

ANSWER GUIDELINES TO QE 2013 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.

<p>Question 1: Response</p> <p>a. Provide antecedent basis for the amended claims:</p> <ul style="list-style-type: none"> - Amended claim 1: e.g. paragraphs [0020] and [0023] - Dependent claim directed at “ridge” feature: paragraph [0023] Or dependent claim directed at “lip” feature: paragraph [0020] - Dependent claim directed at “fan support, support attachment” feature: paragraphs [0018] and [0019] <p>b. Novelty</p> <p>Possible arguments:</p> <p>In original claim 1, the claimed “rotatable ventilator” falls within disclosure of D1.</p> <ul style="list-style-type: none"> - Explain why amended claim 1 is new over D1 D1 discloses “a rotatably mounted disk or plate, provided with a plurality of apertures, below which are downwardly and laterally directed wings of blades”. (See D1, page 15, line 24 to page 6, line 5.) - Explain why amended claim 1 is new over D2 D2 discloses a forced convection oven whose fan is motor-operated. (See D2, page 20, lines 14-21) - Explain why amended claim 1 is new over D3 D3 discloses a grill apparatus to be used with a cover, and having a peripheral flange for liquid drippings; food being heated and cooked may release fats or juices which drip down into the receptacle (see D3, page 26, lines 18-23) <p>c. Inventive Step</p> <p>Possible arguments are set out below but other reasonable answers should be made acceptable</p> <p>Explain why amended claim 1 is inventive over D1</p> <ul style="list-style-type: none"> - D1 is directed at thoroughly distributing upwardly moving heat products or gas to prevent unequal broiling (page 16, lines 1-12). - Consider whether D1 addresses the need to prevent flaming, whether there is any suggestion that D1's rotatable ventilator and/or other component are capable of deflecting grease away from heat source. May consider whether arrangement in D2's Fig. 2 would allow grease to drip into heat source? <p>Explain why amended claim 1 is inventive over D2</p>

- D2 is directed to a forced convection oven with the objectives of more even distribution of air currents using motor fan, protection of fan from overheating and protection of fan blades from food drippings (col.2, lines 34-62).
- Consider relevance of D2's field, whether D2 is likely to encounter flaming problem (due to location of heat elements 17, 18, and also D2 provides means to protect fan from food drippings).

Explain why amended claim 1 is inventive over D3

- D3 is directed at a cooking appliance for rapid, even cooking while maintaining high moisture content (page 18, line 23 to line 19, line 10)
- Consider whether D3 is likely to encounter flaming problem since food is not placed directly over the gas burner
- Or consider whether D3 prevents flaming by the grid arrangement which necessitates placing of food away from (not directly above) the gas burner, and having a receptacle under the cooking food to collect drippings.

1st possible amendment – "lip" feature

Explain why amended claim 1 is inventive over D1+D2

- Consider appropriateness / suggestion to combine
- Even if D1's broiler attachment is combined with D2's rotatable ventilator, consider whether D1+D2 suggests the need to prevent flaming, whether there is any disclosure or suggestion of claimed features, etc.

2nd possible amendment – "ridge" feature

Explain why amended claim 1 is inventive over D1+D3

- Consider motivation or suggestion to combine
- Even if D1's broiler attachment with rotatable distributor is combined with D3's receptacle for collecting drippings, consider whether D1+D3 addresses the need to prevent flaming.

Explain why amended claim 1 is inventive over D1+D2+D3

- Consider whether D1+D2+D3 addresses the need to prevent flaming / whether there is motivation or suggestion to combine / whether the combination would achieve the amended claim 1.

Explain why amended claim 1 is inventive over D2+D3 / D3+D2

- Consider whether D2+D3 / D3+D2 addresses the need to prevent flaming / whether there is motivation or suggestion to combine / whether the combination would achieve amended claim 1.

