

THE JOINT EXAMINATION BOARD

PAPER T4

ADVANCED TRADE MARK SEARCH

Tuesday 8th November 2005

10.00 a.m. – 1.00 p.m.

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

1. This paper consists of a single question for which there are **100** marks

2. 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 (T4), 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 only and 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.

3. 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 invigilator(s). **NO WRITING OF ANY KIND IS PERMITTED AFTER THE TIME ALLOTTED TO THIS PAPER HAS EXPIRED.**

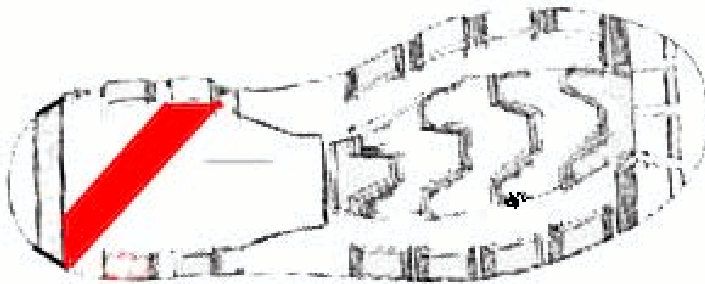
4. **At the end of the examination assemble your answer sheets in order and put them in the WHITE envelope provided.** Any answer script taken out of the examination room will not be marked.

This paper consists of 11 pages including this page.

You act for The Outdoor World Limited, a company incorporated in England, that sells through its nationwide retail stores tents, groundsheets, awnings, tent pegs, tent poles, ropes, sleeping bags, mattresses, pillows, waterproof outerwear, fleece jackets, footwear and headgear. The stores trade under the name THE OUTDOOR WORLD.

In 1993 your client entered into a manufacturing agreement with Field and Hiking Pty Ltd, who began manufacturing the full range of the aforementioned goods for your client. All of the goods have been sold by your client under the name THE OUTDOOR WORLD throughout their stores in the UK since 1993. The manufacturing agreement was terminated in 2001, when the client entered into a new manufacturing agreement with another company to manufacture the same goods.

In March 1996, your client developed a sole for a walking boot incorporating a diagonal red stripe, a picture of which is included below. This stripe was popular with customers and became so distinctive of your client's footwear that it was immediately incorporated into their footwear products. Since 1997, the client has used the device of the sole with its distinctive red diagonal stripe on labels applied to a range of climbing products, specifically footwear, clothing, climbing apparatus and maps and books, all of which are available at their stores.



As part of its leisure range, the client has also recently developed a range of specially lightweight camping products, specifically tents, groundsheets, awnings, tent pegs, tent poles, ropes, and sleeping bags, in relation to which they would like to use the trade mark PEAK. They have made no use of the mark to date.

You are contacted by the new Marketing Manager for The Outdoor World Limited, because he has realised that no searches have ever been conducted to find out whether any of the marks your client is using, or is proposing to use, are free for use and registration. Consequently, you carry out the following searches, the results of which are attached:


1. THE OUTDOOR WORLD –
 - Class 25 - waterproof outerwear, fleece jackets, footwear, headgear;
 - Class 22 - tents, groundsheets, awnings, tent pegs, tent poles, ropes;
 - Class 20 - sleeping bags, mattresses, pillows;
 - Class 35 – the bringing together for the benefit of others of a variety of goods in a camping and outdoor store

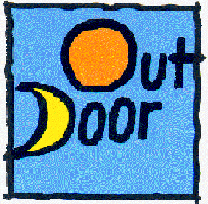

2. Sole device -
Class 28 - climbing apparatus;
Class 25 - footwear, clothing;
Class 16 - maps and books.
3. The word PEAK and Mountain devices
Class 22 - tents, groundsheets, awnings, tent pegs, tent poles, ropes;
Class 20 - sleeping bags.

Advise your client on its freedom to use and register these trade marks in the United Kingdom and on any steps they may take to overcome potential obstacles. Ignore design related issues.

