

THE JOINT EXAMINATION BOARD

PAPER T5

BASIC OVERSEAS TRADE MARK LAW AND PRACTICE

14th November, 1994

3.00 p.m. - 5.00 p.m.

Please read the following instructions carefully. This is a TWO 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. Write brief notes on collective trade marks. (5 marks)
2. Discuss recent changes in German law relating to the assignment of trade marks. (5 marks)
3. Write brief notes on "intent to use" applications in the United States. (5 marks)
4. Discuss the "absolute" grounds for refusal of a trade mark application in Denmark. (5 marks)
5. The Paris Convention of 1883 provides that an applicant for registration of a trade mark can claim priority in one member country of an application filed in another member country. Discuss the benefits and disadvantages of claiming convention priority. (5 marks)
6. In which OECD countries (other than the UK) is there currently no official search of prior trade mark applications and registrations?

In which OECD countries (other than the UK) may an application for registration not be rejected by the examiner even though there may be conflict with a prior mark revealed by the official search? (5 marks)
7. What is the term for opposition to a French trade mark application?

Outline the procedures, up to publication of the decision, which will follow the filing of an opposition to the registration of a trade mark application in France.

(5 marks)

8. What do you understand by the term "central attack". (5 marks)
9. Write brief notes on recent developments concerning trade mark law and practice in South Africa. (5 marks)

PART B

10. Identify and explain the main differences between the Madrid Protocol and the Madrid Arrangement. (12 marks)
11. Explain briefly the different bases upon which a valid trade mark application may be filed in Canada.

Discuss briefly the changes in Canada trade mark law affecting the granting of Licences and recordal of Registered Users. (12 marks)
12. Write brief notes on the decision of the European Court of Justice in the matter of the trade marks TOLTECS and DORCET with particular emphasis on the consequences of the decision for trade mark agreements. (12 marks)
13. Describe fully the procedure for registration of a trade mark in Japan. (12 marks)
14. With particular reference to case law, discuss the evolution of European Court of Justice Decisions relating to the free movement of goods within the EU in circumstances where there is "common origin" of trade marks. (12 marks)
15. The European Court of Justice in its decisions has regularly referred to the "specific subject matter" of the trade mark. Discuss. (12 marks)

