Examiners' Comments on Overall Performance of Candidates in QE2018 Paper B

This year's paper appears to be the first paper that cites lack of support as one of the objections. Many candidates did not address this objection at all in their amendments/arguments although the paper was deliberately drafted to specify that a number of features were essential to the working of the invention. Candidates need to be aware that if all of the objections (which include clarity/support objections) are not addressed by amendments and arguments, the Examiner will not allow the application and an unclear Examination Report with a Notice of Intention to Refuse will be issued. Therefore, addressing the support (and clarity) objection is as important as ensuring that the claims are novel and inventive.

A number of candidates did not appear to be aware of the new change to the Act to include a broadening of the grace period provision and this shows in their letter to the client. While this does not account for a huge amount of the total marks, candidates should be aware of any new changes to the Acts/Rules or even the Examination Guidelines so as to be able to advise their clients properly.

The candidates did not appear to be as well-prepared for the paper as compared to those of the previous years.

This year, the examiners were looking for two features to be introduced into the claims to render them both novel and inventive over the cited prior art documents. Most candidates included only one of the two features. While such an amendment would render the claims novel, it did not render them inventive. As such, valuable marks were lost.

Also, there were some candidates that were not familiar with the new grace period provisions.

Generally, those candidates who did well were those that identified features that would render both the claims novel and inventive over the cited prior art documents, and addressed those queries raised in the Client's Letter.

In the question paper, there were ample hints provided to what the examiners were looking for. The support objections would have led a candidate to read on what the essential features were to provide the technical advantages. Candidates who identified these features would generally score very well for the claims amendments and the response letter, because the inventive step arguments would centre around the essential features giving rise to the technical advantages and also that the prior art documents were chosen to have quite different objectives.

As a whole, many candidates did not manage to identify the features. Several chose a feature that would exclude an embodiment. Candidates also did not appear to understand that in certain circumstances, a prior art document may incorporate another prior art document for novelty analysis.

As for claims amendments, candidates should also review dependent claims for issues such as claims dependencies and antecedent issues. Some candidates did not make amendments other than to the main claims (and also left out correcting antecedent issues with the method main claim).

For the client letter, it can be observed that many candidates appeared to run out of time. The issues were not discussed sufficiently, leading to the loss of marks. Given that the client letter also contributed to a significant portion of marks, candidates should leave enough time to work on it.

Most candidates managed to pick up one of the essential features as amendments. Those who had made the correct amendments generally did well for the paper. Some candidates that performed poorly even messed up the entire claim set. If the amendments to the claims were wrong, subsequent portions of the paper could rarely be done well.