

Examiners' Report

As every year, there were some questions which were well answered by virtually all candidates, whilst other questions caused difficulty for many. Comments are given below only on the questions that were found difficult. However, as a general point, it was clear from the answers on many of the questions that a significant number of candidates were working from out of date revision books and texts. This error can easily lose a candidate the critical marks needed. Once again, a surprisingly high number of candidates failed to read the questions carefully. Many also clearly did not use "time-lines" when answering appropriate questions.

Part II

The examiner, in the position of the client, was very often set the task of answering the problem rather than being given constructive advice in answer to the questions posed. Again in this part it seemed that, for many candidates, the first thing that springs to mind as a cure for all ills is the filing of an appeal. They often also confuse deemed withdrawal with refusal.

With regard to the status of the applications many failed to mention or note the translation requirements and many also overlooked that a priority right was all that was required of EPC1. In fact a large number were quite clearly of the view that it was necessary for an application to be alive to be used as a priority. Others considered that payment of the fees was necessary to establish a date of filing.

Most recognised that EPC2 would not establish a priority date if it had no claims but a disappointingly low number suggested trying to argue that the application contained some passage that could be taken as a claim.

It was clear from some answers on EPC3 that there are candidates that still do not know at which end of the term the ten day rule applies, even though in this case it made no difference.

With regard to ELP1 very few candidates realised that Leek could extend his protection by adding designations and by using the application as a priority.

Many overlooked the instructions given in the question that rights were to remain with the respective subsidiaries and suggested that all filings be done in the name of Bavaria. In many cases, totally impracticably, they suggested combining all inventions into one and filing a PCT application in Bavaria's name by the following day. Very few mentioned the need for the inventor to be named as applicant in the USA.

For Zorbas the majority assumed incorrectly that a PCT application can be validly filed in Greek. Very few mentioned the practical problems of trying to deal with obtaining protection within one day based on a Greek language application - particularly those who suggested also combining the Greek applications with the Italian applications.

Many candidates wasted a lot of time advising what should be done to improve the competitor's position rather than concentrating on advising Bavaria.

For the identical inventions of Fleur and Zorbas there were many who believed erroneously that, because of Bavaria's ownership of Zorbas and Fleur, the separate legal entity Zorbas could not claim priority, suggesting that CRZ1 was not a first filing in view of FRF1.

Finally with regard to Diablo, virtually no candidates gave good advice to their client. Most concentrated solely on C2 and overlooked the strong position gained for Casino by its ownership of the basic rights to J - which could be extended effectively world-wide. As a result there was very little discussion of licensing possibilities and advice as to what Casino should do to check and strengthen their position.

EXAMINATION COMMITTEE III

Candidate No.

Paper D Schedule of marks

Question	Maximum Possible	Marks awarded		Revision of mark/grade (if any)		Marking by further examiners	
		Exr	Exr	Exr	Exr	Exr	Exr

PART I

1	4						
2	6						
3	3						
4	5						
5	2.5						
6	3						
7	6						
8	2.5						
9	5						
10	5						
11	3	3	3				
Total Part I		45					

PART II

I a	12.5						
I b	21						
I c	5						
II	16.5						
Total Part II		55					

Total Parts I + II	100						
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Corresponding Grade							
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Translation of marks into grades

% Grade

0 - 35	7
35.5 - 45	6
45.5 - 55	5
55.5 - 65	4
65.5 - 75	3
75.5 - 85	2
85.5 - 100	1

Remarks (if any)

Grade recommended to Board

Munich, 5 September 1996

I. Muir - Chairman of Committee III