

THE JOINT EXAMINATION BOARD
PAPER T4 ADVANCED TRADE MARK SEARCH

Friday 4th November 2011

10.00 a.m. – 2.00 p.m.

*Please read the following instructions carefully. **Time Allowed – 4 HOURS***

1. This paper consists of a single question for which you are marked out of 100%.
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.
 - g. You must number all the pages of your answer script. Once the exam finishes, an additional 5 minutes will be allowed for you to do this.
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 2011 – QUESTION

Your client is Mrs Victoria Emma Andersson of Stockholm, Sweden. Mrs Andersson had been a successful model in the 1980s. When her modelling career ended in the late 1980s, she set up a chain of beauty salons in Sweden through which she also sold a range of cosmetics under the trade mark VICTORIA EMMA – BEAUTY OF SWEDEN.

Since May 1990, Mrs Andersson has sold cosmetics, containers for cosmetics, cosmetics applicators and brushes under the trade mark VICTORIA EMMA – BEAUTY OF SWEDEN in London, Essex, Kent, Surrey, Berkshire and Oxfordshire. The trade mark has always been represented in the following stylised form

Victoria Emma
Beauty of Sweden

The goods have been sold through a number of independent retailers in this area, as well as through her mail order business based in Stockholm. The business has been extremely successful, with a significant and increasing number of customers having been obtained since 1990. However, sales to other areas of England and Wales have been limited and fulfilled only on an occasional basis by her mail order business in Stockholm.

Mrs Andersson advises you that she hasn't used the trade mark VICTORIA EMMA – BEAUTY OF SWEDEN in Scotland and Northern Ireland. This is because she granted an exclusive licence for this territory to an American company based in Miami, Florida. The licence was for a 20 year period commencing 1 January 1991 and has now ended.

Mrs Andersson has now decided to expand her business and open a delivery centre in Oxford. In addition to the cosmetic goods listed above, she now intends to sell perfumery, perfume bottles, and provide beauty advice from her new centre in Oxford.

Since April 2005, your client has sometimes used the trade mark BEAUTIFULLY YOU on her cosmetics, containers for cosmetics, cosmetics applicators and brushes. The trade mark has been used on packaging and related advertising literature in reasonably close proximity to the words VICTORIA EMMA – BEAUTY OF SWEDEN.

As a result of her plans to extend the business, Mrs Andersson now also wishes to use a "four leaf clover device" for all of the goods and services for which she uses and intends to use the trade mark VICTORIA EMMA – BEAUTY OF SWEDEN. The "four leaf clover device" will be used alongside both of Mrs Andersson's other trade marks.

Mrs Andersson has not registered any of her trade marks. Therefore you have carried out searches against the following marks, the results of which are attached:

1. ***Victoria Emma***
Beauty of Sweden

- Class 3: Cosmetics, cosmetic pencils, perfumery, lipsticks;
 Class 21: Containers for cosmetics, cosmetics applicators and brushes, perfume bottles;
 Class 35: Mail order retail services connected with cosmetics, cosmetic pencils, perfumery, lipsticks, containers for cosmetics, cosmetic applicators and brushes, and perfume bottles; and
 Class 44: Advice relating to cosmetics.

2. **BEAUTIFULLY YOU**

- Class 3: Cosmetics, cosmetic pencils, perfumery, lipsticks; and
 Class 21: Containers for cosmetics, cosmetics applicators and brushes, perfume bottles.

3.

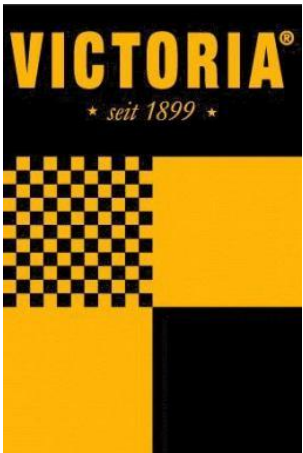



- Class 3: Cosmetics, cosmetic pencils, perfumery, lipsticks;
 Class 21: Containers for cosmetics, cosmetics applicators and brushes, perfume bottles;
 Class 35: Mail order retail services connected with cosmetics, cosmetic pencils, perfumery, lipsticks, containers for cosmetics, cosmetic applicators and brushes, and perfume bottles; and
 Class 44: Advice relating to cosmetics.

