

LAW EXAM CHEAT SHEET

JUDGES MAKING LAW

★ First Essay Question

EXAMPLE QUESTIONS

1. Do judges make the law? Should they? Do they have more freedom to make law when applying the common law, compared with statutes? How is their power to make law constrained?
2. "Judges in New Zealand have a remarkable amount of discretion to make law; this is inconsistent with the democracy and the rule of law "

Analyse the extent to which judges have the powers to make law, any limits on that power, and the problems associated with it. Refer to cases studied in the course where relevant.

3. In New Zealand, do judges have unchecked power to make law according to **judicial discretion**?
4. Discuss how the common law, equity, statute law and judicial making is relevant to trade mark law.

HOW JUDGES MAKE LAW

COMMON LAW

- Have freedom to develop the law in response to the changing circumstances of society. → Can set new doctrines of precedents when needed.
- Invent foundational things under common law.
 - ◆ E.g. causes of action, negligence and defamation.
- Example: the tort of 'intrusion into seclusion'
 - ◆ *C v Holland* 2012 saw the high court invent this tort.
 - ◆ Entitled to damages when your reasonable expectation of privacy is breached, e.g. sitting in your backyard and having some take and publish pictures of you.

PASSING OFF

- The tort of passing off is part of trade mark law.
- It developed to protect brands.
- Common law developed this tort to prevent various traders from taking advantage of someone else's brand, and 'passing it off' as their own.
- The tort of passing off was set as a precedent in the case of *Perry v Truefit*

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R Barnett



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Instructor ,1966 *Resources in Education* ,1998 **The Balance Sheet** , **Poison Ivy** Evan Mandery,2022-10-25
Next Big Idea Book Club Nominee October 2022 An eye opening look at how America s elite colleges and suburbs help keep the rich rich making it harder than ever to fight the inequality dividing us today The front page news and the trials that followed Operation Varsity Blues were just the tip of the iceberg Poison Ivy tells the bigger seedier story of how elite colleges create paths to admission available only to the wealthy despite rhetoric to the contrary Evan Mandery reveals how tacit agreements between exclusive Ivy plus schools and white affluent suburbs create widespread de facto segregation And as a college degree continues to be the surest route to upward mobility the inequality bred in our broken higher education system is now a principal driver of skyrocketing income inequality everywhere Mandery a professor at a public college that serves low and middle income students contrasts the lip service paid to opportunity by so many elite colleges and universities with schools that actually walk the walk Weaving in shocking data and captivating interviews with students and administrators alike Poison Ivy also synthesizes fascinating insider information on everything from how students are evaluated unfair tax breaks and questionable fundraising practices to suburban rituals testing tutoring tuition schemes and more This bold provocative indictment of America s elite colleges shows us what s at stake in a faulty system and what will be possible if we muster the collective will to transform it **Monthly Catalog of United States Government Publications** ,2002-07
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