

**PATENT EXAMINATION BOARD**  
**SELECTED INT. PATENT LAWS**  
**SYSTEMS, CONVENTIONS AND TREATIES – GROUP 1(d)**  
**July 2010**

Time: 4 hours

**EXAMINER:** Mr A Krüger

**MODERATOR:** Mr G Kotze

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Answer **all** questions. Total Marks : 200

**Question 1**

- 1.1 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 his EPC application designating UK, DE, NL, ES into a form wherein the application meets all the requirements of the EPC, advise your client on the next steps and the deadlines (where applicable) for those steps until the patent is validated in each of UK, DE, NL and ES. (25)
- 1.2 Compare the respective deadlines for requesting examination and to pay designation fees in a) a convention application under the EPC and b) a regional phase entry under the EPC of an international application under the PCT. ( 8)  
(33)

**Question 2**

Write a note on the normal examination procedure following filing of a patent application in Japan, up to grant or rejection thereof by the examiner. (15)

**Question 3**

Four months ago, you prepared and filed a patent application for your client in the USA. In the claims, two distinct inventions are claimed and your client wants to obtain patent protection in respect of both inventions. Also, you have today received a search report in your client's corresponding application in another country. Advise your client about the future steps to be taken by the USPTO and by your client in respect of the US application with deadlines (where applicable), until a US patent is granted and on the assumption that all objections are overcome in response to a first office action. (20)

**Questions 4**

Write a note on the current search and examination procedures during the international phase of a PCT application and deal briefly with both the Chapter I and Chapter II procedures. (20)

**Question 5**

What is patentable and what is not patentable under a standard patent in AU (13)

**Question 6**

6.1 On 30 August 2009, your client filed a ZA provisional application in respect of an invention having aspects relating to a method and apparatus for making perfume. Your client consults with you today and requires protection in France only. You have advised client to file a convention application in FR only.

6.1.1 Advise client when the FR application must be filed (but do not deal with the filing requirements) and briefly outline the ensuing prosecution procedure with applicable deadlines. (17)

6.1.2 There is an important deadline at 18 months after the earliest priority date (epd) for taking a certain step. What is the step and if it is not taken before that deadline, what are the implications for the aforementioned aspects of your client's invention? (3)  
(20)

**Question 7**

Compare the German (DE) a) utility model (Gebrauchsmuster) and b) industrial design (Geschmacksmuster) in respect of each of i) protectable subject matter; ii) novelty requirements and iii) term of protection. (24)

**Question 8**

On 1 August 2009, your client, a South African company, filed a ZA provisional application in respect of an invention of which one of its employees was the inventor. Immediately after the filing, the invention was disclosed. Client now requires protection in the UK only, as quick as possible, and in the most cost effective manner.

Advise your client on a filing and prosecution strategy and in your answer concentrate on the prosecution steps and the deadlines, full filing requirements are not required.

(20)

**Question 9**

What is a small entity in terms of Canadian patent law and when is status determined.

(9)

**Question 10**

10.1 Your client made an invention during August 2009. On 1 September 2009, he disclosed the invention in a printed publication. The same invention was independently made by a Canadian inventor and immediately thereafter disclosed in a publication during October 2009. Your client consults with you today and wants to know whether he can still file the following applications and give brief reasons for your answers:

10.1.1 EP

10.1.2 AU

10.1.3 CA

10.1.4 USA

(14)

10.2 What would the situation have been, were it not for the publication of the CA inventor?

(8)

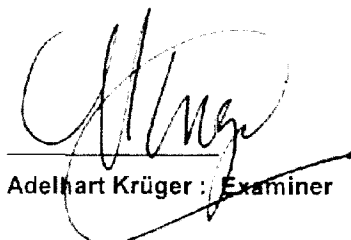
(22)

### **Question 11**

You have today received a letter from a US associate advising that his client made an invention during August 2009 and that the client disclosed the invention in the USA during September 2009. The associate has already prepared the specification for the first application to be filed in the USA and is about to file the application. The associate wants to know whether the client can still file an ARIPO application, and if so, what is the deadline?

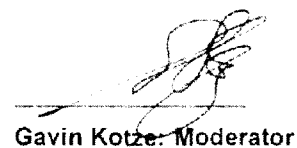
(4)

APPROVED BY ME:



Adelhart Krüger : Examiner

APPROVED BY ME:



Gavin Kotze: Moderator