Write a letter to your client on the freedom to use and register the three trade marks for the goods and services specified above for the United Kingdom, indicating any further information you require and the steps which may be taken to overcome potential difficulties.

1. *Victoria Emma* *Beauty of Sweden*

Trade mark No./ Dates	Trade mark	Information	Goods/services	Owner
UK 1257678 App: 8 Jan 1986 Reg: 17 Jan 1990	VICTORIA'S SECRET	<i>Registration of this mark shall give no right to the exclusive use of the word "Victoria's".</i>	Class 03: Cleaning preparations; detergents (not for use in industrial or manufacturing processes or for medical use); soaps; shampoos; perfumes; cosmetics; preparations for the hair and the skin; all being non-medicated; pot pourris.	Victoria's Secret Stores Brand Management, Inc. Four Limited Parkway, Reynoldsburg, Ohio 43068, United States of America
UK 1365079 App: 8 Nov 1990 Reg: 8 May 1992	MISS EMMA OF SWEDEN	<i>Honest concurrent user claimed under Section 12(2) of the Trade Marks Act 1938. Use claimed from the year 1978.</i>	Class 3: Perfumes; cosmetics; non-medicated cleansing preparations for the skin; shampoos for the hair; all included in Class 3.	Rolinson (UK) Limited Station Works, Station Road, Long Buckby, Northampton, NN6 7PF
CTM 2543320 App: 21 Jan 2002 Reg: 22 Jan 2007	VICTORIA BECKHAM	<i>Opted in for notifications.</i>	Class 3: Perfumes; toilet waters; eau de cologne; cosmetics; anti-perspirants; deodorants; preparations for the hair, body, scalp, skin and nails; soaps; shampoos; dentifrices; shaving preparations; cotton wool for cosmetic purposes; decorative transfers for cosmetic purposes. Class 18: Articles made of leather or of imitation leather; backpacks; bags, cases, wallets, purses, keyholders, keyfobs; luggage; umbrellas and parasols. Class 25: Articles of clothing, footwear, headgear.	Moody Productions Limited Hill House, 1 Little New Street, London, United Kingdom, EC4A 3TR

<p>CTM 5482823</p> <p>App: 20 Nov 2006 Reg: 12 Sep 2007</p>	<p>VICTORIA'S SECRET PURE SEDUCTION</p>	<p><i>Not opted in for notifications.</i></p>	<p>Class 3: Personal care products, namely, body scrub, bubble bath, cologne, cream for the body, cream for the hands, exfoliators for the skin, face scrub, fragrant body splash, fragrant body mist, hair conditioner, hair shampoo, hair spray, hair styling gel, hair styling mousse, lotion for the body, perfume, powder for the body, shower gel, soap for the body, soap for the face and soap for the hands and body talc.</p>	<p>Victoria's Secret Stores Brand Management, Inc. Four Limited Parkway, Reynoldsburg, Ohio 43068, United States of America</p>
<p>CTM 5970413</p> <p>App: 5 Jun 2007 Reg: 15 Apr 2008</p>		<p><i>Colours: Yellow, black.</i></p> <p><i>Seniority – Date: 24 Jun 1988</i></p> <p><i>Country: UK 2013311</i></p> <p><i>Not opted in for notifications.</i></p>	<p>Class 1: Chemical products for use in industry; unprocessed artificial resins; adhesives used in industry; impregnating chemicals, in particular for leather and textiles.</p> <p>Class 3: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; leather bleaching preparations; creams for leather; leather preservatives (polishes).</p> <p>Class 4: Industrial oils and greases; grease for leather, leather preservatives (oils and greases), oil for the preservation of leather; perfumed candles.</p>	<p>CTA GmbH Industriestr. 2, Bietigheim-Bissingen, Germany, 74321</p>
<p>CTM 7286875</p> <p>App: 3 Oct 2008 Advertised: 12 Jan 2009 Status: Opposed</p>	<p>VICTORIA OF SWEDEN</p>	<p><i>Not opted in for notifications.</i></p>	<p>Class 03: Bar soap, toilet soap, liquid soap, shower gel and body lotions.</p>	<p>Victoria Scandinavian Soap AB Florettgatan 21, Helsingborg, Sweden, 25022</p>

