

THE JOINT EXAMINATION BOARD
PAPER T4 ADVANCED TRADE MARK SEARCH

Tuesday 10th November 2009

10.00 a.m. – 1.00 p.m.

*Please read the following instructions carefully. **Time Allowed – 3 HOURS***

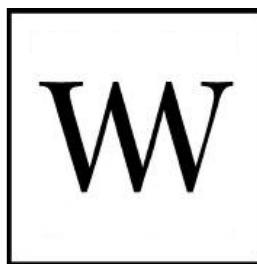
1. This paper consists of a single question for which there are **100 marks**.
2. Please note the following:
 - a. Start each question (but not necessarily each part of each question) on a fresh sheet of paper;
 - b. Enter the Paper Number (P2), the question number and your Examination number in the 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 14 pages including this page.

T4 2009 - QUESTION

You act for Wallworth Limited of Walworth, London SE17, which was incorporated in England on 12 January 2008. John Walker and Tony Ward are the directors of this company. They initially commenced trading in partnership as WW Furnishings in June 1996, until they decided to incorporate and carry on their business through Wallworth Limited.

Since June 1996, WW Furnishings, now Wallworth Limited has made continuous and extensive use throughout the United Kingdom of a WW logo, as shown below, for wallpaper paste, wallpaper, curtains for windows, fittings for curtains, friezes (textile and non-textile) and wall hangings (textile and non-textile).



In January 2008, Wallworth Limited also started using the trade mark WALLWORTH for wallpaper paste, wallpaper, curtains for windows, fittings for curtains, friezes (textile and non-textile) and wall hangings (textile and non-textile). Extensive use has been made of this trade mark throughout the United Kingdom since January 2008.

In March 2008, Wallworth Limited decided to expand its business and granted an exclusive licence to a Swiss company, Fritz Brun AG of Jona, Switzerland to manufacture and sell a range of paints. The paints carry both the trade marks WALLWORTH and the WW logo.

In December 2008, Wallworth Limited commenced a local painting, interior decorating and wallpapering service within 15 miles of its office in south-east London using the trade mark WALLWORTH. The WW logo has not been used for these services.

Your client has recently decided to launch an exclusive range of paints, again through its Swiss licensee. The paints will be launched in January 2010 and will bear the trade mark DELUXE. Your client commissioned a UK design agency, PPF London, to design a number of formats in which the trade mark could be used, one of which consists of the word DELUXE set in a red circle. They have not yet selected the final design.

Write a letter to your client advising on its freedom to use and register the following trade marks, indicating any steps which they may take to overcome potential difficulties.

WALLWORTH (word mark) for wallpaper paste, paints, wallpaper, curtains for windows, fittings for curtains, friezes (textile and non-textile) and wall hangings (textile and non-textile), painting and decorating services.

The WW logo (as shown above) for wallpaper paste, paints, wallpaper, curtains for windows, fittings for curtains, friezes (textile and non-textile) and wall hangings (textile and non-textile).

DELUXE (word mark) for paints;


A search in the classes listed below revealed the trade marks now listed in the tables:-


Class 1 - Wallpaper paste;
Class 2 - Wall coatings, paints;
Class 6 - Metal hooks for wall hangings;
Class 20 - Non-metallic articles for hanging curtains, fittings for curtains;
Class 24 - Wall hangings of textile, friezes (textile wall hangings), curtains;
Class 26 - Lace for use on curtains;
Class 27 - Wallpaper, wall hangings (not of textile), non-metallic hooks for wall hangings, friezes (non-textile wall hangings);
Class 37 - Wallpapering, painting and interior decorating services.



[100 marks]

1. WALLWORTHS

Trade mark No./ Dates	Trade mark	Information	Goods/services	Owner
UK 1252904 App: 23 Oct 1985 Reg: 23 Oct 1986	WOOLWORTHS	<i>Assignment from Woolworths plc to Littlewoods Limited recorded 17 Feb 2009.</i>	<p>Class 16: Paper, paper articles, cardboard, cardboard articles, wrapping and packaging materials, all included in Class 16; books, printed matter, stationery, greeting cards, posters, pictures, artists' materials (other than colours or varnish), paintbrushes, adhesives (stationery).</p> <p>Class 18: Leather, imitation leather and articles included in Class 18, made from these materials; articles of luggage, briefcases, bags included in Class 18.</p> <p>Class 24: Household textile articles included in Class 24; curtains made of textile or plastics materials; travelling rugs (lap robes); bed covers and table covers; duvets, quilts.</p> <p>Class 26: Lace, embroidery, ribbons and braids, all being textile smallwares; buttons, hooks and eyes, pins and needles, all included in Class 26; clothing fasteners, badges (for wear), none of precious metal or coated therewith.</p> <p>Class 27: Wallpaper; carpets, rugs (floor coverings), mats included in Class 27, matting, linoleum, coverings for existing floors, wall hangings (non-textile).</p> <p>Class 31: Plants, seeds and bulbs, all included in Class 31; foodstuffs for animals; fresh fruits and fresh vegetables.</p>	Littlewoods Limited First Floor, Skyways House, Speke Road, Speke, Liverpool, L70 1AB



