

**THE JOINT EXAMINATION BOARD**

**PAPER T5**

**Wednesday 9<sup>th</sup> November 2005**

**3.00pm – 5.00pm**

*Please read the following instructions carefully. Time Allowed – **TWO 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. If more questions than necessary are attempted they will be marked in the order presented and answers over the required number will be ignored.
3. Please note the following:
  - a. Enter the Paper Number (T5), and your Examination number in the appropriate boxes at the top of each sheet of paper;
  - b. It helps copying and marking if you number the pages of your answer; this can be done in the 'question number' boxes,
  - 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.
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 invigilator(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.

This paper consists of 5 pages including this page.

**PART A (Answer eight questions)**

1. Name five EU jurisdictions where relative grounds will not be raised as objections to national trade mark applications.  
(5 marks)
2. In each of the following countries indicate whether or not it is necessary to file a Power of Attorney to support a trade mark application:  

Brazil	New Zealand
China	South Africa
Hong Kong	Singapore
Japan	Taiwan
Mexico	Thailand

  
(5 marks)
3. In relation to trade marks, what are the minimum requirements to claim priority under the Paris Convention, and what are the advantages of claiming priority?  
(5 marks)
4. Which of
  - (a) the Paris Convention
  - (b) the Madrid Protocol
  - (c) the Madrid Agreementdo each of the following countries belong to - Taiwan, South Africa, China, New Zealand, Germany?  
(5 marks)
5. In relation to trade marks and the free movement of goods, write brief notes on the concept of "specific subject matter".  
(5 marks)
6. What advice would you give your UK client who wants to file a word mark as a trade mark in China in several classes?  
(5 marks)

7. In relation to trade mark registrations, give the non-use period and the earliest it can start in each of the following countries -

- (a) Brazil
- (b) Switzerland
- (c) Canada
- (d) Japan
- (e) Taiwan

(5 marks)

8. Outline the bases for filing an application for registration of a trademark on the US Federal register.

(5 marks)

9. For each of the following countries indicate whether it is mandatory or only recommended to record a trade mark licence.

- (a) Japan
- (b) China
- (c) Thailand
- (d) Hong Kong
- (e) Singapore

(5 marks)

**PART B (Answer five questions)**

10.   a. What is a "prior rights declaration"?
- b. In what circumstances would you expect to encounter one?
- c. What provisions would you expect it to contain?
- (12 marks)
11.   **In relation to the Madrid Agreement and Madrid Protocol, write notes on "central attack".**
- (12 marks)
12.   **In the context of trade marks, discuss the various Affidavits and whether additional evidence is required to be filed post-registration in the USA, and the consequences of filing/not filing these items.**
- (12 marks)
13.   (a)(i) **Who may submit Observations to OHIM and when must they be submitted?**
- (a)(ii) **What status do such Observations have?**
- (b)(i) **Who may file opposition to a Community Trade Mark application?**
- (b)(ii) **What is the time limit for filing opposition, is the period extendable and from what date does it run?**
- (c)   **On what grounds may a Community Trade Mark registration be revoked?**
- (12 marks)
14.   **Set out:**
- (a) **the trade mark cancellation procedure in Mexico, and**
- (b) **the trade mark opposition procedure in Canada.**
- (12 marks)

15. Your UK client is interested in securing protection for his trade mark in a number of different EU countries but is confused about the number of routes available to him.

Write notes comparing strategies for filing nationally, filing as a Community Trade Mark and filing for an International Registration under the Madrid Protocol, including the advantages and disadvantages of each system.

*(12 marks)*