

EXAMINER'S COMMENTS

Question 1

This question tested candidates' knowledge of national phase entry deadlines and was generally well handled although some candidates wasted time discussing restoration procedures when the fact scenario clearly precluded this as an option.

At ½ mark per country it should have been clear that a mark would be awarded only for a correct answer.

Question 2

This question was generally well handled with most candidates identifying the strategy of allowing the claims to the process to be accepted while prosecuting the claims to the product in a divisional application.

Question 3

Most candidates had a reasonable knowledge of the requirements around working the invention, compulsory licences etc in Indian and China.

Question 4

This question was intended to test candidates' knowledge of grace periods in the four specified countries and was generally well handled.

Question 5

Most candidates identified the main ways in which the applicant could sue on the Australian application – including filing an innovation patent application, requesting modified examination based on the European application, requesting expedited examination and using the Patent Prosecution Highway.

Question 6

Most candidates showed a good knowledge of US practices but were less familiar with Canadian practice.

Question 7

Most candidates were familiar with the process a European application would take, although many didn't mention the important 2 year deadline for filing a divisional application in Europe.

Many candidates didn't understand the advantages that filing a US application would have regarding section 102 (e) of the US Patent Act. Also, many did not realise that the London protocol had relaxed the translation requirements in many countries.

Question 8

Question 8 was a difficult question that required a good understanding of the whole-contents approach in the countries in question. There was a clear division in marks between those candidates who understood the concept and scored very well, and those that did not, who achieved only a few marks, mostly by chance.

Question 9

This question related to the issue of whether the applicant had the right to apply for the PCT application and the right to claim convention priority from the provisional application filed in the inventor's name. Also required were the potential consequences if the applicant did not have these rights. The relevant cases were *Edwards Lifesciences v Cook* and *KCI v Smith & Nephew*. This question was possibly the least well handled as many candidates clearly did not understand the issue.

Question 10

Most candidates had a good knowledge of the ways in which patents could be challenged in the countries asked.