

**THE JOINT EXAMINATION BOARD**

**PAPER T2**

**BASIC UNITED KINGDOM TRADE MARK PRACTICE**

**22nd November, 1996**

**10.00 a.m. - 1.00 p.m.**

Please read the following instructions carefully. This is a **THREE 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.
9. Please put your answers in **QUESTION NUMBER ORDER** before placing in envelope provided.

**THIS PAPER COMPRISES 4 PAGES (INCLUDING THIS FRONT SHEET)**

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**BASIC UNITED KINGDOM TRADE MARK PRACTICE**

**PART A**

1. Discuss the registrability under the Trade Marks Act, 1994 of **two** of the following trade marks:

- (a) ADVANTAGE for cleaning preparations
- (b) PACIFIC for deep sea diving equipment
- (c) CALEDONIA for shortbread
- (d) MISTY BLUE for paints and varnishes

(5 marks)

2. List types of 'earlier rights' which may form the basis of an opposition to a UK trade mark application, but which will not be cited by the Trade Marks Registry.

(5 marks)

3. List the points a person seeking to record a trade mark license agreement must tell the Registry about on Form TM 50.

(5 marks)

4. Discuss the registrability under the Trade Marks Act, 1994 of **two** of the following trade marks:

- (a) CE for toys
- (b) MILLENNIUM for clothing
- (c) ECU for books
- (d) A black cross design for medicines

(5 marks)

5. List the practical checks you might make when instructed to record a Deed of Assignment at the Trade Marks Registry before completing the application for recordal on Form TM 16.

(5 marks)

6. (a) What is the next renewal date and renewal term for a trade mark registration resulting from an application filed on 14 February 1992 ?

(b) What is the next renewal date and renewal term for a trade mark registration resulting from an application filed on 14 February 1995 ?

(You should assume in both cases that there is no claim to priority).

(c) How long after a registration has lapsed does the proprietor have to apply for late renewal ?

(5 marks)

7. Outline the circumstances in which it is possible to alter a **registered** trade mark. What is the procedure for recording this alteration ?

(5 marks)

8. Your client has asked you whether he should record the fact that he has acquired a trade mark registration by assignment. Write notes on the disadvantages of not applying to record this at the Registry.

(5 marks)

9. What points must a letter of consent to registration of a mark include to be acceptable to the Trade Marks Registry ?

(5 marks)

## **PART B**

10. Your client's trade mark application filed on 10 January 1996 has been examined by the Trade Marks Registry which has objected to the mark on the basis that the mark is devoid of distinctive character under Section 3(1)(b) of the Trade Marks Act, 1994.

Explain how the client could seek to overcome this objection.

(Answers in note form are acceptable).

(12 marks)

11. Your client is interested in launching a new perfume product. He has chosen the name 'ARABIAN NIGHTS' and wants to know what he should do next. He is keen to launch the product in three months' time and wants "the maximum legal protection". Draft a letter to the client explaining the steps he should now consider and the potential risks of not following your advice.

(12 marks)

12. Your client sells ODYSSEY computer programs. He has requested your advice on suitable trade mark acknowledgement wording for his product literature and packaging. Write notes as a basis for advising your clients, giving examples of suitable wording and commenting on the effect of misrepresenting a mark as a registered trade mark.

(12 marks)

13. Your client wishes to apply for invalidation of the registration of a trade mark which he considers generic. Explain briefly the procedural steps before the Registry this will involve. Assume the proceedings will be defended.

(12 marks)

14. Your client's trade mark application which has been filed for "all goods in class 9" has received an objection under Section 3(6) of the Trade Marks Act, 1994 because of the very wide range of goods covered. Explain the basis for such an objection and outline how the client could deal with it.

(12 marks)

15. Your client has been selling bubblegum sweets in a distinctive green/pink striped wrapper for more than 10 years. The product itself is in the shape of a hexagon and is often referred to in the client's promotional literature as "THE SIX SIDED CHEW". Your client has asked you for recommendations as to trade mark protection. What recommendations would you make ?

(12 marks)