

**THE JOINT EXAMINATION BOARD**

**PAPER T5**

**BASIC OVERSEAS TRADE MARK LAW AND PRACTICE**

**21st November, 1996**

**3.00 p.m. - 5.00 p.m.**

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.
9. Please put your answers in QUESTION NUMBER ORDER before placing in the envelope provided.

**THIS PAPER COMPRISES 3 PAGES (INCLUDING THIS FRONT SHEET)**

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PART A (You should attempt no more than 8 questions from this part)

1. Outline the licensing provisions in the Australian Trade Marks Act of 1995. (5 marks)
2. Summarise the opposition process in Germany. (5 marks)
3. Write brief notes about Defensive registrations and give an example of a country where they can be obtained (not UK). (5 marks)
4. Outline the way in which a UK company may protect a word mark in China. (5 marks)
5. Outline the process from filing to registration in Spain. (5 marks)
6. Why should a UK trade mark applicant file its mark in Chinese characters in Hong Kong? (5 marks)
7. What steps need to be taken to maintain a US registration. (5 marks)
8. What are the current trade mark licensing provisions under Canadian Law? (5 marks)
9. Write brief notes on Article 6bis (which deals with well-known marks) of the Paris Convention for the Protection of Intellectual Property. (5 marks)

**PART B** (You should attempt no more than 5 questions from this part).

1. The USA recently introduced "the Federal Trade Mark Dilution Act (1995)". Explain the concept of dilution. (12 marks)
2. At first instance McDonald's lost their registration in South Africa. What was the Court's reasoning? (12 marks)
3. In the context of the Community Trade Mark Regulation:
  - a) What is an earlier national trade mark registration?
  - b) What are the substantive requirements of claiming seniority of an earlier national trade mark?
  - c) What are the rules governing documents required to support a claim to seniority at OHIM? (12 marks)
4.
  - a) Who may submit "observations" to OHIM and what status do such observations have?
  - b) Who may file opposition to a Community Trade Mark?
  - c) What is the time limit for entering opposition and from what date does it run?
  - d) What costs can a successful opponent recover? (12 marks)
5. Under Swiss Law what are
  - a) the absolute grounds for refusal of a trademark?
  - and b) the relative grounds for refusal? (12 marks)
6. Article 36 of the Treaty of Rome provides for protection of national trade mark rights. Outline circumstances in which this may not apply. (12 marks)