[100 marks]


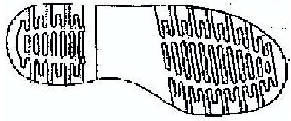
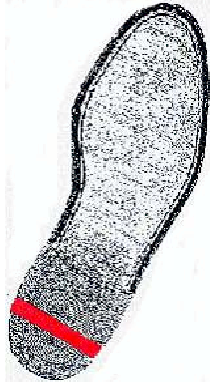
1. THE OUTDOOR WORLD

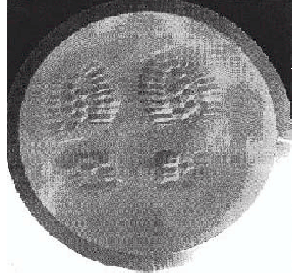

Trade mark No/ Dates	Trade mark	Information	Goods/services	Owner
<p>UK 2329972</p> <p>App: 17 April 2003</p> <p>Reg: 31 October 2003</p>		<p>Conditions: <i>The applicant claims the colours red (Pantone032), blue (Pantone 281) and Process Yellow as an element of the mark.</i></p>	<p>Class 16: Car tax disc holders, stickers for vehicles, car manuals, pens, maps, atlases, travel guides.</p> <p>Class 20: Vehicle number plates, containers (not metal) for liquid fuel, sleeping bags, camping furniture, foam camping mattresses, air-beds, water carriers.</p> <p>Class 22: Tents for camping.</p>	<p>Motor World Ltd Arden House Masons Road Stratford upon Avon Warwickshire CV37 9YW</p>
<p>CTM 3108313</p> <p>App: 28 March 2003</p> <p>Advertised: 2 February 2005</p> <p>Opposed</p>	<p>OUTDOOR LIFE</p>		<p>Class 9: Audio and video recordings; audio and video tapes; audio and video cassettes; CD-ROM's; laser discs; computer software; computer games included in this class; binoculars.</p> <p>Class 16: Magazines; books; newsletters and printed materials.</p> <p>Class 41: Providing on-line magazines (not downloadable) and information services relating thereto via the internet.</p>	<p>Time4 Media, Inc Two Park Avenue New York, 10016 New York United States</p>

Trade Mark No/ Dates	Trade mark	Information	Goods/services	Owner
CTM 870840 App: 8 July 1998 Reg: 19 November 1999			Class 12: Bicycles. Class 16: Printed matter, in particular catalogues and periodicals, including the aforesaid goods on data carriers and on the Internet. Class 20: Sleeping bags. Class 22: Tents, awnings, ropes, tarpaulins, rucksacks. Class 25: Clothing, footwear, headgear. Class 35: Organisation of trade fairs and exhibitions for commercial and advertising purposes.	Messe Friedrichshafen GmbH Meistershofener Str. 25 Friedrichshafen 88045 Germany
CTM 3396413 App: 9 October 2003 Reg: 1 February 2005	OUTDOOR RETAILER		Class 16: Printed matter, in particular magazines and periodicals relating to the outdoor sports industry. Class 35: Organising, presenting and implementing trade shows and exhibitions directed to the outdoor sports industry.	VNU Business Media, Inc 770 Broadway, 8th Floor New York, 10003-9595 New York United States
CTM 141242 App: 1 April 1996 Reg: 22 June 1999		The Trade Mark consists of the words OUTDOOR PRODUCTS contained within an oval device.	Class 18: Backpacks, rucksacks, duffel bags, sport bags, waist packs, fanny packs, and briefcases. Class 25: Clothing articles, belts.	The Recreation Group 1919 Vineburn Avenue Los Angeles 90032 California United States


Trade Mark No/ Dates	Trade mark	Information	Goods/services	Owner
CTM 963702 App: 15 October 1998 Reg: 16 March 2000	The Outdoor Company		Class 18: Backpacks. Class 20: Sleeping bags. Class 25: Clothing, footwear, headgear.	Lafuma Group GmbH Fabrikstraße 35 Bissingen-Teck 73266 Germany
UK B1493392 App: 5 March 1992 Reg: 22 October 1993	OUTDOOR WORLD	Special circumstances: <i>Advertised before acceptance. Section 18(1) proviso.</i> Disclaimer: <i>Registration of this mark shall give no right to the exclusive use, separately, of the words "Outdoor" and "World".</i>	Class 25: Hats, coats, jackets, t-shirts and sweatshirts; hosiery; stockings, sock and tights.	Officially Pro Trademarks, L.P. 2335 S. Campbell Springfield 63708 Missouri United States
M812817 Int reg: 12 July 2002 Advertised in the UK: 17 September 2005	THE ↑UTDOOR WORLD		Class 8: Hand tools and implements; cutlery; knives and hand tools; axes, hatchets, pickaxes; mallets. Class 20: Sleeping bags Class 21: Household or kitchen utensils and containers. Class 22: Tents, awnings, ropes, tent pegs, tent poles, tarpaulins.	Field & Hiking Pty Ltd 116-118 Bexley Road Sydney 1658 New South Wales Australia
UK 2719406 App: 3 May 2005	THE WORLD OUTDOORS		Class 18: Luggage, bags, rucksacks; trekking bags; travelling bags; umbrellas, parasols; backpacks, suitcases, carry-on bags, tote bags, sports bags. Class 28: Sporting and gymnastic goods. Class 35: The bringing together for the benefit of others of a variety of goods, enabling customers to conveniently view and purchase those goods in a retail sports store.	Davis & Smith Limited 146 New Bristol Road Taunton Somerset TA1 4JK



