

Paper C 2019 - Examiner's Comments

Question 1: This question was generally answered well. All of the candidates knew that Taiwan is not a member of the PCT and most were aware that a patent application should have been filed in Taiwan within 12 months of the filing of the New Zealand priority application.

Question 2: This question tested knowledge of the options available in the United States following the receipt of a Final Office Action and was generally answered well.

Question 3: No candidate mentioned that it was possible to apply for a short-term patent in Hong Kong. Most candidates were aware of the application and registration procedures in Hong Kong.

Question 4: This question tested knowledge regarding the options available to respond to a Communication under Rule 71(3) and to delay the grant of an accepted European patent application. The question was generally poorly answered with some candidates unaware of possible options (such as requesting further processing or making trivial amendments to the specification to delay grant) and most candidates omitting the associated costs and deadlines.

Question 5: This question tested knowledge of the PCT process. Parts (a) and (b) were generally answered poorly. In part (a), few candidates noted that to file a PCT application at IPONZ or IP Australia as the Receiving Office at least one applicant must be a citizen or resident of that country. In part (b), all of the candidates knew that the applicant has one month from the international filing date to pay the outstanding fees. However, no candidate correctly stated what would happen if the fees were still unpaid by this date. Part (c) was generally better understood and answered well.

Question 6: This question about Australian practice was generally answered poorly. All of the candidates knew that, when faced with a potential infringer in Australia, one option is to request expedited examination. However, not many candidates knew that another option is to convert the application or a divisional into an innovation patent application. Even fewer candidates listed the many advantages and disadvantages of innovation patents compared with standard patents.

Question 7: This question about renewal and maintenance fees was generally answered well and some candidates scored highly.

Question 8: This question tested knowledge about revival of abandoned patent applications and was generally answered well. However, some candidates appeared to be confused regarding the difference between the applicant taking "due care" and the abandonment being "unintentional".

Question 9: This question about challenging patent applications was generally answered well with many candidates scoring high marks.

Question 10: This question tested knowledge about re-examination of granted patents in Australia and was generally answered poorly. In part (a), none of the candidates mentioned that the patentee may request re-examination. In part (b), none of the candidates mentioned that amendments in Australia are advertised prior to allowance while amendments in New Zealand are not advertised prior to allowance.