

THE JOINT EXAMINATION BOARD
PAPER T4 ADVANCED TRADE MARK SEARCH

Tuesday 11th November 2008

10.00 a.m. – 1.00 p.m.

*Please read the following instructions carefully. **Time Allowed – 3 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 state your name anywhere in the answers;
 - e. Write clearly, examiners cannot award marks to scripts that cannot be read;
 - f. 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 question number order and put them in the WHITE envelope provided.** Do not staple or join your answer sheets together in any way. Any answer script taken out of the examination room will not be marked.

This paper consists of 15 pages including this page.

T4 2008 - QUESTION

You act for Harry Porker Limited of Ross-on-Wye, Herefordshire. Your client opened its first and only pub and restaurant in Ross-on-Wye under the name HARRY PORKER in 1977.

In 2002 your client commenced selling a range of sausages from its establishment in Ross-on-Wye using the trade mark HARRY PORKER. At first your client only sold these sausages over-the-counter but very quickly your client established a significant local reputation, and by 2004 it was selling its sausages by mail order and to independent food stores throughout the United Kingdom.

The client's pub, restaurant and sausage business had become so successful that in May 2005, it decided that it should have a logo created. Lansdowne Design Agency Ltd of Birmingham was appointed to design the new logo. They came up with a design of three witches around a cauldron. However, your client was not entirely happy with the design and so did not adopt the new design.

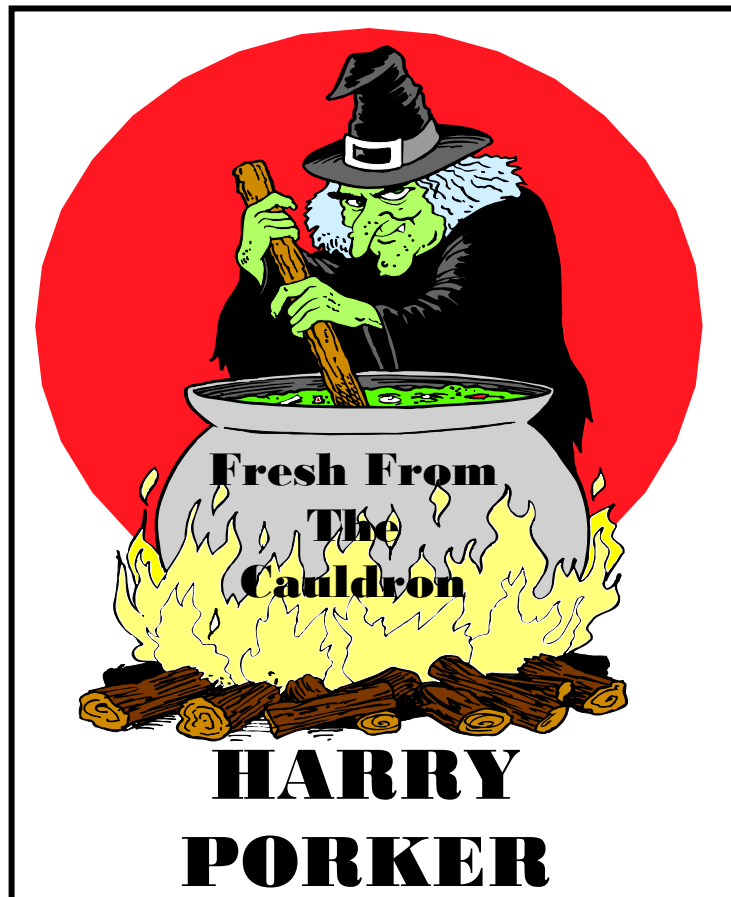
In November 2007 your client published the "Harry Porker" cookery book and expanded its business to produce meat pies and other meat products. These goods have been sold throughout the United Kingdom since their introduction.

At the same time, your client decided that it should look again at having a new slogan and logo and once again instructed Lansdowne Design Agency Ltd. They came up with the slogan FRESH FROM THE CAULDRON! and the logo shown below. The client first commenced using these features, in the form shown below, on its packaging for sausages and meat pies in March 2008.

Write a letter to your client advising on its freedom to use and register the following trade marks in the UK for the following goods and services:-


1. HARRY PORKER – Class 16: Cookery Books; Class 29: Sausages, meat pies and meat products; Class 35: Retail services; Class 43: Restaurant, pub and bar services.
2. FRESH FROM THE CAULDRON! – Class 29: Sausages, meat pies and meat products; Class 35: Retail services; Class 43: Restaurant, pub and bar services.
3. The HARRY PORKER Cauldron Device – Class 29: Sausages, meat pies and meat products; Class 35: Retail services; Class 43: Restaurant, pub and bar services.

indicating any steps which they may take to overcome any potential difficulties revealed in the attached searches.






