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THIS EXAMINATION CONSISTS OF 3 PAGES, INCLUDING THIS PAGE
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THE UNIVERSITY OF BRITISH COLUMBIA
PETER A. ALLARD SCHOOL OF LAW

EXAMINATION – DECEMBER 2018
LAW 231 - Property
Section 3 - Professor GJ Reynolds

TOTAL MARKS: 100
TIME ALLOWED: **1 HOUR**
and 15 minutes reading time

NOTE:

1. This is an open book examination. There are no restrictions on the notes or materials you may bring into the exam.
2. This examination consists of two questions. Answer both questions.
3. You have 15 minutes of reading time. The reading time is in addition to the 60 minutes of writing time. During the reading time, you may only make notes on the question sheet or on the scrap paper.
4. When a question asks you to refer to course materials, this means any information conveyed in the course, including the assigned readings, lectures, class discussions, and slides.
5. If you believe you need more information to answer a question, indicate what additional information you need and why. If you assume additional information, state your assumptions clearly and explain why you are making them. Do not make any assumptions that avoid relevant legal issues.
6. Assume the applicable law is that of British Columbia unless indicated.
7. Students writing by hand, please write legibly on every second line of your exam booklet. Write on one side of the page only. Do not put your name on the exam booklets. Use only your exam number. At the end of the exam, please return all exam booklets. No credit will be given for anything written in a booklet that is removed from the exam room, even briefly.
8. Students writing using the Exemplify computerized exam process, please ensure that you do not write or type your name at any place in the exam.
9. Do not begin your exam until you are instructed to do so.
10. At the end of your exam, please write your exam number on the cover page of your question paper and drop it on the desk at the front as you leave. I will return the question papers to Student Services who will dispose of them.
11. **Have a great holiday break!**

MARKS

- 70 1. In the summer of 2018, Aarav went for a walk in the woods outside of Hope Townsite in British Columbia. His destination was Perkin Stream, a waterway that Aarav remembered fondly from his childhood but that he hadn't visited in years. Arriving at the stream, Aarav jumped into the water in his bathing suit, leaving his towel, shirt, and shoes under an old cedar tree on the east bank of Perkin Stream, and his hat on a branch of the tree. The hat featured the logo of the Hope Icebreakers, a Canadian junior hockey team that played in the Pacific International Junior Hockey League between 2003-2008 (at which point the franchise moved to Mission, BC). For several hours, Aarav relived his childhood experiences in Perkin Stream. He swam, walked along rocks, skipped stones, sunbathed, and napped.

The sound of voices shook Aarav out of his sleep. Aarav knew from the strong metal fencing that he had climbed over to reach the stream, as well as the large no trespassing signs on the fence, that this stretch of Perkin Stream was private property. Not wanting to meet the landowners, Aarav grabbed his towel, shirt, and shoes and set off back towards his car. He was behind the wheel when he remembered his hat. He decided not to go back for it – he had been thinking for a while that it was time to get a new hat. While he was sad to leave his old hat behind, he felt okay letting it go. “Someone else might be able to enjoy it”, he thought. “And who knows”, he said to himself, “maybe I’ll get it back someday.”

The voices by the stream were those of Betty and Chen. They are neighbours who own the properties on either side of Perkin Stream where Aarav had been swimming and relaxing. They had jointly put up, around the outer perimeter of their two properties, the fencing and signage that Aarav had noticed. The boundary between Betty and Chen’s properties, on the other hand, is unfenced and is defined by Perkin Stream, which runs north-south. Betty’s property is to the west of Perkin Stream, and Chen’s property is to the east of Perkin Stream.

Betty and Chen arrived at the old cedar tree just a few minutes after Aarav had left. Each of them was carrying a few items of trash that they had picked up while on their walk. (Despite the fence and no trespassing signs, the stream and cedar tree were popular destinations for late night swimming and tree climbing, and garbage was occasionally left behind.) Betty and Chen had no idea that they had just missed Aarav. The primary purpose of their walk was to inspect the banks of the stream. A storm was forecast, and they were concerned that the rainfall might cause the banks to erode.

In fact, torrential rain did start a few days after Aarav’s visit to Perkin Stream. The subsequent flooding caused Perkin Stream to shift 10 metres to the east. The old cedar tree under which Aarav had left his clothes while swimming was now on the west side of Perkin Stream.

Several weeks after the rains, Dana, a volunteer with Public's Right (a group committed to the reclamation of public footpaths) decided to walk down a few of the historic footpaths in the District of Hope to see how much damage the storm had done. One of the footpaths that Dana wanted to walk on intersected with Perkin Stream. In order to get to this footpath, Dana needed to walk across the properties of both Betty and Chen. She climbed over the fence, catching her pants on a no trespassing sign, and struggled through the undergrowth for a few hundred meters before she found the historic footpath.

Dana stopped for a drink of water under the old cedar tree where Aarav had napped a few days before. She noticed that the area around the tree and stream was clear of garbage, a welcome change from some of the footpaths that she had walked in recent weeks. Dana also noticed the Hope Icebreakers hat in the branches of the old cedar tree. It was a little dirty from the storm, but still in fine shape. Dana took down the hat and washed it in the stream. She then attached it to her pack so that it would dry and continued on her way.

Over lunch later that day in the Hope Diner, Dana struck up a conversation with her waiter over the hat (which she was now wearing), and the circumstances in which she found it. The waiter was excited to see it. "What a treasure", he exclaimed. "I haven't seen a hat like this in years!" As luck would have it, Aarav, Betty, and Chen were all also in the diner and overheard Dana's conversation with the waiter. Each of Aarav, Betty, and Chen feel like they have a valid claim to title of the hat, and that their claim is stronger than Dana's claim. Between Aarav, Betty, Chen, and Dana, who has the strongest claim to title of the hat? Explain why, and discuss the relative strengths and weaknesses of the claims of each of the four parties, making reference to course materials from this past term of Property Law. **(70 marks, 42 minutes)**

- 30 2. One of the proposals made as part of the recent review of the *Copyright Act* is to reduce the term of copyright protection in works from "the life of the author plus 50 years from the end of the calendar year in which the author dies" to "25 years from the date the work was created". This proposed reform would apply both to existing works and works that have not yet been created. Making reference to course materials from this past term of Property Law, discuss whether you think this proposal should be supported or opposed, and on what basis. You need not restrict yourself, in your response, to materials discussed in the context of our copyright lectures. **(30 marks, 18 minutes)**.

END OF EXAMINATION