<p>M 1071147</p> <p>Reg: 23 Dec 2010</p> <p>Extended to CTM: 23 Dec 2010</p> <p>Advertised OHIM: 15 Apr 2011</p> <p>Office of origin: Bulgaria</p> <p>Basic reg: 73113, 2 Feb 2010</p>		<p><i>Colours: Blue, black, grey and dark-blue.</i></p> <p><i>Not opted in for notifications.</i></p>	<p>Class 3: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, cosmetics, hair lotions; dentifrices.</p> <p>Class 5: Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; materials for dressings; material for stopping teeth, dental wax; disinfectants; fungicides, herbicides; perfumed products for medical use.</p>	<p>"CAMCO" LTD</p> <p>"Gen. Radko Dimitriev" Str. 1, BG-4000 Plovdiv, Bulgaria</p>
<p>M 1068589</p> <p>Reg: 25 Jan 2011</p> <p>Extended to CTM: 25 Jan 2011</p> <p>Advertised OHIM: 18 Mar 2011</p> <p>Office of origin: Spain</p> <p>Basic app: 2956679, 22 Nov 2010</p>	<p>VICTORIA'S DILEMMA</p>	<p><i>Not opted in for notifications.</i></p>	<p>Class 3: Cosmetics; skin care products; non-medicated body powder; skin soap; bath gel; bath oils; non-medicated skin care lotions; skin creams; hair care and hair styling shampoos; conditioners; hair sprays; hair gel; personal deodorants; perfume; potpourri; cosmetic tissues.</p> <p>Class 8: Hand-operated instruments for cosmetic purposes.</p> <p>Class 44: Beauty salon services; consultancy and advisory services relating to beauty treatment; beauty and hairdressing salon services; massage services.</p>	<p>Victoria's Lifestyle Holdings, S.A.</p> <p>Paseo de la Castellana 159, Madrid, Spain</p>

<p>CTM 9708667</p> <p>App: 4 Feb 2011</p> <p>Advertised: 22 Aug 2011</p>	<p>EMMANUELLE VICTORIA</p>	<p><i>Not opted in for notifications.</i></p>	<p>Class 1: Ingredients for cosmetics; antimicrobial preservatives for cosmetics.</p> <p>Class 3: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, cosmetics, hair lotions; dentifrices.</p> <p>Class 5: Pharmaceutical and veterinary preparations; dietetic substances adapted for medical use; plasters; disinfectants; cosmetic lotions for the care of the skin; preparations for the care of the scalp (medicated), other than shampoo..</p> <p>Class 44: Medical services; hygienic and beauty care for human beings or animals.</p>	<p>Hugo Vetter</p> <p>Sieveringer Str. 53, Wien, Austria, 1190</p>
<p>M 1081588</p> <p>Reg: 7 Jun 2011</p> <p>Extended to OHIM: 7 June 2011</p> <p>Advertised OHIM; 1 Aug 2011</p> <p>Extended to UK: 7 Jun 2011</p> <p>Advertised: UK: 4 Sep 2011</p> <p>Office of origin: Poland</p> <p>Basic app: Z-384432, 20 Apr 2011</p>	<p><i>VICTORIA GEMMA</i></p>		<p>Class 3: Powders, creams and lotions, all for the face, hands and body; nail polish; nail polish remover; cosmetics; soaps; shower and bath preparations; preparations for the hair; shaving and aftershave preparations; perfumes, colognes, toilet waters, eau de colognes; deodorants and anti-perspirants for personal use;.</p> <p>Class 5: Medicated creams, oils, powders and lotions; herbal remedies; homeopathic medicines; vitamin preparations; mineral food supplements; dietetic foods and beverages; nutritional additives.</p> <p>Class 44: Beauty treatment services; hairdressing services; manicure and pedicure services; massage services; provision of information, consultancy and advisory services relating to the aforesaid and to healthcare and nutrition.</p>	<p>Grenda Sp.z o.o.</p> <p>ul. Polczynska 99A</p> <p>PL-01-303 Warsaw, Poland</p>

