

**THE JOINT EXAMINATION BOARD**

**PAPER T2**

**BASIC UNITED KINGDOM TRADE MARK PRACTICE**

**20th November 1998**

**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 the envelope provided.

**THIS PAPER COMPRISES 5 PAGES (INCLUDING THIS FRONT SHEET)**

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**BASIC UNITED KINGDOM TRADE MARK PRACTICE**

**Part A**

1. List the elements which are required to be present in a UK trade mark application for it to be accorded a filing date.

(5 marks)
  
2. Your client wishes to register the trade mark SIMPLE for vodka. A preliminary search has revealed the following marks which were the only relevant marks. Advise your client, in note form, on the relevance of these two marks.
  - a) SIMPLE for “mineral water”. Entered on the Register in 1997.
  - b) SEMPULL for “spirits”. Entered on the Register in 1975.

(5 marks)
  
3. Draft a letter of consent to the registration of application No. 2555555 HERBIX in respect of “cosmetics” of Herbix Unlimited from Herbiel Limited, the proprietors of registration No. 2533333 HERBIED in respect of the same goods.

(5 marks)
  
4. List points you would raise with a client on the correct usage of a trade mark.

(5 marks)
  
5. List five amendments allowed to an application filed under the Trade Marks Act 1994.

(5 marks)

6. Calculate the next renewal date for the following:
- a) a registration resulting from a UK application filed on 2 December 1996, claiming priority from a French application filed on 3 June 1996, and registered on 25 September 1997;
  - b) a registration resulting from a UK application filed on 30 October 1994, with no priority claim, and registered on 7 July 1995;
  - c) a registration resulting from a UK application filed on 13 January 1988, claiming priority from a US application filed on 3 December 1987, and registered on 25 July 1990.

(5 marks)

7. Explain the terms “disclaimer” and “limitation” in the context of the Trade Marks Act 1994.

(5 marks)

8. Discuss the action you would take if some of the goods or services specified in an application have been filed in the wrong class and you have been informed of the correct class in the Examination Report. Your client wishes to maintain all the specified goods or services in the application.

(5 marks)

9. Discuss the inherent registrability under the Trade Marks Act 1994 of two of the following, assuming they are new, unused marks:

- a) GOLD for transport services;
- b) PI and Pi for clothing;
- c) % for calculators;
- d) ATLANTIC for transport services by land and sea.

(5 marks)

**Part B**

10. Your client is selling some of its UK trade marks. List the minimum requirements for an assignment. Ignore any issues of taxation and Stamp Duty.
- (12 marks)
11. Your client wishes to register one of its trade marks ABSOLUTELY GORGEOUSLY for cosmetics. A preliminary search has revealed no relevant prior marks. Advise your client in the form of a letter what objections (other than earlier rights) are likely to be raised to any UK application your client may file and how you might overcome the objections, if raised. In addition, how might your clients improve their position before filing an application?
- (12 marks)
12. An application for registration of a trade mark before the UK Trade Marks Registry has encountered an objection that it is devoid of distinctive character.
- List the information which you might expect to include in a declaration regarding use of the mark.
  - Other than a declaration regarding the use of the mark, list any other types of evidence you could file to overcome such an objection.
- (12 marks)
13. Your client's application has been opposed by the owner of an alleged earlier right. Explain the procedural steps which will occur if your client decides to defend the application.
- (12 marks)
14. Your client informs you that he intends to adopt a new trade mark and asks for advice on searches. Draft a letter to your client outlining what searches you would recommend and why, including an indication of any limitations to the searches.
- (12 marks)

15. Discuss the inherent registrability and acceptable forms of representation in a UK application of both of the following:
- a) a shape mark; and
  - b) a sound mark.

(12 marks)

