

## ANSWER GUIDELINES TO QE 2014 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.

<b>1) Response</b> <b>2) Amendments</b> <b>3) Letter To Client</b>
<b>Question 1: Response</b>
<p>a. Provide antecedent basis for the amended claims:</p> <ul style="list-style-type: none"><li>- Amended claim 1: e.g. page 3, lines 8 to 19</li><li>- Dependent claim directed at “material of infusion bag”: page 5, lines 1 to 3</li><li>- Dependent claim directed at “tangential gradient of wedge member”: page 5, lines 5 to 7</li></ul>
<p>b. Novelty</p> <p>Possible arguments:</p> <p>In original claim 1, the claimed “apparatus for fluid delivery” falls within disclosure of both D1 and D2.</p> <ul style="list-style-type: none"><li>- Explain why amended claim 1 is new over D1</li></ul> <p>D1 discloses “an infusion device driven by an elastic pantograph mechanism”. No disclosure of block members and an elastic band resilient means.</p> <ul style="list-style-type: none"><li>- Explain why amended claim 1 is new over D2</li></ul> <p>D2 discloses a spray bottle squeeze mechanism. No disclosure of an elastic band resilient means.</p>
<p><b>c. Inventive Step</b></p> <p>Possible arguments are set out below but other reasonable answers should be made acceptable</p>

Option 1

Explain why amended claim 1 is inventive over D1

- D1 uses a different “compressing mechanism” which includes an elastic mechanism made up of 2 sets of intersecting lever – a pantograph. Such a mechanism requires a manual working.

Explain why amended claim 1 is inventive over D2

Explain why amended claim 1 is inventive over D1+D2

- Consider appropriateness / suggestion to combine
- Consider the curvilinear profile of the wedge member to provide a constant pressure
- Even if D1’s pantograph is combined with D2’s squeezing mechanism, consider whether D1+D2 suggests generation of squeezing fluid at constant flowrate.

**OR**

Option 2

Explain why amended claim 1 is inventive over D1

- D1 uses a different “compressing mechanism” which includes an elastic mechanism made up of 2 sets of intersecting lever – a pantograph. Such a mechanism requires a manual working.

Explain why amended claim 1 is inventive over D2

Explain why amended claim 1 is inventive over D1+D2

- Consider appropriateness / suggestion to combine
- Consider that D2 discloses a spring mechanism that squeezes the block members. Provide arguments on why a skilled person would not replace a spring with an elastic band
- Even if D1’s pantograph is combined with D2’s squeezing mechanism, consider whether D1+D2 suggests generation of squeezing fluid at constant flowrate.

Address Examiner's other observations

**Question 2: Amendments**

**a. Amend claim 1**

Option 1

1. An apparatus for fluid delivery from an infusion bag, the apparatus comprising:
  - (a) a housing having a top casing and a bottom casing;
  - (b) a compressing member disposed in the housing for squeezing the fluid out, the compressing member comprising:
    - (i) a first block member and a second block member;
    - (ii) a wedge member disposed between a first block member and a second block member, the flexible container disposed between the wedge member and bottom casing, the wedge member having a curvilinear profile; and
    - (iii) a resilient means coupled to the first and second block members,
    - (iv) wherein the resilient means causes the first and second block members to move towards each other by which the wedge member moves towards the bottom casing to squeeze the fluid out of the infusion bag.

**OR**

Option 2

1. An apparatus for fluid delivery from an infusion bag, the apparatus comprising:
  - (a) a housing having a top casing and a bottom casing;
  - (b) a compressing member disposed in the housing for squeezing the fluid out, the compressing member comprising:
    - (i) a first block member and a second block member;
    - (ii) a wedge member disposed between a first block member and a second block member, the flexible container disposed between the wedge

- member and bottom casing; and
- (iii) a resilient means coupled to the first and second block members, the resilient means comprising an elastic band binding the first and second block members together,
  - (iv) wherein the resilient means causes the first and second block members to move towards each other by which the wedge member moves towards the bottom casing to squeeze the fluid out of the infusion bag.

\*NOTE: There is some flexibility in awarding marks, so long as the candidate includes either one of the features (1) curvilinear profile of wedge or (2) elastic band in the proposed amendment claims.

**[marks deducted for the addition of additional features, e.g. "first/second plates"]**

Possible new dependent claims:

- Wedge member having variable tangential gradient at its edge that is in contact with the block members / curvilinear profile, OR resilient means is an elastic band binding
- Flexible bag made from PVC sheets/elastic polymer for storage of fluid or medication

Correct clarity and antecedent issues

### **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
- b. Explain why the Examiner is correct in alleging claims 1- 4 are not patentable in view of the prior art and that an amendment is required.

- c. Explain why you chose the proposed amendments
  - in view of client's suggestion
  - in view of the competitor's copying
  - in view of the cited prior art
- d. Explain the purpose of the new/fall back claims
  - explain dependent claims
- e. Explain why a new claim directed at silicon material as suggested by client cannot be introduced.
  - new subject matter not included in the original application cannot be added
  - section 84(2)
- f. Explain why client may not differentiate using "a spray can argument" only