2. SOLE Device


Trade mark no. / Dates	Representation	Information	Goods/services	Owner
CTM 2479444 App: 27 June 2002 Reg: 16 February 2004		The three-dimensional trademark consists of the border and tread of a sole for safety footwear with a red insert.	Class 25: Footwear	Over TEAK S.R.L. Via Trani, 143 Barletta (BA) 70051 Italy
CTM 443077 App: 24 December 1996 Reg: 16 August 2000			Class 14: Horological and chronometric instruments; jewellery. Class 16: Stationery and office requisites (except furniture). Class 18: Goods made of leather and imitations of leather bags, small leather articles, in particular purses, wallets, key cases; hides; trunks and travelling bags, sacks. Class 25: Clothing, in particular sports and leisure wear, knitwear, headgear; clothing accessories, namely headkerchiefs, neckerchiefs (scarves), shawls, hoods, sweat bands, gloves, panty hoses, socks and belts.	GFM GmbH Trademarks An der Ach 3 Seeshaupt 82402 Germany
CTM 43935 App: 1 April 1996 Reg: 19 December 1997		Disclaimer: Other recognizable details on the heel or the sole of the shoe, the characteristics of design and/or shape are not components of the company trademark Description: Company trademark protection is claimed for a red stripe on the heel of a man's shoe. The stripe is horizontal and straight.	Class 9: Safety shoes and soles. Class 18: Articles made of leather or imitation leather; bags; holdalls; satchels; duffel bags; wallets; leather key-holders; luggage, bags, cases and trunks Class 20: Sleeping bags. Class 22: Tents. Class 25: Articles of clothing; footwear, headgear.	Lloyd Shoes GmbH & Co KG Hans-Hermann-Meyer-Str. 1 Sulingen 27232 Germany

Trade mark no. / Dates	Representation	Information	Goods/services	Owner
UK 2252204 App: 9 November 2000 Reg: 18 May 2001		Description: the mark consists of an image of the footprints made by Neil Armstrong on the surface of the moon.	Class 9: Computer programs, software, carried by magnetic recording media, optical recording media, and semi-conductor storage media, including tape cassettes and CD-ROM discs; protective clothing, safety footwear. Class 16: Publications relating to business consultancy, business management and organisation, book-keeping, personnel management and business reports, including books, magazines, newsletters and newspapers.	Harris Walters Ltd Walcote Place High Street Winchester SO23 9AP
UK 2555422 App: 9 November 2004 (Pending)		The applicant claims the colour Yellow Pantone 210C as an element of the mark	Class 9: Credit, debit, charge, payment and memory cards useable only for transactions over the Internet; credit, debit, charge, smart, payment and memory cards, automated teller machines (ATMs) Class 25: Clothing, footwear, headgear. Class 36: Banking services; Internet banking; home banking; cash dispensing services Class 38: Telecommunications; electronic mail services; providing user access to the Internet. Class 42: Computer programming.	Hedgehog Developments Ltd 4th Floor 17 Waterloo Place London SW1Y 4AR

