INTELLECTUAL PROPERTY
OFFICE OF SINGAPORE

ANSWER GUIDELINES TO QE 2012 PAPER B

Note: The answer guidelines contain a non-exhaustive list of points that examiners expect candidates to cover in the answer to this Paper.

General Instruction:

1) Claim Amendments

1.1 Present an amended (limited) claim

1.2 Present an amended claim that does not cover embodiment 3

1.3 Amended claim 1

Include a feature shared between embodiments 1 and 2, to have inventiveness and unity.
To amend claim 1 to something like "single nozzle and separation at least in the main body", but not "wall to the outer end of the nozzle", since description mentions in main body is sufficient to achieve acceptable results.
In D1 two nozzles. In AAPA, no separation when "in fluid communication (after rupturing), thus distinguished.

1.3.1 If claim NOT NOVEL, NO marks will be awarded

1.3.2 If claim is amended to only cover first embodiment, NO marks will be awarded under item 1.3. UNLESS additional independent claim(s) are added, in which case marks may be awarded for all (not for each!) independent claims, BUT note Deduction (non-unity) below

1.3.3 deduction for i) each added unnecessary feature and ii) for each omitted necessary feature.

Non-limiting examples:
"separation also in nozzle",
"wall" or "channel",
"integral main body",
omit "each chamber in fluid communication with single nozzle",

1.3.4 If an AMENDED claim 1 is presented that covers all embodiments, marks can be awarded, but ONLY if the claim is at least novel over ALL prior art.

Non-limiting examples:
"single dispensing direction and integral main body",
"single dispensing direction" without integral main body, (C2, bottom drawing)

1.3.5 If an AMENDED claim 1 is presented that covers

only one embodiment, marks may be awarded.

1.4 Add dependent claim to "divided hinged cap", but not broader, as not supported.

1.4.1 NO marks awarded if claimed broader (added subject matter, validity issue); between 0-3 points if more limitations than necessary)

1. Correct clarity issues
As raised in the report (i.e. replace "upper" and "lower" with "inner" and "outer")

1.7 Amend/clarify "compartments above each other" and "compartments side-by-side".

Deductions:

Not amending/limiting claim 1

Introduce feature (in independent or in dependent claim) which is not supported by application as filed (non-limiting example dependent claim to different multi-component contents).

Amend to have more than one independent claim with non-unity.

2) Response

2.1 Support for amended claim 1

2.1.1 point to literal support,

2.1.2 highlight that not limited to specific design of the embodiments because of description,

2.1.3 If candidate amended claim 1 according to item 1.3.4 or 1.3.5, marks can be awarded.

2.2 Novelty of amended claim 1

2.2.1 If candidate amended claim 1 to only cover first embodiment NO mark given.

2.2.2 If candidate amended claim 1 according to item 1.3.3, marks can be awarded.

2.3 Inventive step of amended claim 1

2.3.1 Non limiting examples:

Need to argue inventiveness of amended claim 1, in particular in view of

"obvious design choice" objections against original claims 10 and 11. Refer to advantages achievable as described. Also mention that in AAPA, there is no separation when "in fluid communication" (after rupturing), thus distinguished.

2.3.2 If candidate amended claim 1 to only cover first embodiment, NO marks will be awarded.

2.3.3 If candidate amended claim 1 according to item 1.3.3, marks can be awarded for arguing support.

2.4 Arguments for the amendments to overcome clarity objections against "upper" and "lower"

2.4.1 literal support,

2.4.2 explain, for example, that "inner" and "outer" are clear in the context of the "nozzle on main body", i.e. main body facing "inner", outward facing "outer",

2.5 Support for new/amended dependent claims

Non limiting examples include:

2.5.1 Arguments for the amendments to qualify "above" and "side-by-side".

2.5.1.1 literal support,

2.5.1.2 explain, for example, that dispensing direction clear in the context of nozzle of a tube,

2.5.2 Support for new dependent "divided hinged cap".

2.5.2.1 literal support,

2.5.2.2 unity because dependent claim,

3) Letter To Client

3.1 Explain AAPA.

3.2 Explain that D1 must be considered, even though it "is not in the market", i.e. definition of prior art base.

3.3 Explain why claim 1 not patentable in your view.

3.4 Explain recommendation to forego embodiment 3, i.e. patentability issues as well as commercial info given by the client.

3.5 Explain patentability of amended claim 1 over C2

3.4.1 No additional marks awarded in letter for repeated explaining of patentability over D1 and AAPA, which already gets marks under the Response item.

3.6 Explain why not two independent claims for first and second embodiment, i.e. unity of invention, as well as broader protection entitlement through functional definition.

3.7 Explain amendments to qualify "above" and "side-by-side", i.e. safeguard against avoiding infringement based on orientation of infringing article, although there was no clarity objection raised.

3.8 Explain dependent claim to divided hinged cap, i.e. needs to be specific because of support/added subject matter.

3.9 Explain why not independent claim for the cap for the present application, i.e. unity.
Mention option of divisional application and by when to file, including remarks on whether useful, i.e. limitations because of very limited support, costs, patentability issue because of broader prior art base (new search for divisional) etc.

3.10 Explain what needs to be done regarding the article found by the client, i.e. no need to formally submit, but is factually prior art (enforceability), mention Section 80(f) with brief discussion.

Deductions:
Advice that D1 can be ignored because it is not in the market.

Advice that AAPA can be ignored since no citation.

Advice that article found by client can be ignored since no information disclosure requirement in SG.

Suggested Amended Claims Set

Claims

1. A dispenser comprising:

a main body; and

one nozzle formed on the main body; wherein

the main body comprises a first compartment in fluid communication with said

one nozzle and a second compartment in fluid communication with said one nozzle; and wherein

the first and second compartments are configured such that respective fluids in the first and second compartments are separated from each other at least within the main body.

2. The dispenser of claim 1, wherein the first and second compartments are disposed in a staggered manner along a dispensing direction of said one nozzle.

3. The dispenser of claim 2, wherein the main body comprises a channel in fluid communication with the second compartment at one end thereof, and in fluid communication with said one nozzle at another end thereof.

4. The dispenser of claim 3, wherein the channel extends at least to an inner end of said one nozzle

5. The dispenser of claim 4, wherein the channel extends substantially to an outer rim of said one nozzle.

6. The dispenser of claim 1, wherein the first and second compartments are disposed side-by-side along a dispensing direction of said one nozzle.

7. The dispenser of claim 6, comprising a dividing wall disposed between the first and second compartments, wherein the dividing wall extends at least to an inner end of said one nozzle

8. The dispenser of claim 7, wherein the dividing wall extends substantially to an outer end of said one nozzle.

9. The dispenser of any one of the preceding claims, further comprising a divided, hinged cap disposed to selectively allow dispensing of fluid from substantially only one of the first and second compartments, or from both the first and second compartments.