[100 marks]



1. HARRY PORKER



Trade mark No./ Dates	Trade mark	Information	Goods/services	Owner
UK 1418031 App: 17 Mar 1990 Reg: 13 Dec 1991	HARRY RAMSDEN	<i>Advertised before acceptance by reason of special circumstances. Section 18(1) proviso.</i>	Class 29: Meat, fish, poultry; fish products, mollusca and crustacea; prepared meals and snack foods and constituents therefor; meat products; preserved dried and cooked fruits and vegetables; potato chips and fries; all included in Class 29.	Harry Ramsden's (Restaurant) Ltd 169 Euston Road London NW1 2AE
CTM 229815 App: 17 Apr 1996 Reg: 24 Jul 2001		<i>The owner has opted into the UK notification system for potentially conflicting later marks.</i>	Class 29: Snacks in the form of cakes and pastries, consisting predominantly of meat, meat goods, cheese, cheese preparations, jams, fruit and nuts; jams, fruit sauces. Class 30: Confectionery; cakes and pastries, in particular bread, cakes (cookies), pastry snacks, pastries, crisp bread; cereal preparations, in particular cereal chips and cereal chip mixtures; muesli mixtures, muesli bars.	Harry-Brot GmbH Kiebitzweg 15-19 Schenefeld 22869 Germany
UK 2423016 App: 25 May 2006 Reg: 26 Jan 2007	HARRY BANG BANGS Harry Bang Bangs HARRY-BANG-BANGS HARRY BANG-BANGS harrybangbangs HARRYBANGBANGS	<i>Series of 6 marks.</i>	Class 16: Paper, cardboard and goods made of these materials; printed matter; comic strips; newspapers, magazines and periodicals; cards; postcards; paper bags; Class 43: Services for providing food and drink; café and restaurant services; temporary accommodation; child care services; day care services for children; consultancy services relating to the provision of child care facilities.	Harrybangbangs.com Ltd 123 Milton Road Hanwell W7 1LG

<p>CTM 3426831</p> <p>App: 22 Oct 2003 Reg: 6 Jun 2005</p>	<p>HARRY POTTER AND THE GOBLET OF FIRE</p>	<p><i>The owner has opted into the UK notification system for potentially conflicting later marks.</i></p>	<p>Class 16: Paper, cardboard and goods made from these materials, not included in other classes; printed matter; photographs; stationery; crepe paper, paper table cloths, paper cake decorations; all the aforesaid being printed matter.</p> <p>Class 28: Games and playthings; gymnastic and sporting articles not included in other classes; toys and sporting goods, namely, action figures and accessories therefor; plush toys.</p> <p>Class 29: Meat, fish, poultry and game; meat extracts; canned pasta foods; processed and dried meat; sea food; foodstuffs in the form of snack foods; snack foods made from meat; snack foods made from pre-cooked vegetables; corn snacks (other than confectionery); potato snacks; potato chips; potato crisps; prepared meals, prepared cooked meals, prepared frozen meals, all included in class 29.</p> <p>Class 30: Flour and preparations made from cereals, bread, pastry and confectionery, ices; salt, mustard; vinegar, sauces (condiments); cookies, frozen confections, crackers, confectionery chips, malt for food; soybean malt; malt biscuits; sugar confectionery; biscuits and bread; coffee and table-based beverages, cocoa and cocoa-based beverages; meat tenderisers for household purposes, prepared meals, prepared cooked meals, prepared frozen meals, all included in Class 30.</p>	<p>Warner Bros. Entertainment Inc 4000 Warner Blvd. Burbank, 91522 California United States</p>
<p>UK 2006133</p> <p>App: 30 Dec 1994 Reg: 17 Nov 1995</p>	<p>HARRY HADDOCK</p>		<p>Class 42: Hotel, restaurant, cafe, bar, public house, nightclub, accommodation and catering services.</p>	<p>Spirit Group Ltd Jubilee House Second Avenue Burton-upon-Trent Staffordshire DE14 2WF</p>



<p>CTM 6026108</p> <p>App: 21 Jun 2007 Reg: 22 May 2008</p>			<p>Class 29: Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; edible oils and fats.</p> <p>Class 30: Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread; snacks made from cereals; biscuits, pastry and confectionery; chocolate and chocolate-based products or products containing chocolate; bakery products; snacks and sweet snacks; preparations for making cakes; pizzas and preparations for pizzas; salt, mustard; vinegar, sauces (condiments); spices.</p>	<p>Harry's France (S.A.S) Rue du Grand Pré Châteauroux 36000 France</p>
<p>UK 1340808</p> <p>App: 8 Apr 1988 Date claimed under International Convention: 28 Oct 1987 Reg: 12 Apr 1991</p>		<p><i>Registration of this mark shall give no right to the exclusive use of the words "American Burger".</i></p>	<p>Class 30: Bakery products included in Class 30.</p>	<p>Harry's France (S.A.S) Rue du Grand Pré Châteauroux 36000 France</p>