<p>UK 1275463</p> <p>App: 1 Oct 1986 Reg: 7 Sep 1990</p>	<p>WOOLWORTHS</p>	<p><i>Assignment from Woolworths plc to Littlewoods Limited recorded 17 Feb 2009.</i></p>	<p>Class 39: Storage services and delivery services, all for goods; services for the rental of warehouses; freighting; all included in Class 39.</p> <p>Class 42: Beauty salon services; hairdressing salon services; catering services; lithographic printing services; computer programming services; rental of computers; gardening services; photography services (other than by microfilming); interior design services; day nurseries; all included in Class 42.</p>	<p>Littlewoods Limited First Floor, Skyways House, Speke Road, Speke, Liverpool, L70 1AB</p>
<p>UK 1364882</p> <p>App: 26 Nov 1988 Reg: 8 Jun 1990</p>	<p>ODDJOB from WOOLWORTHS</p>	<p><i>Assignment from Woolworths plc to Littlewoods Limited recorded 17 Feb 2009.</i></p>	<p>Class 2: Paints; varnishes (other than insulating varnish); lacquers; preservatives against rust and against deterioration of wood; putty; paint thinners; paint thickeners; dyes (not for laundry or toilet use); fillers and stains; all included in Class 2.</p>	<p>Littlewoods Limited First Floor, Skyways House, Speke Road, Speke, Liverpool, L70 1AB</p>
<p>M 622813</p> <p>Reg: 16 Dec 1993 Protected UK: 1 Jun 2004</p> <p>Office of origin: Germany Basic reg: 2048593, 3 Nov 1993</p>		<p><i>By consent Nos. M786853, M683939 and 787714.</i></p>	<p>Class 1: Chemical products for professional use, adhesive materials for professional use.</p> <p>Class 2: Paints, varnishes, lacquers, particularly in the form of aerosol dispensers, colouring matter.</p> <p>Class 16: Self-adhesive advertising labels, paintbrushes, tachograph charts, marking chalk, pens for painting and spot painting; glues.</p>	<p>Würth International AG Aspermontstrasse 1, CH- 7000 Chur, Switzerland</p>



<p>UK 2149075</p> <p>App: 25 Oct 1997 Reg: 21 Aug 1998</p>			<p>Class 2: Paints, paint thinners, paint thickeners.</p> <p>Class 6: Iron castings; steel castings; stainless steel castings; nickel alloy castings; furnace jigs and fixtures; all being for heat resistant use in metal treatment furnaces.</p> <p>Class 42: Interior design services.</p>	<p>Wallwork Heat Treatment Ltd Lord Street, Bury, Lancashire, BL9 ORE</p>
<p>CTM 648832</p> <p>App: 15 Apr 1998 Reg: 11 Feb 2000</p>	<p>WORTH</p>	<p><i>Opted in for notifications.</i></p>	<p>Class 24: Textile articles; textile piece goods; bath linen; bed linen; blankets; bed covers; bedspreads; valances; duvet covers; pillowcases; blinds; coasters; curtains of textile or plastic; cushions; towels; rugs; table cloths.</p>	<p>Orchard Trading Limited Rathbone House, 15 Esplanade, St. Helier, JE1 1RG</p>
<p>CTM 1997600</p> <p>App: 12 Dec 2000 Advertised: 3 Dec 2001 Opposed</p>	<p>WAL-MART</p>	<p><i>Not opted in for notifications.</i></p>	<p>Class 2: Paints, varnishes, colorants; metals in foil and powder form for painters, decorators, printers and artists.</p> <p>Class 24: Textiles and textile goods, not included in other classes; bed and table covers.</p> <p>Class 26: Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.</p> <p>Class 27: Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).</p> <p>Class 37: Building construction; repair; installation services.</p>	<p>Wal-Mart Stores, Inc. 702 S.W. 8th Street, Bentonville, United States, 72716-8095</p>

