

Examiners' Comment on Overall Performance of Candidates in QE2019 Paper A

This paper A has been set with minimal moving parts and is of a simple and well-known technology. The main challenge is all the individual features are known in the prior art and examiner is looking at a specific way to distinguish the invention from the prior art.

In addition, some features mentioned in the question papers require the candidates' re-phrasing to remove unnecessary limitations.

While many candidates appear to appreciate the temple pads as the main features, not many were able to identify the deformation limiting and the ventilation gap provision associated with the pads. Any of the missing feature may lead to the claim being anticipated by one or more prior art documents. In some instance, this may also lead to major clarity/support issue. For example, how does a side portion lead to the glasses being spaced apart from a wearer's face?

A few candidates failed because they provided claims that appear broader than the summary of invention. Should the recitation in the summary of invention be included in the claims these candidates may have a better chance at passing.

A good number of candidates recited the feature of 'temple bars'. This lead to an almost immediate failure as the question paper had explicitly mentioned temple bar as an optional feature. One candidate had novel independent claims with the right novel features but included the limitation of the 'temple bar(s)'. Unfortunately, no marks can be awarded for this according to the marking scheme.

This year tested a simple invention. The challenge was to write an independent device claim and method claim that captured the features responsible for limiting deformation and for allowing a ventilation gap. The examiners also considered that the deformation limitation required for the claims to define two temple pads, one at each side portion of the frame.

Several candidates failed for including unnecessary limitations. The most common one was temple bars. Temple bars are clearly present in all prior art glasses, so they would not serve as a distinguishing feature. Several formulations of the ventilation gap feature read onto the vent holes provided in the webs on the frame of Sample C. This led to independent claims that lacked novelty over the frame of Sample C. A few candidates defined only one temple bar (rather than two). These were penalised for defining a non-workable device that lacked support in the description.

It was also surprising that a few candidates omitted the drawings. These candidates lost all marks allocated to the description, which could have been easily avoided.

The paper is aimed at testing the candidate's ability to draft independent claims that accurately and broadly captures the essence of the invention while at the same time steering clear of the prior art documents.

Thus, to obtain a passing mark for this paper, candidates are required to include the main essential working features in the independent claims that capture all of the client's main embodiments but at the same time not encroaching into the prior art. The independent claims should also not recite unnecessary features that will unduly narrow the scope of protection. While such a concept seems straightforward, the majority of the candidates struggled to come up with the appropriate language that satisfies all of these requirements.

Overall the results are lower than expected. Surprising, many candidates made one or more serious mistakes which prevented them from passing. These include:

- “At least one pad” - Not described and not supported / workable
- Include “temple bars” – embodiments without “temple bars” were described
- Did not describe a (ventilation) gap – needed for novelty

It appears the candidates “rushed” through the paper / question material, since there were quite clear indications given to avoid those mistakes. Also, it appears that candidates were too eager for drafting a “broad claim”. This paper was representative of a “crowded” prior art scenario, where the claims had to be carefully positioned.