Question 2: Amendments

a. Amend claim 1 (2 possible answers – marks awarded to one or the other only)

1st possible answer

1. A barbecue device comprising:

a pan having a bottom wall and side walls for defining an open space within the pan, the bottom wall having a centre opening adapted to fit over an external heat source;
a rotatable ventilator adapted to be removably mounted over the centre opening, wherein the rotatable ventilator overlays above the centre opening and is rotatable in a generally horizontal position; and
a lip adjacent the outer periphery of the rotatable ventilator for collecting grease from the blades and deflecting the grease to a reservoir to prevent flaming.

[3 marks deducted for the addition of additional features, e.g. "multiblade fan"]

2nd possible answer

1. A barbecue device comprising:

a pan having a bottom wall and side walls for defining an open space within the pan, the bottom wall having a centre opening adapted to fit over an external heat source;
a rotatable ventilator adapted to be removably mounted over the centre opening, wherein the rotatable ventilator overlays above the centre opening and is rotatable in a generally horizontal position; and
a ridge located on the bottom wall and circumferentially surrounding the centre opening, the ridge defining a trough with the side walls, which is adapted to retain water at the bottom of the pan.

[3 marks deducted for the addition of additional features, e.g. "multiblade fan"]

Possible new dependent claims:

- The device of claim 1, further comprising a ridge located on the bottom wall of the pan and circumferentially surrounding the centre opening, the ridge defining a trough with the side walls, which is adapted to retain water at the bottom of the pan.

Or

- The device of claim 1, further comprising a lip adjacent the outer periphery of the rotatable ventilator for collecting grease from the blades and deflecting the grease to a reservoir to prevent flaming.

- The device of any preceding claim, further comprising: a fan support; and support attachment for attaching the fan support to the bottom wall of the pan;

Claim 3: Cancel since amended claim 1 does not recite a "rotatable ventilator" OR amend accordingly to incorporate the above possible new dependent claim.

Claim 4: Correct dependency

Claim 5: Correct dependency

Cancel claims 6 and 7

Question 3: Advice to Client

- a. Explain the need to file a response to the Written Opinion
 - otherwise an adverse examination report will be issued in view of patentability issue
 - resolve unity issue in order to satisfy grant requirements under Section 30(3)(a)
- b. Explain unity of invention
 - Section 25(5) and Rule 25

Explain why the Examiner is correct
Technical features of claims 1 and 6 not linked by a single inventive concept

Explain why claims to the second invention should be deleted

 - they will not be examined in the present application and cannot advance to grant. If candidates pick the 2nd possible answer ("ridge" feature), they will have to highlight the newly amended claim includes unsearched/unexamined subject matter, but that the examiner should examine it anyway because the earlier search would include all bbq devices that has a pan/rotatable ventilator etc.
 - Mention possibility of divisional application, when to file and whether it is advisable to file a divisional application in view of costs, patentability issue, etc. However, if order to obtain the 4 marks, candidates need to also mention that a divisional application directed towards the second invention may not be novel in light of the cited prior art documents.
- c. Explain why the Examiner is correct in alleging claims 1- 5 are not patentable in view of the prior art and that an amendment is required.
- d. Explain why you chose the proposed amendments
 - in view of client's comment that his barbecue design is durable due to the fan design
 - in view of the competitor's copying
 - in view of the cited prior arts
 - alternatives, e.g. include "lip", "ridge", "fan support attachment" consider whether these features may unduly narrow scope of protection in view of prior art, avoid infringement, whether they are absolutely essential to work client's invention, etc.
- e. Explain the purpose of the new/fall back claims
 - explain why you chose "ridge" feature and "fan support attachment" feature
- f. Explain why a new claim directed at the nickel-chromium based alloy as suggested by client cannot be introduced.
 - new subject matter not included in the original application cannot be added
 - section 84(2)

- g. Explain why client may not differentiate using “fan is supported on a pin for easy and free rotation”
- D1’s Fig. 1 shows standard f for supporting disk g