

THE JOINT EXAMINATION BOARD

PAPER T5

Wednesday 8th November 2006

3.00pm – 5.00pm

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

1. You should attempt **eight** questions from Part A and **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. Please note the following:
 - a. Enter the Paper Number (T5), and your Examination number in the appropriate boxes at the top of each sheet of paper;
 - b. It helps copying and marking if you number the pages of your answer, this can be done in the 'question number' boxes;
 - 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 staple or join pages together in any way;
 - e. Do not state your name anywhere in the answers;
 - f. Write clearly, as examiners cannot award marks to scripts that cannot be read;
 - g. Reasoning should always be given where appropriate.
4. 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.**
5. **At the end of the examination assemble your answer sheets in question number order and put them in the WHITE envelope provided.** Any answer script taken out of the examination room will not be marked.

This paper consists of 4 pages including this page.

Part A (Answer 8 out of 9 questions)

1. List the procedures that follow the filing of a trade mark application in Germany up to registration. (5)
2. What does Article 3 (equal treatment) of the Paris Convention say? (5)
3. In the context of EC trade mark law, explain what is meant by “exhaustion of rights”? (5)
4. In relation to trade mark registrations, what are the non-use periods and from when do they run in each of the following countries?
 - a. Hong Kong
 - b. South Africa
 - c. Taiwan
 - d. Switzerland
 - e. People’s Republic of China(5)
5. Your client is the proprietor of a Singaporean trade mark application, and you have been notified of an objection to the inherent registrability of the mark.

In what ways may your client contest the objection? (5)
6. In relation to a Mexican trade mark registration, what steps must the proprietor take to ensure that its registration remains valid? Do these steps include the requirement to file evidence of use? (5)
7. Name five countries that do not allow multi-class trade mark applications. (5)
8. What grounds may be raised by the Swiss Trade Marks Registry against acceptance of a trade mark application in Switzerland? (5)
9. Give examples of five territories where it is possible to file a Collective Mark but not a Certification Mark. (5)

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Part B (Answer 5 out of 6 questions)

10. (i) What are the bases for filing a trade mark application in Canada?
(ii) Outline the grounds for opposition to trade marks in Canada. (12)

11. Set out the procedure for obtaining registration of a trade mark in three classes in France. Include the following in your answer:

- who may apply for a trade mark
- any additional documents required
- the minimum requirements to obtain a filing date
- type of examination conducted by the French Trade Marks Registry
- any statutory time limits
- whether official fees are determined by the number of classes covered. (12)

12. You have noticed a new Madrid Protocol application based on an unpublished Swiss trade mark application in class 1, extending to France, China, and Japan. Your client wishes to object on the basis of her prior trade mark registrations for the same mark covering the same goods in those four countries.

What official steps are open to her? Mention any initial time limits.

Do not set out official procedures in detail. (12)

13. Outline the requirements and procedures for obtaining protection of a trade mark using the Madrid Protocol. (12)

14. Set out the stages of trade mark opposition procedure in Benelux.

Include the following in your answer.

- the opposition period
- whether the opposition period is extendable
- statutory time limits

Do not address official fees or appeal. (12)

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15. In the context of trade marks –

- (a) Explain the difference between “first to file” and “first to use”.**
- (b) Give three examples of countries for each type.**
- (c) In the circumstances listed below in (i) and (ii), state which Company, A or B, has the prior right *prima facie* (i.e. based solely on the information given) in the trade mark.**

Do not speculate on information which is not given in the question.

- (i) In Australia, Company A filed a trade mark application on 15th October 2004. Company B has used the identical trade mark on identical goods in Australia since November 2001 and Company B has applied to register the mark, their application (as yet unregistered) having a filing date of 4th December 2004.**
- (ii) In Japan, Company A has used a trade mark since 7th March 1999 and has no application or registration for the mark. Company B has a Japanese trade mark registration for the identical mark for identical goods dated 8th April 2001.**

(12)