<p>CTM 3850898</p> <p>App: 27 May 2004 Advertised: 8 Mar 2005</p> <p>Opposed by Harry's New York Bar (Société Anonyme).</p>			<p>Class 43: Services for providing of food and drink; supplying of food and drink in connection with restaurant-, pub- and café activities.</p>	<p>Harrys Pubar AB Skreavägen 5 Falkenberg 311 23 Sweden</p>
<p>CTM 3378031</p> <p>App: 30 Sep 2003 Advertised: 2 Sep 2004</p> <p>Opposed by Harrys Pubar AB</p>	<p>HARRY'S BAR</p>		<p>Class 29: Meat; fish; poultry and game; meat extract; preserved fruits and vegetables; jellies, jams, fruit sauce; jams and jellies; Jams; jams and marmalade; fruit sauces; eggs; milk and dairy products; butter; cheese; edible oils and fats; prepared cooked meals (except prepared cooked meals for animals); milk-based beverages; instant drinks based on milk;yoghurts.</p> <p>Class 30: Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; honey, treacles; salt, mustard; vinegar, sauces (condiments); relish; ice; coffee, tea or cocoa-based preparations for making beverages.</p> <p>Class 32: Non-alcoholic beverages and preparations for making beverages (except coffee, tea or cocoa-based beverages and milk beverages); beers; mineral and aerated waters; fruit drinks and fruit juices; syrups.</p> <p>Class 33: Alcoholic beverages. Class 43: Establishments selling beverages, namely cafés, cafeterias, bars, restaurants, self-service restaurants, snack bars.</p>	<p>Harry's New York Bar (Société Anonyme) 5 Rue Daunou Paris 75002 France</p>


<p>UK 2487695</p> <p>App: 16 May 2008 Advertised: 11 July 2008</p>		<p><i>Series of 2 marks.</i></p>	<p>Class 29: Meat, fish, poultry and game; pork; tripe; sausages; burgers; sauerkraut; sea-cucumbers; shellfish; seafood; liver; anchovy; caviar; crustaceans; charcuterie; black pudding; bouillon; meat extracts; broth; soup.</p> <p>Class 30: Meat pies; meal; meat tenderizers; pies; pizzas; quiches; ravioli; sandwiches; sausage binding materials; soya flour; soya sauce; spaghetti; spring rolls; starch for food; sushi; sweeteners.</p>	<p>H J Butchers LLP Sandhills Business Park Sandhills Lane Liverpool L5 9ZS</p>
<p>UK 1496795</p> <p>App: 8 Apr 1992 Reg: 14 Jan 1994</p>	<p>PORK FARMS</p>	<p><i>Advertised before acceptance by reason of special circumstances. Section 18(1) proviso.</i></p>	<p>Class 29: Meat; meat products; products containing meat; sausages; bacon; ham; pork; cooked meats; salads; potted beef; faggots; drippings; eggs; black pudding; prepared meals and snacks containing meat; puddings; scotch eggs; poultry; all included in Class 29.</p> <p>Class 30: Pastry; eccles cakes; cakes; pastries; fruit tarts and pies; tarts; pies; pasties; sausage rolls; cheese and onion pasties; pizza pastry and pizzas; all included in Class 30.</p>	<p>Pork Farms Ltd 54 Jermyn Street London SW1Y 6LX</p>
<p>UK 2147516</p> <p>App: 8 Dec 1997 Reg: 25 Apr 1999</p>	<p>THE HAIRY PORKER</p> 		<p>Class 42: Provision and service of food and drink; catering, restaurant, public house, bar and wine bar services.</p>	<p>William John Byrne 68 The Avenue Minehead Somerset TA24 5AZ</p>

<p>UK 1412108</p> <p>App: 30 Jan 1991 Reg: 6 Dec 1992 Lapsed: 30 Jan 2008</p>		<p><i>Registration of this mark shall give no right to the exclusive use, separately, of the words "Master" and "Porker".</i></p>	<p>Class 29: Pork and pork extracts; meat products being wholly or substantially wholly of pork; all included in Class 29.</p>	<p>Danish Crown AmbA Marsvej 43 8900 Randers Denmark</p>
<p>UK 2194422</p> <p>App: 14 Apr 1999 Reg: 22 Oct 1999</p>			<p>Class 29: Meat and poultry products.</p>	<p>Korker Sausages Ltd Branns Drive High Street Rolvenden Cranbrook Kent TN17 4LN</p>



