

THE JOINT EXAMINATION BOARD

PAPER T5

BASIC OVERSEAS TRADE MARK LAW AND PRACTICE

13th November, 1997

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

- 1 Outline the process from filing to registration in Germany
(5 marks)
- 2 List five changes that have been made recently to Japanese Trade Mark law
(5 marks)
- 3 What issues need to be taken into account when agreeing to buy an International Registration under the Madrid Arrangement?
(5 marks)
- 4 What are the marking requirements in the USA and what is the particular significance of marking in that country?
(5 marks)
- 5 What action can the proprietor of an Austrian trade mark take against later-filed conflicting marks, and on what bases?
(5 marks)
- 6 Set out the stages of application and appeal in Spain
(5 marks)
- 7 List the causes for action available to a trade mark proprietor to prevent marketing by a competitor of similar products under a similar get-up in Australia and New Zealand
(5 marks)
- 8 List five members of the Madrid Arrangement who have ratified the Protocol (can include non-OECD countries, if any)
(5 marks)
- 9 What should a proprietor of a word mark in Roman letters take into account when seeking trade mark protection in China?
(5 marks)

Part B

- 10 In 1988 your client acquired an old West German registration; the rights in the same mark in East Germany were acquired by a Czech company. The Czech company is now threatening to export to the European Union via Germany, goods that it has produced. Write notes on the points you would like to discuss with your client as to whether they have grounds for objecting to such use. For the purpose of this question you may assume that both the old East German and West German registrations remain in force and that the goods produced by the Czech company are covered by the registrations.
(12 marks)
- 11 Compare the Madrid Protocol and the Madrid Arrangement with particular emphasis on the differences between the two systems.
(12 marks)
- 12 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 marks of company B are registered.
(12 marks)
- 13 Explain how a company may obtain and maintain a valid trade mark registration in USA and Canada
(12 marks)
- 14 Discuss the advantages and disadvantages of a CTM over national filings within the EU.
(12 marks)
- 15 When, and on what grounds, can an objection be raised by third parties to a Community Trade Mark?
(12 marks)

