

THE JOINT EXAMINATION BOARD
PAPER T2 – BASIC UNITED KINGDOM TRADE MARK PRACTICE
Friday 5th November 2010 10:00 a.m. to 1:00 p.m.

Please read the following instructions carefully.

Time Allowed – 3 HOURS

1. You should attempt **EIGHT** of the nine questions in Part A. If more than **EIGHT** questions are answered in Part A, only the first **EIGHT** will be marked. You should attempt **FIVE** of the six questions in Part B. If more than **FIVE** questions are answered in Part B, only the first five will be marked.
2. **FIVE** marks are available for each answer in Part A of this paper. **TWELVE** marks are available for each answer in Part B of this paper.
3. 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 (**T2**), 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.
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.** 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.
6. This question paper consists of 3 pages including this instruction sheet.

Part A – Answer eight questions

1. Your client sells tennis racquets under the name RAVEMAX. Prepare bullet points on best practice for using a registered trade mark in printed materials. (5 marks)
2. Briefly explain the requirements to register trade marks as a series. (5 marks)
3. Comment on the registrability under the Trade Marks Act 1994 of **TWO** of the following: (5 marks)
 - (a) BIRMINGHAM AIRPORT for "transport services";
 - (b) CONCEPT for "design services";
 - (c) SIMPLY WOMEN'S for "clothing";
 - (d) MIRACLE MASK for "skincare product";
 - (e) BLUE SKY ORGANIC for "bread"
4. List five of the factors used by the UK Intellectual Property Office when assessing whether goods are similar. (5 marks)
5. Explain, in note form, the provision of the UK Trade Marks Act relating to use of the ® symbol where the owner has no trade mark applications or registrations. (5 marks)
6. List the requirements for obtaining a filing date for a UK trade mark application. (5 marks)
7. What is the definition of a "registrable transaction" in Section 25 of the Trade Marks Act? Give three examples of a "registrable transaction". (5 marks)
8. List **five** grounds for opposition to a UK trade mark application under the Trade Marks Act. (5 marks)
9. Your client, Mr Smith, wants to register his surname as a UK trade mark in relation to his plumbing business. List the factors that the UK Intellectual Property Office may take into account in assessing the distinctiveness of the trade mark. (5 marks)

Part B – Answer five questions

10. List the grounds for revocation of a trade mark according to the UK Trade Marks Act. (4 marks) Outline the revocation procedure according to the Trade Mark Rules 2008. (8 marks)

11. Your client has asked you to apply for registration of the trade mark NEVER CLEAN YOUR KITCHEN AGAIN in the UK in relation to household cleaning products in Class 3.

Write notes on any likely objections to this mark. (4 marks) Prepare brief advice to your client on the factors that the UK Intellectual Property Office takes into consideration when evaluating the inherent registrability of slogans. (8 marks)

12. Your client has just become aware of a UK trade mark registration for LEXATOS covering "paint for household use", "paint brushes" and "furniture". For more than 15 years your client has used the mark LEXATOS on furniture and the mark is well-known and market leader in its field. Prepare brief advice to your client on the grounds of any invalidity claim that your client may have (4 marks). Your client, concerned that he has no trade mark applications or registrations to support his branded product, asks you briefly to outline the steps from filing to registration for UK trade mark applications. (8 marks)

13. Your client has a registered trade mark COSY TOESY in relation to hot water bottles. Another company has asked if it can use the name under licence. Your client is very keen to agree to the licence and needs your advice on what terms she should make sure are in the licence agreement. Briefly explain the difference between non-exclusive, exclusive and sole licences. (4 marks) List eight important elements of a trade mark licence agreement. (8 marks)

14. Your client has applied to register a UK trade mark for their logo which is a stylized picture of a sheep. The goods are wool produced by the sheep on their farm. The application has been refused on the grounds that the mark is devoid of distinctive character. You learn that your client has long-standing and substantial use of the logo in the UK. In note form, discuss the nature of the evidence you would suggest your client files at the UK Intellectual Property Office in order to overcome the objection. (12 marks)

15. Your client has informed you that they wish to use and register a new trade mark in the UK. The mark consists of the word PANDAMANUM together with a cartoon picture of a panda bear. The goods are children's games.

In note form list the searches and investigations required to clear the mark for use and registration in the UK. Briefly explain the reason for each search and investigation (8 marks) and the limitations of the searches. (4 marks)