

THE JOINT EXAMINATION BOARD

Paper T1 Basic United Kingdom Trade Mark Law

Thursday 3rd November 2005

3 p.m. – 5 p.m.

Please read the following instructions carefully. *Time allowed – 2 hours*

1. You should attempt **eight** questions from Part A and **five** questions from Part B.
2. There are a maximum number of five marks allotted to each question answered in Part A and a maximum of twelve marks allotted to each question answered in Part B.
3. Please note the following:
 - (a) Start each question (but not necessarily each part of each question) on a fresh sheet of paper;
 - (b) Enter the Paper number (T1), the question number and your Examination number in the appropriate boxes at the top of each sheet of paper;
 - (c) The Scripts are photocopied for marking purposes. Please write with a **dark inked pen** on one side of the paper and only within the printed margins, and do not use highlighters in your answer.
 - (d) Do not staple or join pages together in any way;
 - (e) Do not state your name anywhere in the answers;
 - (f) Write clearly, examiners cannot award marks to scripts that cannot be read;
 - (g) Reasoning should always be given where appropriate.
4. Under the Examination Regulations **you may be disqualified from the examination and have other disciplinary measures taken against you if:**
 - (a) You are found with unauthorised printed matter or other unauthorised material in the examination room;
 - (b) Your mobile phone is found to be switched on;
 - (c) You copy the work of another candidate, use an electronic aid or communicate with another candidate or with anyone outside the examination;
 - (d) You continue to write after being told to stop writing by the invigilators(s).

NO WRITING OF ANY KIND IS PERMITTED AFTER THE TIME ALLOTTED TO THIS PAPER HAS EXPIRED.

5. **At the end of the examination assemble your answer sheets in question number order and put them in the WHITE envelope provided.** Any answer script taken out of the examination room will not be marked.

Paper T1 – Basic United Kingdom Trade Mark Law

Part A

1. List five defences that are available to the infringement of a trade mark registered under the UK Trade Marks Act 1994.
2. On what grounds may a UK trade mark registration be revoked under the UK Trade Marks Act 1994?
3. What provisions exist in the UK Trade Marks Act 1994 for making use of a third party's registered trade mark for the purposes of comparative advertising?
4. What are the requirements for the registration of "shape" marks under Section 3(2) of the UK Trade Marks Act 1994?
5. What are the requirements under Section 32 of the UK Trade Marks Act 1994 for filing a trade mark application?
6. How does the UK Trade Marks Act 1994 define an "earlier trade mark"?
7. List five transactions which are registrable under the UK Trade Marks Act 1994
8. How is "acquiescence" defined in Section 48 of the UK Trade Marks Act 1994?
9. How does the UK Trade Marks Act 1994 define a "trade mark"?

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Part B

10. What constitutes ‘groundless threats’ and what relief is available under Section 21 of the UK Trade Marks Act 1994?
11. Outline the tests set down in the reported case *Sabel BV v. Puma AG* for comparing marks for confusing similarity.
12. Outline the stages of a revocation action before the UK Trade Marks Registry under Section 46(1)(a) and (b) of the Trade Marks Act 1994 and the relevant rules, including in your answer reference to any deadlines and requirements which must be met.
13. What are the elements of passing off? You do not need to mention specific cases.
14. Your client, Easy-Clean Chemicals Limited, advises you that he has been offered a non-exclusive licence by the proprietor of a trade mark which is registered in the UK for ‘detergents’. Describe to your client what general provisions have been made in Section 30 of the UK Trade Marks Act 1994 as to his rights in case of infringement. Your client also queries why the licence needs to be registered.
15. What are the tests set down in the reported case *Canon Kabushiki Kaishi v. Metro Goldwyn-Mayer Inc. (Canon v MGM)* for the comparison of goods and services.