2. FRESH FROM THE CAULDRON




Trade mark No./ Dates	Trade mark	Information	Goods/services	Owner
CTM 6688568 App: 22 Feb 2008 Advertised: 14 Jul 2008		<p><i>Description of colours claimed: Green, cream and gold.</i></p> <p>The owner has opted into the UK notification system for potentially conflicting later marks.</p>	<p>Class 29: Dairy products, in particular, milk, milk products, milk powder, cream, yoghurt, butter, butter concentrate and products made from butter, cheese and cheese products, cured cheese and cured cheese products, in particular made by using herbs; edible oils and fats.</p>	The Irish Dairy Board Co-operative Limited Grattan House Mount Street Lower, Dublin2 , Ireland
UK 2225638 App: 14 Mar 2000 Reg: 4 Jul 2003		<p><i>The applicant claims the colours green and yellow as an element of the mark.</i></p>	<p>Class 29: Meat, fish, poultry, seafood and game; prepared meals and snack foods included in Class 29; fruits and vegetables all being canned, preserved, frozen, dried or cooked; dairy products; soups, jams, eggs.</p> <p>Class 30: Frozen foods, chilled foodstuffs; prepared meals, instant meals, snack foods in Class 30; buns, pies, muffins, noodles, rice, pasta and foodstuffs made there from; desserts; tea, coffee, chocolate, non-medicated confectionery, cakes, biscuits, bread, ice cream and frozen confectionery.</p>	Aramark Limited Aramark House, Honey End Lane, Tilehurst, Reading, Berkshire, RG30 4QL


<p>UK 1466465</p> <p>App: 4 Jun 1991 Reg: 5 Mar 1993</p>			<p>Class 29: Tofu and food products incorporating tofu; soya beans and food products incorporating soya beans; prepared meals and snacks, and constituents for prepared meals and snacks; pate; all included in Class 29.</p>	<p>Marlow Foods Limited Station Road, Stokesley, Middlesbrough, Cleveland, TS9 7AB</p>
<p>CTM 2847101</p> <p>App: 5 Sep 2002 Advertised: 31 Mar 2003 Opposed by Marlow Foods Ltd.</p> <p>Withdrawn</p>	<p>FIZZING CAULDRON</p>		<p>Class 29: Yogurt; desserts comprising of yogurt and honey, yogurt and fruit, yogurt and nuts, yogurt and cereals, all made wholly or principally of yogurt; yogurt drinks, drinks containing yogurt and fruit juice; dairy products; dairy desserts; preparations all for use as desserts and puddings; milk; milk products; milk beverages; drinks containing fruit juice and yogurt; jellies; jelly desserts; fromage frais, ready to eat snack foods; snack dips; spreads; meat, fish, poultry and game products; fruit, vegetable and nut products; potato products, potato based snack foods; potato crisps and chips; dips; salads; pre-prepared salads.</p> <p>Class 30: Desserts, all made wholly or principally of rice; desserts and puddings; ice cream; frozen yogurts; croissants; ready to eat snack foods all being packaged with dips; snacks; snack dips; bread and pastry products; tortilla snacks; snack foods made from corn; salted snacks; pretzels, corn and taco chips, burritos, enchiladas, pancakes, corn chips, tortilla chips, prawn crackers, crackers; snacks made from extruded potato/maize flour, flour based chips; biscuits, cookies; cereals and cereal preparations; cereal bars; chutney.</p>	<p>Molkerei Alois Muller GmbH & Co. Zollerstr. 7, Aretsried 86850 Germany</p>

