

Examiner's Comments 2011

Paper B

Question 1

Question 1 produced a wide variety of results for candidates. It was clear that many candidates had closely studied the relevant law and in other cases it was obvious that the candidates were scrambling to get marks for this question.

Question 2

Question 2 was a procedural question relating to the grounds for an application for declaration of invalidity. The question on the whole was very well answered by candidates, with one candidate receiving maximum marks.

Question 3

Question 3 was a practical question relating to trade mark infringement/the Fair Trading Act/passing off. Many candidates struggled with the fact situation and in many cases candidates focused too much on whether they would be able to register their trade mark rather than the main issues presented by the question.

Question 4

This question follows a very similar pattern to questions included in previous examinations and was relatively well executed by the majority of candidates. The search strategy question was generally well answered with many people identifying a good fact and search pattern, at least some of the relevant classes and the fact that common law searching would be required. Most candidates failed to recognise that a Vienna Classification search for a skull device would be a good idea.

Many candidates did struggle with the distinction between availability for use and registrability. Given the importance of this distinction to trade mark law this was disappointing.

Question 5

All candidates recognised that this question was directed at the Major Events Management Act. Many candidates did well in this question, but equally as many were unable to include sufficient detail about the Act to secure high marks for the question.

Question 6

This question also produced a very wide variety of marks. The majority of candidates appeared to be overwhelmed by the fact pattern and failed to address many of the issues presented by the facts. While most identified opposition on at least some of the relevant grounds, many simply outlined the law in this area without applying it to the facts and discussing the significant issues presented by those facts. Those candidates who did apply the law to the facts scored very well.