<p>CTM 10079125</p> <p>App: 27 Jun 2011</p> <p>Advertised: 22 Aug 2011</p>	<p>VICTORIA EMMA</p>	<p><i>Not opted in for notifications.</i></p>	<p>Class 3: Cosmetics; non-medicated lip treatment preparations; nail polish; nail polish remover; make-up removing preparations; beauty masks; cosmetic pads; cosmetic cotton sticks; cosmetic pencils; cosmetic cotton puffs; cosmetic facial blotting paper.</p> <p>Class 16: Facial wipes of paper for cosmetic use; make-up removal tissues; sharpeners for cosmetic pencils; printed publications.</p> <p>Class 21: Brushes, combs; large toothed combs for hair; electric combs; hair brushes; hair combs; tint brushes; neck brushes; colour applicator tools; cosmetic utensils; appliances for removing makeup; makeup brushes; nail brushes; powder puffs; powder compacts, vanity cases.</p> <p>Class 24: Make-up removal cloths of textile.</p> <p>Class 35: Retail store and online retail store services in the field of beauty products.</p> <p>Class 44: Advice relating to cosmetics; cosmetic make-up services; application of cosmetic products to the face and body.</p>	<p>Victoria for Real, LLC</p> <p>6231 Alton Road,</p> <p>Miami, Florida 33140,</p> <p>United States of America</p>
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2. BEAUTIFULLY YOU



Trade Mark No/ Dates	Trade Mark	Information	Goods/services	Owner
UK 1550723 App: 16 Oct 1993 Reg: 26 Jan 1996	COLOR ME BEAUTIFUL		<p>Class 3: Cosmetics; non-medicated preparations for the care of the skin and the hair; aromatherapy skin care preparations; foundation preparations; eye shadows; blush powders; face powder; bronzing powder; lip gloss, lipstick; eyebrow pencils, lip pencils; mascara; all included in Class 3.</p> <p>Class 44: Beauty care services; aromatherapy services; colour therapy services; massage services.</p>	Colour Me Beautiful Limited 66 Abbey Business Centre, Ingate Place, London, SW8 3NS
UK 2356315 App: 19 Feb 2004 Reg: 10 Mar 2006	AS BEAUTIFUL AS YOU WANT TO BE		<p>Class 3: Soaps; cleaning preparations; perfumery; deodorants and antiperspirants; hair care preparations; bath and shower preparations; skin care preparations; shaving preparations; sun protection preparations; cosmetics; make-up and make-up removing preparations; lip care preparations; talcum powder; beauty masks, facial packs.</p>	Unilever Plc Port Sunlight, Wirral, Merseyside, CH62 4ZD



<p>UK 2399087</p> <p>App: 11 Aug 2005 Reg: 17 Feb 2006</p>	<p>BEAUTIFULLY YOU</p>		<p>Class 3: cosmetic and make-up products; nail polish, nail polish remover; eye shadow, eye pencils, mascara, lipstick, make-up cream, face powder, liquid make-up; perfumes, toilet water, fragrances; talcum powder; anti-perspirants, deodorants; soap for personal use; bath gel, shower gel; shaving cream and shaving gel; aftershaves; skin care preparations.</p>	<p>Vivalis Limited 22 Grimrod Place, Skelmersdale, Lancashire, WN8 9UU</p>
<p>CTM 7485581</p> <p>App: 22 Dec 2008 Reg: 10 Jun 2009</p>	<p>BEAUTIFULLY TRUE</p>	<p><i>Not opted in for notifications.</i></p>	<p>Class 3: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, cosmetics, hair lotions; Class 5: Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides. Class 21: Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; glassware, porcelain and earthenware not included in other classes.</p>	<p>Lumene Oy Lasikuja 2, Espoo, Finland, 02780</p>
<p>UK 2496727</p> <p>App: 19 Feb 2009 Advertised: 10 Sept 2011</p>	<p>YOU'RE BEAUTIFUL</p>	<p><i>Proceeding because of acquired distinctiveness through use.</i></p>	<p>Class 3: perfumes, skincare.</p>	<p>L'Oreal (UK) Limited 255 Hammersmith Road, London, W6 8AZ</p>