<p>UK 2231904 App: 9 May 2000 Reg: 27 Oct 2000</p>	<p>VALLEY FRESH</p>		<p>Class 5: Medicated mouthwash. Class 30: Mouth-freshening sweets; chewing gum.</p>	<p>Neena Selli (Mrs) 18 Belmore Ave, Hayes, Middlesex UB4 0RB</p>
<p>UK 2475564 App: 20 Dec 2007 Reg: 16 May 2008</p>			<p>Class 29: Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats, prepared meals and snacks whose main ingredients are proper to this class. Class 30: Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; bread, pastry and confectionery, ices; honey, treacle; vinegar, sauces (condiments); prepared meals and snacks whose main ingredients are proper to this class.</p>	<p>Produce World c/o Charlotte Falkingham, Station Bridge, Yaxley, Peterborough, PE7 3EL</p>
<p>CTM 245860 App: 22 Jan 2001 Reg: 6 Jul 2005</p>	<p>CAULDRON</p>		<p>Class 29: Foods and food products; chilled foods; frozen foods; convenience foods; chilled and frozen convenience foods; prepared meals and snacks; chilled ready meals; constituents of prepared meals and snacks and of chilled ready meals; tofu and food products incorporating tofu; soya beans and food products incorporating soya beans; paté. Class 30: Foods and food products; chilled foods; frozen foods; convenience foods; chilled and frozen convenience foods; prepared meals and snacks; chilled ready meals; constituents of prepared meals and snacks and of chilled ready meals. Class 43: Services for providing food and drink; temporary accommodation.</p>	<p>Marlow Foods Limited Station Road, Stokesley, Middlesbrough, Cleveland, TS9 7AB</p>

3. CAULDRON Device

Trade mark No/ Dates	Trade mark	Information	Goods/services	Owner
CTM 2540383 App: 18 Jan 2002 Reg: 21 May 2003		<i>Indication of colour: Red, black, white.</i>	Class 43: Accommodation and catering for guests; outside catering; hotel services; canteens; catering services; bar services; services for providing food and drink in fast-food restaurants, snack bars and self-service restaurants;cafés.	Jacob Hartge Georgsplatz 6 Hamburg 20099 Germany
UK 2293950 App: 27 Feb 2002 Reg: 2 Aug 2002			Class 29: Meat, fish, poultry, and game; meat extracts, preserved, dried and cooked fruits and vegetables, jellies, jams, fruit sauces, eggs, milk products, edible oils and fats. Class 30: Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee, flour and preparations made from cereals, bread, pastry and confectionery, ices, honey, treacle, yeast, baking powder, salt, mustard, vinegar, sauces (condiments), spices, ice. Class 32: Beers, mineral and aerated waters and other non alcoholic drinks, fruit drinks and fruit juices, syrups and other preparations for making beverages.	Garfield C Davidson 239 Addington Road Selsdon South Croydon Surrey CR2 8LQ

<p>CTM 4429077</p> <p>App: 9 May 2005 Reg: 12 Mar 2007</p>			<p>Class 29: Prepared meals; broth; soup.</p>	<p>Lansdowne Design Agency Ltd 39 Fleet Street Birmingham B3 1JP United Kingdom</p>
<p>CTM 4429081</p> <p>App: 9 May 2005 Reg: 18 Feb 2008</p>			<p>Class 29: Meat, fish, poultry and game; meat extracts and meat preserves; frozen and chilled products made from meat, fish, poultry and/or game; prepared meals; snack foods; foodstuffs consisting wholly or principally of meat, fish, poultry, game, edible fats, potatoes, fruit, vegetables, nuts, pulses, soya and/or cheese; instant meals; prepared cooked foods; dips.</p>	<p>HP Foods Limited South Building, Hayes Park, Hayes UB4 8AL</p>
<p>CTM 4431888</p> <p>App: 11 May 2005 Reg: 24 May 2006</p>			<p>Class 30: Sauces; spices; pastries; sausage rolls; hot dogs; seeded buns, rolls and breads; savoury flour based snack foods.</p>	<p>Diageo North America, Inc. 801 Main Avenue, Norwalk, Connecticut 06851-1127, United States of America</p>

<p>CTM: 6572995</p> <p>App: 11 Jan 2008 Advertised: 23 Sep 2008</p>			<p>Class 29: Meat, fish, seafood, poultry and game; dairy products; pâtés, pastes, jellies, extracts and food products containing or derived from meat, fish, seafood, poultry and game; nutritionally-balanced prepared meals in this class</p> <p>Class 30: Pre-packed prepared meals containing any ingredients appropriate to this class and whether chilled or frozen; pate, pies and puddings; nutritionally-balanced prepared meals in this class; prepared meals and snacks in this class; condiments and sauces (condiments); pastries, pate, pies and puddings</p> <p>Class 35: Retail services, including retail store, mail order and electronic shopping retail services, all connected with the sale of dietetic substances, food for babies, nutritional supplements, vitamins, food and beverages for medical use, food and beverages not for medical or veterinary use, confectionery; advertising and promotion of the aforementioned goods via a mail order catalogue and/or retail outlet and/or internet web-site; business information services; administrative processing and organising of mail order services; provision of information and advice to the prospective purchasers of commodities and goods; information, assistance and advice relating to the aforesaid services.</p>	<p>Lansdowne Design Agency Ltd 39 Fleet Street Birmingham B3 1JP United Kingdom</p>
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