

Patent Attorney Examiner Comments 2014

Paper D - Drafting

A lot of weight was given to the claims of the patent specification and to the independent claims.

In this regard, candidates that scored well had

- good vocabulary in mechanical components and forces
- a claim that covered both versions of the trailer and avoided the prior art.
- a claim that realised the provisional had some basis for extracting a broader claim entitled to the provisional priority date. The provisional mentions alternatives to the quite specific preferred embodiment description. Some managed to get a broad claim in that would arguably have fair basis to the provisional and cover both the first and second version of the trailer.

Features of the independent claim(s) that marked candidates down included

- Too much detail about the nature of the deck. eg "Trailer frame" instead of "load support"- the deck could be of F-glass and be moulded and no frame exists.
- The pivot of the lever arms are at the rear of the trailer. You could have a pivot at the front and cable/actuation at the back.
- The lever arms are parallel to the trailer frame when the trailer is in the raised condition.
- Actuator- especially a cable.
- Cross beam. No need to have this in the broadest claim.
- Inconsistent use of terminology in the claim.
- A parts list with no glue words to hold the parts together. Eg a Wheel, a frame, a lever, a drawbar, a cable.
- Clumsy use of English that created clarity issues.
- A claim that clearly read on the prior art.
- Besides use of narrow scope language, a claim that had at least 3 independent novel features in it.
- Claim by result language that did not tie back up to features in the claim.
- Pivoting drawbar.

Candidates could have had several independent claims. One that claimed the first version of the trailer with the limitation of an actuator and one for the new version aimed at the cross bar and one at the new version aimed at the pivoting drawbar with or without cross bar. So several independent claims, potentially to be divided out later.

A detailed description that did more than repeat the description of the exam paper scored higher. For example those that described the concept of operation and then described the preferred embodiment and also alternatives got a high score for the detailed description section.

Candidates that had a loose background and prior art discussion got marked down. A prior art discussion that was tight and not open to interpretation scored well for this section.

Many candidates described the first version and the new version of trailer but never cross-pollinated each with features of the other. Eg the first version with a cross bar but no pivoting drawbar and the new version with pivoting drawbar but not a cross bar.

A general weighting of mark was applied for candidates that made a genuine attempt at each section of the specification, as follows:

Into/Background 5%

Statements of invention 5%

Detailed description 10%

Independent claims 55%

Dependent claims 25 %

But a very poor or non-existent section had marks taken off. So, for example, scoring 100% for an independent claim and not having attempted any other section, would not result in a final score of 55%.