

## **Examiner's comments for Paper D 2017**

This exam question intentionally used narrow terminology to describe many of the parts of the coat hanger. Most of those terms were too narrow to be used in the claims. Candidates were expected to use broader terminology in their answers. Candidates that used the terminology from the question in their answer did not receive high marks.

There were three possible concepts that could be covered by the claims: the mechanism that causes the clamps to move and secures them in place, the soft or rubbery material on the inner faces of the frame, and the relatively long length of the clamps compared to the prior art.

It was possible to pass this exam and get a good mark with claims directed to only one of the concepts. Candidates that included two or three independent claims received higher marks. However, candidates that included additional independent claims to concepts that were not novel, lost marks.

It is acceptable to include two or more independent claims that do not have unity with each other. Another option is to include claims directed to a first concept and then included statements of invention directed to the other concepts. Either option gives the client the opportunity to file one or two divisional applications. You can then explain the approach you have taken in the letter to your client.

Although the question included information about the method for manufacturing the coat hanger, including method claims was not a good use of time. Often the method claims drafted by candidates were not novel because the question told you that Marla had previously made products using an over-moulding process. Also, if a method claim was included, it would also be necessary to include a description of the method in the detailed description section.

For the detailed description, candidates were expected to explain the preferred embodiment, but also describe one or two variations or alternative embodiments to provide support for the broadest claims. These variations or alternatives do not need to be described in too much detail. The question described some alternative embodiments, which should be included in the description.

A few candidates realised there were possible alternative embodiments, which were not described by the client, and included additional drawings and description. Those candidates received additional marks for including that information. For example, if an independent claim relates to the concept of the relatively long length of the clamps, there are alternative hinging mechanisms that could be used and briefly mentioned in the specification.

The background, brief description of the drawings, summary of the invention, and object of the invention were done well by most candidates. It is acceptable, and a good time saver, to include a short reference to the claims in the summary of the invention section. It is not necessary to write the claims out word for word in the summary of the invention section.

The claims were expected to be novel and inventive, use terminology that is not too narrow, and have a structure that is clear to follow. Most candidates drafted claims that were at least novel over the prior art. Candidates that did not pass generally drafted claims that were too narrow and easy for a competitor to work around.

The letter to the client is an opportunity to explain the terminology used in the claims and the process used when the specification was prepared.

**Mark allocation**

Claims	45
Detailed description, including alternative embodiments	35
Brief description of the drawings, summary, background, and object	10
Letter to the client	10

As a general rule, candidates that scored above 50% in the claims, also scored above 50% in the paper overall. For most candidates, their overall mark was similar to the mark they received for the claims.

There was no allocation in this paper for standard paragraphs, such as including a definition of 'comprising'.