

Marking Guide Outline – Drafting Paper

Question 1

This question was intended to test each candidate's ability to select appropriate terminology and use that to produce a description and statements of invention. Slightly more than half the marks for this question were allotted to the statements of invention, and the remainder to the description.

Candidates were expected to provide a statement of invention directed to the clip, and another directed to the applicator. A common problem with statements directed to the clip was that they did not clearly distinguish the alleged invention from the prior art. For example, many candidates recited a clip including a projection on each jaw. The prior art also had a projection (being a handle) on each jaw.

Problems with the statements directed to the applicator tended to relate to the inclusion of unnecessary features. There was no prior art relating to an applicator referred to in the question, so an appropriate statement should only recite features essential to enable the applicator to function. Of broader possible statements, the examiner was prepared to accept a statement that omitted the pusher, on the basis that the required action could be performed by the finger of a user (provided fair basis for that was included in the description).

The descriptive part of the specification was generally well done.

Question 2

This was the question that most candidates struggled with. The examiner was looking for a main claim that covered all the embodiments referred to in the specification and which also distinguished the invention from the prior art. Most of the marks were awarded for claim 1 (or the broadest claim submitted) with the remainder being allotted to the remaining claims in the claim set. Marks were awarded for the quality of the claims rather than quantity. Most candidates included a feature in their main claim that distinguished over the prior art. Features included: 1) application of staple deformation

forces at the ends of the crown adjacent to the clinched staple legs of a document staple to cause the legs to be withdrawn substantially through the staple holes in the document/paper sheet; and 2) the nose and prongs deforming the ends of the crown leaving the central portion undeformed. Most of the problems arose from basic drafting issues. Many candidates struggled to draft main claims that covered all the embodiments and that included only essential integers. Perhaps the most common problem was caused by the Figure 7 and Figure 8 embodiments. Many candidates claimed two members pivotally connected to each other – one having a nose at one end and a handle at the other end, and the other member having prongs at one end and a handle at the other end. This arrangement is not present in the Figure 7 or Figure 8 embodiments.