

THE JOINT EXAMINATION BOARD**PAPER T2****BASIC UNITED KINGDOM TRADE MARK PRACTICE****24th November 2000****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 conclusion 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 answers no marks will be awarded.
8. **NO** writing whatsoever, including numbering of pages, is allowed prior to the commencement of the examination or after it has finished.
9. Please put your answers in **QUESTION NUMBER ORDER** before placing in the envelope provided.

THIS PAPER COMPRISES 6 PAGES (INCLUDING THIS FRONT SHEET)

THE JOINT EXAMINATION BOARD

PAPER T2

BASIC UNITED KINGDOM TRADE MARK PRACTICE

Part A

1. Discuss the inherent registrability under the Trade Marks Act 1994 of two of the following trade marks
 - a) The colour burgundy applied to hotel guide books
 - b) The number 3 and the word THREE for chocolate bars
 - c) XL for men's clothing
 - d) MISSUS SHORT for cleaning agents

(5 marks)

2. List five means available to an applicant or his agent under the Trade Marks Act 1994 of overcoming a citation of an earlier trade mark registration or application under Section 5 in an Examination Report

(5 marks)

3. Under the Trade Marks Act 1994, what procedures before the Registry are available to someone wishing to object to the following? Explain briefly at what stage such objections can be raised:
 - i) a trade mark application
 - ii) a trade mark registration

(5 marks)

4. Calculate the next renewal date for the following:

- a) a registration resulting from a UK application filed on 16th March 1993 and registered on 27th October 1994, claiming priority from a US application filed on 5th January 1993
- b) a registration resulting from an application filed on 30th November 1997 and registered on 3rd December 1998, with no claim to priority
- c) a registration resulting from an application filed on 29th May 1938 and registered on 7th April 1939, claiming priority from a French application filed on 1st May 1938

(5 marks)

5. List the types of 'earlier rights' which may form the basis of an opposition to a UK trade mark application, but which will not be cited by the Trade Marks Registry in an Examination Report.

(5 marks)

6. Discuss the inherent registrability under the Trade Marks Act 1994 of two of the following trade marks

- a) SUPERSILK for underwear
- b) SATSUI COPYCAT VIDEOS for videos
- c) ISABELLE for shoes
- d) NEVER BETTERED NEVER BEATEN for legal services

(5 marks)

7. List points you would raise with a client on the correct usage of a trade mark.

(5 marks)

8. List the types of registrable transaction which can be recorded on the UK Register of Trade Marks.

(5 marks)

9. List ways of overcoming an objection raised by the Trade Marks Registry in an Examination report under Section 3(3)(b) of the Trade Marks Act 1994 that the mark applied for is deceptive.

(5 marks)

Part B

10. Your client has received an application to oppose his trade mark application. Explain the procedural steps which will occur if he decides to defend his mark.

(12 marks)

11. Your client is a businessman who intends to set up a laundry service using the name LEGUAAN with a distinctive device of a lizard. Write a letter explaining briefly and clearly what checks and investigations you would recommend to him, giving your reasons for doing so.

(12 marks)

12. Your client's trade mark application, filed on 4th January 2000, has been examined by the Trade Marks Registry and an objection has been raised under Section 5 of the Trade Marks Act 1994 on the basis of an earlier registration registered on 8th June 1999 for an identical mark registered for similar goods. Your client informs you that he has been using his mark in relation to the goods applied for and related services on a significant scale in Scotland for five years.

Write a letter to your client setting out the information you require to enable you to submit evidence to support honest concurrent use, including an explanation as to why you need the information requested. Also explain any problems which you foresee in attempting to overcome the objection this way.

(12 marks)

13. Your client has been selling torches which are in the shape of a cat. He has written to you expressing an interest in registering the shape of the torch as a trade mark. Write a letter advising your client whether trade mark protection would be available to him and explaining any objections which you believe could be raised by the Registrar and whether such objections could be overcome and, if so, how.

Ignore any copyright and design issues.

(12 marks)

14. List the types of specially protected emblems set out in Section 4 of the Trade Marks Act 1994 which cannot be registered as trade marks in the UK, and specify the provisos to refusal of registration.

(12 marks)

15. Your client is a manufacturer of garden equipment. An application has been filed for the following specifications of goods:

Class 7 – Machines

Class 8 – All goods in this Class

Class 9 – Electric, electrical and/or electronic apparatus and devices

Class 20 – Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics; garden furniture

List the objections which might be raised to these specifications and, where objections arise, how they could be overcome.

(12 marks)