

THE JOINT EXAMINATION BOARD

PAPER T2

BASIC UNITED KINGDOM TRADE MARK PRACTICE

18th November, 1993

10.00 a.m. - 1.00 p.m.

Please read the following instructions carefully. This is a THREE HOUR paper.

1. You should attempt no more than eight questions from Part A and no more than five questions from Part B.
2. The number of marks allotted to each question is placed in brackets at the end of the question.
3. Where a question permits of reasons being given for the conclusions reached, such reasons should be given.
4. Start each question (but not necessarily each part of each question) on a fresh sheet of paper. In the appropriate boxes at the top of each sheet please enter the designation of the paper, the question number, and your Examination number. Write on one side of the paper only using BLACK ink. You must NOT staple pages together. You must NOT state your name anywhere in the answers.
5. Unless specifically requested answers are NOT required in letter form.
6. NO printed matter or other written material may be taken into the examination room.
7. Answers MUST be legible. If the examiners cannot read a candidate's answer no marks will be awarded.



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PART A

1. 'It is a condition of registration that...' This wording sometimes appears with details of an advertised mark. Why does the Registrar impose conditions on acceptance? What consequences does acceptance of such a condition have for the proprietor? (5 marks)
2. What effect does a priority date under the Paris Convention claimed in an application for registration have in relation to:
  - (a) conflict with other pending applications
  - (b) infringement rights conferred by the registration of a trade mark
  - (c) the term of registration(5 marks)
3. Your client says that he had made a search using one of the commercially available databases to check whether he is free to use his new mark. It turns out that he has only checked for marks identical to his proposed mark and only for the particular goods of interest. Aside from any inherent limitations in the accuracy of the search itself, is this sufficient? If not, why not? (5 marks)
4. What are the consequences if a third party mark is drawn to the applicants' attention as a 'danger' citation? What steps must an applicant take if a third party mark is drawn to his attention as a danger citation? (5 marks)
5. In what circumstances must stamp duty be paid on a deed of assignment transferring trade marks from one company to another? (5 marks)
6. What is the Registrar's practice in relation to the registration of marks for retail services and why? (5 marks)



7. Outline briefly the provisions and procedures in the Trade Marks Act for late payment of renewal fees. (5 marks)
8. 'Associated' marks must remain under common ownership. In what circumstances may an association between marks be dissolved. (5 marks)
9. In what circumstances will the Registrar record an assignment of an unregistered trade mark? (5 marks)

PART B

1. Outline briefly the Registrar's practice in handling conflicting applications under Section 12(3). (12 marks)
2. X Limited is registered proprietor of trade mark BOLO and wishes to register its wholly-owned subsidiary U Limited as registered user of the mark for all the goods for which BOLO is registered. No formal registered user agreement has been entered into by the parties. Draft Declaration and Statement of Case for filing with the application to record U Limited as registered user. (12 marks)
3. A trade mark agent's bookshelf contains the following books:  
  
Columbia Lippincott Gazetteer  
New York (Queens) Telephone Directory  
Index of Plant Variety Names (established under Plant Varieties & Seeds Acts).  
  
Explain briefly why she might wish to consult each of these. (12 marks)
4. What requirements is the Registrar likely to impose before allowing the following, and why:
  - (a) an application for registration of a cross with four arms of equal length extending horizontally and vertically.
  - (b) an application to register a mark with the suffix '-SAFE'
  - (c) a label including the Coat of Arms of the city in which the applicant has his business. (12 marks)
5. Your clients' application has given rise to an official letter raising objections under Sections 9 and 10 that the mark in question refers to the character of the goods on which it is used, because of its descriptive connotations. In your view, the mark is not directly



descriptive but, nevertheless, the Examiner is unlikely to be persuaded by argument alone to waive the objections.

Outline briefly the courses open to your client in replying to the official letter and any evidence you might file.

(12 marks)

6. What objections (other than those based on prior marks) might be raised against applications to register the following marks? Indicate briefly the arguments with which you might counter such objections.

- (a) MULTIFRESH for cleaning materials.
- (b) BLACK HART for clothing.
- (c) GLASSETTA for small domestic utensils and containers.
- (d) MANCHESTER for banking services

(12 marks)