<p>M 761695</p> <p>Reg: 24 Apr 2001 Protected UK: 24 Apr 2001</p> <p>Office of origin: Benelux Basic reg: 679102, 6 Dec 2000</p>		<p><i>Colours: Yellow, black.</i></p>	<p>Class 1: Adhesives for paperhanging. Class 24: Wall hangings of textile. Class 27: Wall hangings, not of textile, pre-gummed wallpaper.</p>	<p>Novo International B.V. Industriestraat 18, NL-7482 EZ HAAKSBERGEN, Netherlands</p>
<p>UK 2511376</p> <p>App: 17 Mar 2009 Advertised: 21 Aug 2009</p>			<p>Class 3: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations, sandpaper; soaps; perfumery, essential oils, hair lotions; deodorants for personal use; air perfuming preparations. Class 22: Ropes, string, nets, tents, tarpaulins, sacks for transporting bulk materials; padding and stuffing materials which are not made of rubber or plastics. Class 23: Yarns and threads for textile use. Class 24: Textiles and textile goods; bed and table covers; travellers' rugs, textiles for making articles of clothing; duvets; covers for pillows, cushions or duvets. Class 26: Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers; badges for wear. Class 27: Rugs, mats and matting, wall hangings (non-textile); wallpaper.</p>	<p>Wellworths Limited Invision House, Wilbury Way, Hitchin, Hertfordshire, SG4 0TY</p>

<p>M 997589</p> <p>Reg: 6 Jan 2009</p> <p>Designated CTM: 6 Jan 2009</p> <p>Advertised OHIM: 25 May 2009</p> <p>Office of origin: Switzerland Basic reg: 581338, 11 Sep 2008</p>	<p>WALLWORTH</p>	<p><i>Colours: Red, blue.</i></p>	<p>Class 24: Textiles and textile goods; bed and table covers; travellers' rugs, textiles for making articles of clothing; duvets; covers for pillows, cushions or duvets.</p> <p>Class 26: Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers; badges for wear.</p> <p>Class 27: Rugs, mats and matting, wall hangings (non-textile); wallpaper.</p>	<p>Wallworth Holding AG Schachenstrasse 97 CH-8645 Jona, Switzerland</p>
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2. DELUXE


Trade Mark No/ Dates	Trade Mark	Information	Goods/services	Owner
UK 2367613 App: 7 Jul 2004 Reg: 10 Dec 2004			<p>Class 2: Paints, varnishes, lacquers; driers including curing driers, thinners, colouring matters, all being additives for paints, varnishes or lacquers; preservatives against rust and against deterioration of wood; priming preparations (in the nature of paints); wood stains; mastic; putty; repositionable patches of paint, varnishes or lacquers.</p> <p>Class 35: Retail of paints, varnishes, lacquers; driers including curing driers, thinners, colouring matters, all being additives for paints, varnishes or lacquers; preservatives against rust and against deterioration of wood; priming preparations (in the nature of paints); wood stains; mastic; putty; repositionable patches of paint, varnishes or lacquers.</p>	Imperial Chemical Industries Limited 26th Floor, Portland House, Bressenden Place, London, SW1E 5BG
UK 2217817 App: 20 Dec 1999 Reg: 28 Jul 2000			<p>Class 34: Pipe tobacco, roll-your-own tobacco, cigars, cigarillos, cigarettes, tobacco and tobacco products.</p>	Dunhill Tobacco of London Limited 1a St. James's Street, London, SW1A 1EF

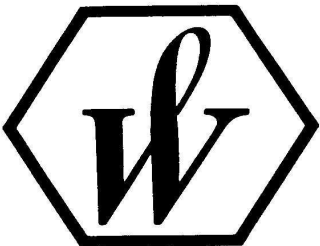
<p>UK 2493879</p> <p>App: 7 Aug 2006 Reg: 1 Feb 2007</p>	<p>DUX</p>		<p>Class 2: Paints and varnishes, preservatives. Class 16: Pencil sharpening machines. Class 21: Trouser stretchers; carpet sweepers.</p>	<p>Aktiebolaget Electrolux St Goransgatan 143, SE-105 45, Stockholm, Sweden</p>
<p>UK 2482621</p> <p>App: 14 Dec 2006 Reg: 13 Nov 2008</p>			<p>Class 2: Paints, varnishes and lacquers, colourants, mordants and resins. Class 21: Household, kitchen utensils and containers; combs; brushes (other than for painting); glassware, porcelain and earthenware not included in other classes. Class 24: Textiles and textile goods, not included in other classes.</p>	<p>Wallworth Holding AG Schachenstrasse 97 CH-8645 Jona, Switzerland</p>
<p>M 997235</p> <p>Reg: 4 Dec 2008</p> <p>Designated CTM: 4 Dec 2008 Advertised OHIM: 19 Mar 2009</p> <p>Designated UK: 4 Dec 2008 Advertised UK: 1 Aug 2009</p> <p>Office of origin: Benelux Basic reg: 576551, 20 Jun 1995</p>			<p>Class 2: Paints and varnishes; colourants, mordants. Class 16: Artists' materials.</p>	<p>Deluxe Group SA 2 rue des Dahlias, Luxembourg, Luxembourg, 1117</p>

