

PATENT EXAMINATION BOARD
SELECTED INT. PATENT LAWS
SYSTEMS, CONVENTIONS AND TREATIES – GROUP 1(d)

6 July 2017

Time: 4 hours

EXAMINER: Mr A Krüger

MODERATOR: Mr L van der Walt

Answer **all** questions.

Total Marks: 200

Question 1

On behalf of your client you entered the national phases in USA, Japan (JP), India (IN) and China (CN) following a PCT application, which claimed priority from a South African provisional application which was filed on 10 April 2013. The current status of the applications is as follows: in the USA a first official action issued on 12 May 2017 and you have not yet responded to it; in each of JP, IN and CN substantive examination has been requested and on 20 May 2017, an adverse first official action issued in the CN application citing prior art comprising a US patent, an Australia (AU) patent, a technical paper in English and a Korean (KR) patent in the Korean language. Save for responding to the US and CN actions in the respective countries, what further action must be taken in respect of the USA action and the CN action in each of the countries, also indicating deadlines, if applicable.

(20)

Question 2

2.1 Set out fully 35 USC 102 a) and b) in their current form with their subsections.

(39)

2.2 Your client made an invention relating to a check-in system and method for baggage at an airport. On 28 July 2010, client filed a provisional application in ZA. On 28 July 2011 client filed a PCT application designating all member countries. Thereafter, client entered the national phases in AU and the USA, amongst others. Recently, a competitor convinced client that the competitor can prove that the invention was first used with client's consent on 27 July 2010 at the Perth airport in Australia.

2.2.1 Client contacts you today to advise him whether he could and should still proceed with the US application. (5)

2.2.2 What would your advice have been had the first use at Perth been on 29 July 2014, the provisional application filed on 28 July 2014 and the PCT application filed on 28 July 2015. (5)
49

Question 3

What is the term of a Japanese patent and when must maintenance fees be paid? (9)

Questions 4

Write a note on unitary patents (UP) and the proposed Unified Patent Court (UPC) dealing with their current legal status, the nature of the UP, how a UP may be obtained and the jurisdiction of the UPC. (15)

Question 5

What are the filing requirements for a convention application in China. Also indicate what the minimum requirements are for obtaining a filing date and number.

(19)**Question 6**

Briefly summarize the prosecution process following filing of a convention patent application in India (IN).

(18)**Question 7**

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 EPC application designating UK, DE, NL, ES into a form wherein the application meets all the requirements of the 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.

(24)**Question 8**

Explain the multi-tier fee system in Canada.

(10)

Question 9

What are the filing requirements for a convention application for a standard patent in Australia.

(10)

Question 10

Recently an important change relating to examination has come into effect in ARIPO. What is the change and when did it come into effect?

(6)

Question 11

Your South African (ZA) client made an invention during October 2016. On 1 December 2016, he disclosed the invention in a paper he delivered at a public conference in London. Your client consults with you today for the first time and wants to know whether he can still file applications in respect of his invention in the following countries/regions and give brief reasons for your answers:

- (a) Europe (EP)
- (b) USA.

(8)

Question 12

Your client wants to disclose an invention relating to the drying of a body of grain on 1 August 2017 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:

(12)
