

THE JOINT EXAMINATION BOARD

BASIC UNITED KINGDOM TRADE MARK PRACTICE – PAPER T2

Wednesday, 20th November, 2002

2.00 p.m – 5.00 p.m.

Please read the following instructions carefully. **Time Allowed – THREE HOURS.**

1. You should attempt **eight** questions from Part A and **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. Please note the following:
 - Start each question (but not necessarily each part of each question) on a fresh sheet of paper.
 - Enter the Paper Number, the question number and your Examination number in the appropriate boxes at the top of each sheet of paper.
 - Write on one side of the paper only, within the printed margins using a **BLACK** pen.
 - **DO NOT** use coloured pens or highlighters within the answers – they will not photocopy.
 - **DO NOT** staple or join pages together in any way.
 - **DO NOT** state your name anywhere in the answers.
5. Unless specifically requested answers are **NOT** required in letter form.
6. **NO** printed matter or any other written material may be taken into the examination room. **ALL** mobile phones and electronic aids **must be** switched off and stored away.
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. **NO WRITING OF ANY KIND WILL BE PERMITTED AFTER THE TIME ALLOTTED TO THIS PAPER HAS EXPIRED. At the end of the examination assemble your answer sheets in question number order and place in the WHITE envelope provided.**

This paper consists of four pages, including this page

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PAPER T2 - BASIC UNITED KINGDOM TRADE MARK PRACTICE

Wednesday 20th November, 2002
10.00 a.m. – 2.00 p.m.

Part A

1. State when the following UK registrations will next become due for renewal:
 - a) A registration resulting from an application filed on 2 November 2001 and registered on 15 May 2002.
 - b) A registration resulting from an application filed on 2 October 1994 and registered on 2 June 1996.
 - c) A registration resulting from an application filed on 2 July 1990, claiming priority from a French application filed on 2 February 1990 and registered on 15 January 1993.
 - d) A registration resulting from an application filed on 2 October 1993, converted under the transitional provisions of the 1994 Act on 2 November 1994 and registered on 4 August 1999.
(5 marks)

2. Discuss the inherent registrability of **TWO** of the following:
 - a) DREAM for kitchen fitting and design services.
 - b) HIGHLAND for whisky
 - c) X563 for flowers
 - d) BROWN CARTWRIGHT GRAHAM for legal services
(5 marks)

3. Your client wishes to register the trade mark MANTRA for cars. A preliminary search has revealed the following earlier marks, which were the only relevant marks. Advise your client, in note form, on the relevance of these marks:
 - a) MANTRIA for cars
 - b) MANTRO for vehicle engines
 - c) MANTRA for chocolates
(5 marks)

4. List the points you would raise with your clients on the correct usage of trade marks.
(5 marks)

5. Give two examples of situations where it may be appropriate to divide a UK Trade Mark application.
(5 marks)

6. List five means available to an applicant to overcome a citation of an earlier trade mark under Section 5 of the Trade Marks Act 1994.
(5 marks)

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

8. Draft a letter of consent to the registration of application no. 2156987 COLOURFOLD in respect of "paper and cardboard products" in class 16 of Paper Co Ltd from Card Co. plc, the proprietors of registration no. 654981 COLOURFOAL in respect of "cardboard cut-outs".

(5 marks)

9. Discuss the inherent registrability of **TWO** of the following:

- a) E-MUSIC for downloadable music
- b) NOWAX for ear drops
- c) NEVER CLEAN YOUR SHOWER AGAIN for cleaning products
- d) PREMIER for telecommunication services

(5 marks)

Part B

10. Your client wishes to license a third party to use his registered trade mark. Write notes on what should be included in the license agreement.

(12 marks)

11. Your client wishes to register the Trade Mark AIRDRY for dehumidifying apparatus in the UK. They have already been using the mark for over 10 years. A preliminary full search has revealed no relevant prior marks. Write a letter to your client advising on the objections that are likely to be raised to an application in the UK. Advise the client how those objections might be overcome and how the client might improve their position and prospects before filing the application.

(12 marks)

12. Your clients' trade mark DAMIA for clothing in the UK was registered on 1 June 1990. A trade mark watching service has just notified them of the advertisement in the UK Trade Marks journal of an application for DANIA in respect of children's clothing. Advise your clients on what action, if any, they can take. A detailed discussion of procedural steps before the Registrar is not required.

(12 marks)

13. Your clients' application for registration has encountered an objection that it is devoid of distinctive character.

- a) List the information which you might expect to include in a declaration providing evidence of use of the mark;
- b) Other than a declaration regarding use, list any other evidence you could file to overcome such an objection.

(12 marks)

14. Your client is in negotiations to acquire a UK trade mark registration from a third party. List the enquiries and checks you would carry out at the Trade Marks Registry and explain why those enquiries and checks need to be done.

(12 marks)

15. Discuss the inherent registrability and acceptable forms of representation in a UK Trade Mark Application for the following:

- a) The shape of a toothbrush handle in the form of a crocodile
- b) The smell of lemon for cough syrups

Ignore any issues of design and copyright.

(12 marks)