**

7 Form of Assessment

This unit is assessed by a 4-hour closed-book examination.

The examination tasks will assess all the learning outcomes. All tasks will be compulsory.

The maximum available mark is 100.

Candidates are awarded either a Pass or a Fail result.

The pass mark is set for each examination based on the difficulty of the examination using the Minimum Pass Descriptor.

7.1 The Examination

The examination will comprise a series of tasks relating to an infringement and validity scenario. The scenario will be presented in the Pre-Release Material. Additional material relating to the scenario will be included in the Question Paper.

Approximately two weeks before the examination, the Pre-Release Material will be published on the PEB website (<https://www.cipa.org.uk/patent-examination-board/>). It will also be emailed to the address that the candidate provided to PEB when they registered for the examination. The exact date of issue of the Pre-Release Material will be published on the PEB website.

Candidates should ensure that, before the examination, they have familiarised themselves with the content of the Pre-Release Material and the technology it is based around. It is acceptable to use journals, textbooks, internet resources and discussion with people with relevant expertise for this purpose.

On the day of the examination, the Question Paper will be issued at the examination start time. It will contain:

- the Pre-Release material
- additional documents including relevant extracts, for example excerpts from *Pozzoli* and/or excerpts from *Actavis*
- the assessment task.

Candidates should note that the following will be dealt with under the PEB Malpractice Policy:

- taking a hard copy of the Pre-Release material into the examination room
- taking any notes, including notes relating to the Pre-Release material, into the examination room
- accessing any other material during the examination other than the Question Paper and Answer document issued at the start of the examination.

The PEB will not answer queries about the content of the Pre-Release Material before the examination.

**PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session**

7.2 Minimum Pass Descriptor

Once the mark for the script has been determined, the script should be reviewed against the Minimum Pass Descriptor to determine whether it demonstrates sufficient knowledge, understanding and skills to be awarded a Pass in the examination. The elements of the pass descriptor are generic and must be applied in the context of the unit syllabus content.

Minimum Pass Descriptor

The minimally competent script will:

- a. evidence adequate ability to apply legal reasoning to practical situations;
- b. present appropriate solutions to problems;
- c. demonstrate the ability to assimilate data and information provided to extract most of the major issues;
- d. usually differentiate between different forms of evidence and information;
- e. discern the primary points but not always the overall picture;
- f. show adequate familiarity with appropriate and accurate legal and technical language;
- g. provide written work that generally advises and informs the client, with proposals that are largely practicable and achievable;
- h. present most key information;
- i. provide argument that is comprehensible, structured and reasoned;
- j. contain written material which mostly suits requirements (e.g. letter, brief, recommendation, statement of facts).

A candidate who achieves the level of minimal competence:

- a. will have met all the major learning outcomes of the assessment as evidenced by a general knowledge and application of fundamental aspects of law and practice within the script but not necessarily within every answer;
- b. demonstrates a satisfactory performance overall, weaknesses are limited to areas such as patchy coverage of relevant material, minor inaccuracies and irrelevancies;
- c. will not have produced fundamentally contradictory statements, or other statements, that would undermine advice provided or a client's rights;
- d. will not have produced unethical advice, proposals or statements.

7.3 Results

Candidates are advised in a results letter of their Pass/Fail result and the percentage mark achieved.

7.4 Law and Technical Content

Each year the PEB publishes the Law Changes update on the PEB website <https://www.cipa.org.uk/patent-examination-board/>.

The PEB Qualifying Examinations are based this year on legal texts and case law which were in force on **1 April preceding the examination**.

Candidates will not be penalised for basing their answers on any amendments to the law enacted after 1 April, or any case law published after 1 April, and before the date of the

**PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session**

examination. However, candidates must be consistent in their application of any recent changes in the law and are advised to mention in their answer if they are relying on provisions of law enacted or published after 1 April in the year of the examination.

When answering questions in the Final Examination papers, candidates should not need to use technical knowledge which extends beyond that provided in the question paper i.e. the examination scenario is to be taken in context and external knowledge is not to be used.

8 Suggested Resources

8.1 PEB website <https://www.cipa.org.uk/patent-examination-board/>

The following resource materials are available on the PEB website:

PEB Policies and Procedures

Syllabi for next session (FD1, FD2, FD3 and FD4)

Examination Information

Past Examination Materials

Sample Assessment Materials

Examination Guidance (FD1, FD2, FD3 and FD4)

8.2 Reading

The Acts and Rules referred to in this unit syllabus are essential reading.

Candidates are advised to ensure they spend time reading the law reports on decided infringement cases. The CIPA Journal is a useful source.

Suggested reading: Other books and resources can be used to support your study. This list is not exhaustive.

CIPA Guide to the Patents Acts (2022) Ed. Paul Cole, pub. Sweet and Maxwell (The Black Book)

Terrell on the Law of Patents (2023) Lord Justice Colin Birss; Douglas Campbell KC; Tom Hinchliffe KC; Tom Mitcheson KC; Andrew Waugh KC

8.3 Training

The PEB is an examination-only agency and does not provide training for the Final Diploma examinations. It is expected that FD4 candidates will be employed as a trainee patent attorney and that their employer will provide a formal training programme. Candidates should seek guidance on preparing for the examinations from the person who has responsibility for training in their organisation.

In listing organisations that offer training in the field of IP, the PEB is not providing endorsements or making recommendations. Candidates should seek guidance from their training lead as to whether attending external training would be appropriate.

PEB Qualifying Examinations Final Diploma
Unit 4: Infringement and Validity
For first examination in the October 2025 session

The Chartered Institute of Patent Attorneys (CIPA) <https://www.cipa.org.uk/events/> offers support for trainees through the “Informals”, an informal association of younger, unqualified members of the profession. All student members of CIPA automatically become part of the Informals. The Informals provide a UK-wide support network for trainees, organising lectures and tutorials directed towards the examinations;

FICPI <https://ficpi.org/>

JDD Consultants <https://jddcourses.co.uk/>

Syllabus provisional pending consultation