

THE JOINT EXAMINATION BOARD

PAPER T5 – BASIC OVERSEAS TRADE MARK LAW AND PRACTICE

Wednesday, 10th November 2010

3.00 p.m. – 5.00 p.m.

Please read the following instructions carefully. **Time Allowed – 2 HOURS**

1. You should attempt **eight** questions from Part A and **five** questions from Part B.
2. The marks awarded to each question are shown in brackets at the end of the question. If more than the required number of questions are answered in either Part, only the first eight answers presented in Part A and the first five presented in Part B will be marked.
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 (T5), 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.

This paper consists of **4** pages including this page.

PART A (answer 8 (eight) questions)

1. What is the non-use period before a registration becomes vulnerable to cancellation on the grounds of non-use in Benelux, China, Japan and Norway? (5 marks)
2. What is the definition of "priority" according to Article 4 of the Paris Convention. (5 marks)
3. What is the period for filing opposition, if any, in the following countries:
 - Germany
 - Brazil
 - Italy
 - Spain
 - France(5 marks)
4. List FIVE (5) steps that re-packagers of parallel imported products from within the EU need to take to avoid infringing a registered trade mark? (5 marks)
5. For Taiwan:
 - (a) What examination is carried out in the trade mark application process?
 - (b) When can an application be opposed and what is the time limit to file an opposition?
 - (c) What is the non-use period before a registration becomes vulnerable to cancellation on the grounds of non-use? (5 marks)
6. What is the period for filing an opposition to a trade mark in the USA? Is the opposition period extendable and, if so, for how long and on what basis? On what grounds may a trade mark application in the US be opposed? (5 marks)

7. Name THREE (3) countries in the European Union (not including Benelux) and SEVEN (7) countries outside the European Union that are members of the Madrid Protocol. (5 marks)
8. Outline the national trade mark application procedure in China through to registration. (5 marks)
9. In which of the following countries is it necessary to file a power of attorney on filing a trade mark application:
- France
 - China
 - Germany
 - Mexico
 - Spain
 - New Zealand
 - Australia
 - Singapore
 - Brazil
 - South Africa

(5 marks)

PART B (answer 5 (five) questions)

10. Discuss the advantages and disadvantages of a Community Trade Mark compared with National trade mark registrations. (12 marks)
11. What are the bases for filing trade mark applications in (a) Canada, (b) Mexico and (c) the USA? (12 marks)
12. Outline the procedure for obtaining a registration of a trade mark using the Madrid Protocol. (12 marks)
13. List the grounds of (a) revocation of and (b) obtaining a declaration of invalidity of a Community Trade Mark. (12 marks)
14. Your Swiss client has a Swiss national registration of its trade mark filed on 14 July 2004 covering "*Confectionery; cakes; biscuits; tarts; waffles; pies*" in class 30. It now wants to file for the same mark on "*Cakes; biscuits; pies*" in class 30 and "*crisps*" in class 29 in Australia, Hong Kong, New Zealand and Singapore. Advise your client on the possible filing strategies, including any advantages or disadvantages of each strategy and any steps that need to be taken before proceeding to file any applications. (12 marks)
15. Your client has registrations of its trade mark in Republic of Ireland (Eire), Thailand and South Africa, registered in 2005. The marks have not been used, but your client is about to commence use. Advise your client on the validity of the registrations and recommend strategies to overcome any issues of validity? Are there any enquiries that you would recommend? Give reasons for your recommendations. (12 marks)