

Examiner's comments on candidates' performance in QE 2005 Paper D

Examiner A

Many candidates failed to answer to the questions asked. They tend to answer according to what they know or what they had earlier prepared for the exam for that topic. They tend to read too much into the facts instead of focusing on what had been revealed in the question. What happens is that much time is taken in answering something that was not asked for and little time is focused on the question at hand. However, for those who answer on point, they scored easily.

Whilst some candidates chalked up marks easily for quoting the correct legal references, they failed to reflect their reasoning and application of the law to the facts before them. They failed to articulate and apply the law to the facts before them.

Candidates in general showed lack of familiarity of the law and its application.

Examiner B

Based solely on the papers that I have marked, I would say that there are a few more candidates who have been able to provide good/competent answers to the questions this year. Unfortunately the performance of the majority of the candidates is still poor.

It is noted that candidates who are well prepared have been able to answer Question 1 (on renewal dates) competently. Future candidates are advised to familiarize themselves with the provisions relating to this issue, as it is an important and common issue that many of them would come across in their work as patent agents. In addition, examination questions on renewal dates usually do not involve complicated legal issues. Candidates would be prudent to prepare well for such questions.

The question to which most candidates were unable to provide a good answer is Question 4, which I felt is probably the most difficult of the five questions set.

The following are again the most common errors made by the candidates:

1. Failure to discuss the issues in sufficient detail.
2. Failure to identify relevant issues/Discussion on irrelevant issues.
3. Error of law/Wrong application of the law.
4. Poor time management.

Examiner C

There were no outstanding candidates. Even those who passed made some bad answers. The candidates who failed generally had the most trouble with questions 3 and 4. Many appeared not to have read the questions properly and gave lots of irrelevant information for which no marks could be given. Many candidates dropped marks for not supporting their answer with the appropriate legal reference. Other candidates lost marks for just quoting the law without saying how it was to be applied to the question.

Examiner D

The overall standards are generally an improvement over last year's. It appears that candidates understand better what the Examiners are expecting. Fewer scripts got into the problems of over-elaborating on irrelevant matters for which marks were not awarded. Those who did so were evidently not properly prepared for the paper, and ultimately did not pass. Question 3 was most challenging as a few candidates were not aware of the prohibition against double-patenting, which at least two candidates scored as low as 1 mark out of 20. This illustrates that candidates should read more widely and become more familiar with real-life problems faced by patent applicants, rather than just focus on questions from past years' questions. At least one candidate regurgitated an answer from last year's question although it was irrelevant to the question at hand.

Examiner E

Basic understanding of renewal was there. Some candidates did not exhibit understanding between grace period and restoration. Common mistake was wrong fee calculation for PF 16. Also identified the section for international date of filing incorrectly.

Generally, for those candidates who were prepared, there was a good appreciation of procedure, particularly for renewals. Some marks were lost because although section was discussed, sometimes no rule was mentioned. A common mistake for renewals was stating the incorrect fee for PF 16.

However, I felt most candidates lacked the ability to go beyond simply stating the law and to articulate a well argued point. This may be due to shortness of time. Some candidates performed very well on procedural questions e.g. on renewal, but completely omitted to answer other question example Question 4 which I think was found to be challenging by most. Also, the candidates are obviously not used to a problem solving approach. For example, although most could identify the significance of the pre and post 1 July amendments, they were unable to tie in post grant search and examination to deal with the restriction on relief for infringement in question 4.



I did not encounter any candidate who showed a reasonably good performance on all questions.