

Examiners Comments, Paper D, 2011

For question 1, not many marks were set aside for the background discussion because the background was comprehensively provided in the question. Many candidates wrote a lot in their background section, much of it being text copied from the question. Not an efficient allocation of time. Only one candidate used the hard copy of the question to insert its text into their answer to this question. This would have saved a lot of time for that candidate.

Most of the marks were able to be scored by good statements of invention to the device itself as these would capture the suppliers and/or manufacturers of the device. One candidate had only method statements.

Most candidates had statements for the tool but many of those were very narrow, such as including the slots at both ends of the hollow body. To be effective, the tool does not need to have a hollow body, nor slots. The tool merely needs some feature that would allow the tool engage the device at a location or locations other than the exposed prong.

For many candidates, the broadest statements to the device were very narrow or too broad. The narrow statements included unnecessary limitations such as to the lips, and many candidates recited detailed geometrical features.

The statements that were too broad covered the angle bracket prior art. Not the bracket on its own, but the bracket when it has a nail or nails protruding through it.

Many candidates "claimed" that the prongs extended at 90 degrees to the nail plate but not may candidates "claimed" that the prongs extended in the same plane or parallel to the plane of the vertical nail plate part.

Candidates also used careless closing statements in their broadest statements of invention to the device to help explain how it may be installed. These sorts of comments don't help avoid prior art and usually create unnecessary limitations to their scope.

Candidates that claimed the device very broadly often lacked clarity and internal fair basis.

I was hoping that some candidates would push the boundaries with a "claim" that had lots of claim by result language on top of a solid base of broad terminology that described the parts of the device. And then describing some preferred embodiment with more detail of the physical features to provide back up to the claim by result language.

Eg a device ... [bit of preamble about deck components] ... that comprises a securing plate to thereby allow the device to be secured to a vertical face of a joist, a pair of opposed prongs to be presented by said securing plate, when the securing plate is secured to the joist, at a height above the joist to allow each prong to penetrate through a side edge of two parallel adjacent planks.

For question two, most of the answers were disappointing. Broadest claims included that the frame was made up of "tubes" or "straight pipes" or similar. Confusion between free pivots and lockable hinges was common. Many claims did not even cover one of both embodiments, regardless of their scope.

Another common problem with the claims was a lack of antecedent and circular referencing of integers; i.e feature A comprises feature B and feature A.

I was not necessarily expecting candidates to claim both embodiments in one independent claim. Having one independent claim to the first embodiment and another to the other embodiment would have been fine.

No one used "4-bar-chain" to simply describe the pram folding mechanism though one candidate used terminology from a different area of technology that very elegantly described the positions of the pivot axes. Unfortunately, the remaining language of their claim created a very narrow claim.