

THE JOINT EXAMINATION BOARD
PAPER T5
BASIC OVERSEAS TRADE MARK LAW AND

13th November, 1995

3.00 p.m. - 5.00 p.m.

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Please read the following instructions carefully. This is a TWO HOUR paper.

1. You should attempt no more than eight questions from Part A and no more than five questions from Part B.
2. The number of marks allotted to each question is placed in brackets at the end of the question.
3. Where a question permits of reasons being given for the conclusions reached, such reasons should be given.
4. Start each question (but not necessarily each part of each question) on a fresh sheet of paper. In the appropriate boxes at the top of each sheet please enter the designation of the paper, the question number, and your Examination number. Write on one side of the paper only using BLACK ink. You must NOT staple pages together. You must NOT state your name anywhere in the answers.
5. Unless specifically requested answers are NOT required in letter form.
6. NO printed matter or other written material may be taken into the examination room.
7. Answers MUST be legible. If the examiners cannot read a candidate's answer no marks will be awarded.
8. NO writing whatsoever, including numbering of papers, is allowed prior to the commencement of the examination or after it has finished.

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PART A

1. What will be the "relative" grounds for refusal/rejection of a trade mark application in Denmark when the Community trade mark comes into force? (5 marks)
2. What amendments, if any, will it be possible to make to a Community trade mark application or a Community trade mark registration? (5 marks)
3. What will be the provisions for conversion of a Community trade mark application or registration to a national trade mark application or registration. (5 marks)
4. Write brief notes on Collective marks in Germany. (5 marks)
5. What will be the consequences of failing to record an assignment of a trade mark on the Community trade mark register. (5 marks)
6. What is understood by a "Convention Country"? What benefits are derived from the Convention in question? (5 marks)
7. In which European Union countries, other than UK, does the opposition procedure, on relative and/or absolute grounds, take place before registration of the trade mark and in which European Union countries does the opposition procedure take place after registration? (5 marks)
8. a) What will be the official languages of the Community trade mark office?

- b) What requirements on language are contained within the Community trade mark regulation?
9. a) What are the bases upon which a valid trade mark application may be filed in the USA?
- b) What are the bases upon which a valid trade mark application may be filed in Canada?

(5 marks)

PART B

10. a) Apart from the UK which countries have ratified the Madrid Protocol?
- b) Assuming that all members of the Madrid Arrangement ratify the Madrid Protocol what, if any, choice of systems will be available to nationals of those member states who have ratified both conventions?
- c) What are considered to be the main advantages of the Madrid Protocol over the Madrid Arrangement?

(12 marks)

11. Discuss the decision of the European Court of Justice in the case of IHT versus Ideal Standard.

(12 marks)

12. Describe the procedure to registration of a trade mark in Brazil.

(12 marks)

13. In 1996 it is expected that the Madrid Protocol and the Community Trade Mark will come into effect. Both systems will provide advantages to trade mark proprietors. Both systems are considered to have certain defects. Explain the main advantages and disadvantages of both systems. Will the systems be complementary or competitive to each other? Which system do you think will offer the best advantages to trade mark proprietors?

(12 marks)

14. The Community trade mark regulation makes provision for jurisdiction of national courts in certain trade mark matters.
- a) In what matters will national courts have jurisdiction?
 - b) How will it be determined which national court does have jurisdiction in any particular matter?
15. With reference to decided cases, discuss the extent to which it is possible for company A to repackage the goods of company B which have been placed on the market of one European Union member state and then to export those goods to another member state where the relevant trade mark or trade marks of company B are registered.

(12 marks)