

PATENT EXAMINATION BOARD
SELECTED INTERNATIONAL PATENT LAWS
SYSTEMS, CONVENTIONS AND TREATIES – GROUP 2 (d)
Friday, 30 June 2023
09h00 – 13h00

Time: 4 hours

EXAMINER: Mr Rory Moore
MODERATOR: Mr Louis van der Walt

Instructions:

- Answer **all** questions.
- Write legibly.

Total Marks: 200

<p><u>Question 1</u></p> <p>Write a note on Unitary Patents (UPs) (17 marks) and the Unified Patent Court (UPC) (13 marks) dealing with their current legal status, the nature of the UP, how a UP may be obtained, and the jurisdiction and “opt out” provisions of the UPC. Also discuss possible benefits and risks (7 marks) of a UP compared to a traditional European patent.</p>	(37)
<p><u>Question 2</u></p> <p>Set out fully 35 USC 102 (a) and (b) in their current form with their subsections.</p>	(40)

Question 3

Reproduce the following two tables 3 (a) and 3 (b) in your answer paper and complete them according to the example given for South Africa, by inserting one of the given symbols into each empty table cell. Ensure that your answers reflect all recent law changes.

(40)

TABLE 3 (a)

Symbols for Table 3 (a):

Insert one of the following symbols into each empty cell of Table 3 (a) in your answer paper:

- Y Yes
- N No
- ▲ Encouraged "wherever appropriate"

Patent Office	Multiple Dependent (MD) Claims			Two-Part Claim Form Required?	Reference Numerals Required in Claims?	Omnibus Claims Allowed?	1-Year Novelty Grace Period Allowed?
	MD claims allowed?	MD-MD claims allowed? *	Fee Multiplier? **				
South Africa	Y	Y	N	N	N	Y	N
USA							
EPO ***							
China							
Japan							

* MD-MD means a multiple dependent claim which is dependent on another multiple dependent claim

** Fee Multiplier means an additional fee payable for each additional higher-ranking claim mentioned in a multiple dependent claim

*** EPO means the European Patent Office

(28)

TABLE 3 (b)

Symbols for Table 3 (b):

Insert one of the following symbols into each empty cell of Table 2 (b) in your answer paper:

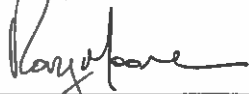
- Y Yes
- N No
- ▲ Depends on the national law of each country

Patent Office	Can you designate this Patent Office in a PCT patent application?	Is Absolute Novelty Required?	Does this Patent Office provide a <u>supranational</u> Patent?	Are "Methods of Treatment" patentable at this Patent Office?
EPO				
ARIPO				
OAPI				

(12)

<p><u>Question 4</u></p> <p>Briefly summarize the prosecution process of a convention patent application in China (CN) assuming that two official actions will issue before a decision to grant issues, also indicating when the issue fee must be paid and whether any third-party opposition is available.</p>	(18)
<p><u>Question 5</u></p> <p>You are acting for a client in a pending PCT application comprising 10 claims. Claim 1 is an independent claim and claims 2 to 10 are dependent on claim 1. Client recently, and at 16 months from the earliest priority date (epd), received a Written Opinion (WO) raising well-founded objections to the novelty of claim 1, but client and you are confident that any objection to claim 1 would be overcome by incorporating the subject matter of current claim 6 into current claim 1. Client instructs you not to file an Art 19 amendment, but to take the necessary steps to convert the negative WO into a positive International Preliminary Report on Patentability (IPRP). Advise client what steps should be taken and by when, including what documents must be filed and their relevant contents, to achieve the above objective.</p>	(20)
<p><u>Question 6</u></p> <p>Assuming that today you have lodged a response to a Rule 94(3) communication (official action) from an EPO examiner wherein you have assisted your client to bring her European patent application designating UK, DE, NL, ES into a form wherein the application meets all the requirements of the European Patent Convention (EPC), advise your client on further official communications that will issue and further steps to be taken and the deadlines (where applicable) for those steps until the patent is granted and validated in each of UK, DE, NL and ES. Your client does not want to go the Unitary Patent route.</p>	(24)
<p><u>Question 7</u></p> <p>Your client wants to disclose an invention relating to a new and inventive security system on 1 August 2023 and requires protection in various countries including Argentina, Australia, Canada, China, countries of the EPC, India, Japan, South Africa, Taiwan and the USA. Advise your client on a cost-effective filing strategy to start obtaining patent protection in the aforementioned countries.</p>	(11)
<p><u>Question 8</u></p> <p>What are the filing requirements for a convention application for a standard patent in Australia?</p>	(10)

APPROVED BY ME:



Rory Moore: Examiner

APPROVED BY ME:



Louis van der Walt: Moderator