3. PEAK AND MOUNTAIN DEVICES

Trade mark no. / Dates	Trade mark	Information	Goods/services	Owner
<p>UK 1477741</p> <p>App: 26 September 1991</p> <p>Reg: 26 November 1993</p>		<p>Disclaimer: Registration of this mark shall give no right to the exclusive use separately of the numeral "1" and the word "peak".</p> <p>Special Circumstances: Advertised before acceptance. Section 18(1) (proviso).</p> <p>Honest Concurrent Use: Use claimed from the year 1982. Section 12(2).</p>	<p>Class 11: Lanterns and lamps; stoves and ranges; parts and fittings for all the aforesaid goods; all included in Class 11.</p> <p>Class 21: Cooking utensils; containers for food and drink, but not including containers of metal; cups, mugs, pots, pans, plates, bowls; parts and fittings for all the aforesaid goods; all included in Class 21.</p>	<p>The Coleman Company, Inc. 3600 North Hydraulic Avenue, Wichita, Kansas 67219, United States of America</p>
<p>CTM 29132</p> <p>App: 1 April 1996</p> <p>Reg: 3 February 1998</p>	<p>PEAK 1</p>		<p>Class 8: Cutlery, namely knives, spoons, forks.</p> <p>Class 11: Stoves and lanterns.</p> <p>Class 18: Packs, backpacks, travel bags.</p> <p>Class 20: Sleeping bags and sleeping mats.</p> <p>Class 21: Food and drink containers, cooking utensils, plates, pots and pans.</p>	<p>The Colman Company, Inc. 3600 North Hydraulic Avenue Wichita Kansas 67219 United States of America</p>

Trade mark no. / Dates	Trade mark	Information	Goods/services	Owner
CTM 714337 App: 2 January 1998 Reg: 16 March 1999	 PEAK		Class 22 Tents, nets, awnings, tarpaulins and ground cloths.	Mountain International Limited c/o Conyers, Dill & Pearmann P.O. Box HM 666 Hamilton HM CX BERMUDA
UK 2348709 App: 14 May 2004 Advertised: 1 August 2005	PEAKLAND		Class 20: Camping furniture, furniture for camping, camp beds, air mattresses being inflatable; inflatable mattresses, other than for medical use.	W. Yeomans Ltd The Warehouse Markham Road Chesterfield Derbys S40 1SU
UK 1357849 App: 16 September 1988 Reg: 30 October 1992	 PEEK		Class 8: Hand tools and implements (hand operated); cutlery; side arms; razors. Class 18: Articles made of leather or imitation leather; bags; back packs, satchels, haversacks, knapsacks, rucksacks, trunks, valises. Class 25: Trousers, shorts, skirts, dresses, jackets, shirts, tee-shirts, sweatshirts, blouses, jumpers, cardigans, coats, jumpsuits, tracksuits, overalls, belts, jeans, jog pants, blousons, underwear, ski wear, gilets, footwear, socks and headgear.	Peek Limited 207 Radley Road Abingdon Oxon OX14 3XA
CTM 2778777 App: 18 July 2002 Reg: 16 March 2004	PIC		Class 5: Preparations for destroying vermin, including parasites and moths, with a chemical, biochemical and genetically-engineered base; fly catching paper, fungicides; pesticides; disinfectants; including all the aforesaid goods in spray form; insect traps in the form of tree-sap bands and sticky boards and strips, including moth paper. Class 21: Mechanical vermin traps, fly-catching paper; insect-catchers, insect traps with sticky surfaces; bait boxes, fly swatters, mousetraps.	The Recreation Group 1919 Vineburn Avenue Los Angeles 90032 California United States

Trade mark no. / Dates	Trade mark	Information	Goods/services	Owner
UK 1320236 App: 29 August 1987 Reg: 22 June 1990	PEAT		Class 35: Mail order services; the bringing together for the benefit of others of a variety of goods enabling customers to conveniently view and purchase those goods.	Peat plc Bridge House Basted Borough Green Sevenoaks Kent TN15 8PS
UK 2392064 App: 16 May 2005 Awaiting advert			Class 20: Sleeping bags; beds and cots; air beds, air cushions, air pillows, air mattresses; roll mats, pillows, mattresses; furniture, tent pegs, tent poles. Class 21: Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes. Class 22: Tents; ground sheets, fly sheets; ropes and lines; trawl fishing nets, bags in the nature of sacks for the transport and storage of materials in bulk, boat covers, waterproof coverings for camps, tarpaulins, clothes-lines, hammocks, rope ladders, marquees (textile).	The Mansard Group Limited Mansard Close Westgate Industrial Estate Weedon Road Northampton NN5 5DL