<p>CTM 8461949</p> <p>App: 7 May 2009 Awaiting examination</p>			<p>Class 2: Paints and varnishes; colourants, mordants. Class 16: Artists materials; household adhesives. Class 27: Wallpaper and wall-hangings.</p>	<p>PPF London Ltd 18 Clerkenwell Road London WC1V 7QT</p>
<p>CTM 8468704</p> <p>App: 15 May 2009 Awaiting examination</p>			<p>Class 2: Paints and varnishes. Class 35: Retail of paints and varnishes.</p>	<p>PPF London Ltd 18 Clerkenwell Road London WC1V 7QT</p>

3. WW Device

Trade mark No/ Dates	Trade mark	Information	Goods/services	Owner
<p>CTM 703893</p> <p>App: 12 Dec 1997 Reg: 28 Jan 1999</p> <p>Seniority: UK 1463623, app date: 8 May 1991, reg date: 10 Sep 1993, expired: 9 May 2008 for the goods in Class 24.</p> <p>Seniority UK 1463625, app date: 8 May 1991, reg date: 28 May 1993, expired: 9 May 2008 for the goods in Class 26.</p>		<p><i>Opted in for notifications.</i></p>	<p>Class 1: Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; adhesives used in industry.</p> <p>Class 2: Paints, varnishes, lacquers; anti-rust preparations (for preservation); including; undercoating for vehicle chassis; thinners for lacquers.</p> <p>Class 23: Yarns and threads, for textile use.</p> <p>Class 24: Textiles and textile goods, not included in other classes; bed blankets, table cloths.</p> <p>Class 26: Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.</p> <p>Class 27: Carpets, door mats; including; carpets for automobiles.</p> <p>Class 40: Material treatment.</p>	<p>Volkswagen AG Wolfsburg, Germany, 38436</p>
<p>CTM 1086107</p> <p>App: 24 Feb 1999 Reg: 12 May 2000</p>	<p>WWW</p>	<p><i>Opted in for notifications.</i></p>	<p>Class 27: Carpets, carpet tiles, rugs, mats and matting, linoleum and other materials for covering existing floors.</p>	<p>Interface International B.V. Industrielaan 15, P.O. Box 16, Scherpenzeel, Netherlands, 3925 ZG</p>

<p>M 708041</p> <p>Reg: 2 Jul 1998</p> <p>Designated UK: 2 Jul 1998</p> <p>Protected UK</p> <p>Office of origin: Germany</p> <p>Basic reg: 39800184, 1 Jul 1998</p>		<p>Class 2: Paints, varnishes, lacquers; anti-rust preparations (for preservation), including undercoating for vehicle chassis, thinners for lacquers.</p> <p>Class 23: Yarns and threads, for textile use.</p> <p>Class 24: Textiles and textile goods, included in this class; bed blankets, table cloths.</p> <p>Class 26: Lace and embroidery, ribbons and braid, buttons, hooks and eyes, pins and needles, artificial flowers.</p> <p>Class 27: Carpets, door mats including carpets for automobiles.</p> <p>Class 40: Material treatment.</p>	<p>Volkswagen AG</p> <p>Wolfsburg, Germany, 38436</p>
<p>CTM 8486995</p> <p>App: 13 Aug 2009</p> <p>Examined</p>	<p>WM</p>	<p>Class 2: Paints for impregnating purposes; raw natural resins; preservatives against rust and against deterioration of wood..</p> <p>Class 17: Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and included in class 17; packing, stopping and insulating materials, sealant compounds for joints; insulating paint; insulating varnish; insulating films (included in class 17); insulating tapes; artificial and synthetic resins (semi-finished products).</p>	<p>Wessels + Müller AG</p> <p>Pagenstecher Str. 121, Osnabrück, Germany, 49090</p>

<p>UK 2223663</p> <p>App: 26 Feb 2000 Reg: 17 Dec 2004</p>	<p>WWF</p>		<p>Class 2: Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.</p> <p>Class 6: Common metals and their alloys; small items of metal hardware; goods of common metal not included in other classes.</p> <p>Class 23: Yarns and threads, for textile use.</p> <p>Class 24: Textiles and textile goods, not included in other classes; bed and table covers.</p> <p>Class 26: Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.</p> <p>Class 27: Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).</p>	<p>WWF-World Wide Fund For Nature (formerly World Wildlife Fund) Avenue du Mont-Blanc, Gland, Switzerland</p>
<p>CTM 8487073</p> <p>App: 15 Aug 2009 Examined</p>			<p>Class 27: Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile); wallpaper; door mats; bath mats made of rubber.</p>	<p>Archer Carpets Limited PO Box 1889, New Road, Slough, Berkshire, SL2 3GD</p>