<p>UK 2550750</p> <p>App: 18 Jun 2010 Advertised: 14 Jan 2011 Status: Opposed</p>	<p>RUBY & MILLIE LIVE BEAUTIFULLY</p>		<p>Class 3: Cosmetics, body creams, moisturisers, oils for the body, skincare cosmetics, aromatic perfumery products, baby care products, beauty care products, cosmetics cotton wool, cosmetic kits, exfoliants, eyelashes, facial care products, fragrance, hair care products, hair styling aids, household cleaning materials, lip care preparations, nail care products, perfume, polish, shower preparations, soap.</p>	<p>Hammer & Kendall 68a Delancey Street, London, NW1 7RY</p>
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Trade Mark No/ Dates	Trade Mark	Information	Goods/services	Owner
UK 1166234 App: 10 Nov 1983 Reg: 2 Dec 1983	 Beauty Dream		Class 3 Cosmetics; soaps and perfumes.	Cosmetique Sans Soucis GmbH Im Rosengarten, 76532 Baden-Baden, Germany
UK 2458759 App: 18 June 2007 Reg: 7 Dec 2007	 Trifolium Lingerie		Class 25: Lingerie; hosiery; clothing. Class 35: Retail services, including retail services offered via a general merchandising and clothing store, mail order catalogue, online marketing, all connected with the sale of lingerie, hosiery and clothing.	Victor Zhang 42 Commercial Road, London, E1 1LN

<p>UK 2206290B</p> <p>App: 18 Aug 1999 Reg: 9 March 2001 Expiry Date: 19 March 2009</p>			<p>Class 3: Soaps; perfumery; cosmetics; hair lotions; pre-shave and after-shave lotions.</p> <p>Class 21: Glassware, porcelain, earthenware and ceramic articles, tankards, household and kitchen utensils and containers, combs, piggy banks, drinking flasks, shoe horns.</p> <p>Class 35: Advertising, marketing and promotional services; business management services relating to sport, arranging and conducting exhibitions; business administration.</p>	<p>Celtic F.C. Limited Celtic Park, Glasgow, G40 3RE United Kingdom</p>
<p>M 1011897</p> <p>Reg: 2 Mar 2008</p> <p>Extended to UK: 2 Mar 2008. Registered.</p> <p>Office of origin: Russia Basic Reg No. 2010701556, 25 Jan 2008</p> <p>Priority: 2010701556, 25 Jan 2010, Russian Federation</p>		<p><i>Colours: Green, blue</i></p> <p><i>The words contained in the mark have no meaning</i></p>	<p>Class. 10 Bandages, elastic; clothing especially for operating rooms; masks for use by medical personnel; maternity belts; sterile sheets, surgical; strait jackets; surgical drapes.</p> <p>Class 20 Bedding, except linen; curtain rods; curtain tie-backs; cushions; pillows; straw mattresses;</p> <p>Class 25 Aprons (clothing); caps (headwear); clothing; combinations (clothing); footwear; frocks; hats; headgear for wear; hosiery; inner soles; outer clothing; overalls; ready-made clothing; smocks; sweat-absorbent underclothing (underwear); uniforms.</p>	<p>Obshchestvo s ogranichennoy otvetstvennostyu "Business Center "Sampsonievskiy"" d. 32, pr. Bolshoy Sampsonievskiy RU-194044 Saint-Petersburg Russian Federation</p>

<p>CTM 9026154</p> <p>App: 14 April 2010 Reg: 12 April 2011</p>		<p><i>Colours: Green</i></p> <p><i>Not opted in for notifications.</i></p>	<p>Class 12: Vehicles; vehicles for locomotion by air, land or water. Class 25: Clothing, footwear, headgear. Class 35: Advertising; business management; business administration; office functions</p>	<p>Ronda General Mitre, 12 08021 Barcelona SPAIN</p>
<p>CTM 4421456</p> <p>App: 8 Jun 2001 Reg: 16 Oct 2002</p>		<p><i>Colours: Green</i></p> <p><i>Not opted in for notifications</i></p>	<p>Class 10: Corn and callous knives and blades. Class 18: Cosmetic bags and purses. Class 20: Mirrors. Class 21: Hair brushes and combs; sponges; small domestic containers; nail brushes; make up brushes. Class 35: Retail and wholesale services connected with healthcare products, beauty products</p>	<p>Celtic F.C. Limited Celtic Park, Glasgow, G40 3RE, United Kingdom</p>