

QE 2019 PAPER A – ANSWER GUIDELINES

S/N	Category	Mark
1	Independent Claims <ul style="list-style-type: none"> i. Device/Glasses claim ii. Method claim 	30 marks 30 marks
2	Dependent Claims	20 marks
3	Description	20 marks
Total		100 marks

S/N	Answer Guide	Mark
1(i)	<p>Independent claims</p> <p>Example Apparatus Claim</p> <p>A protective eyewear device comprising:</p> <ul style="list-style-type: none"> a frame configured to support two lenses aligned with a wearer's eyes, a nose pad structure on the frame and adapted to contact the wearer's nose; wherein the frame comprises side portions adapted to extend partially around the wearer's temples, each side portion comprising a temple pad structure adapted to engage the wearer's temple for limiting deformation of the frame under impact at or near the wearer's temple and to keep the frame at a distance from the wearer's forehead by a ventilation gap. <p>Other possible formulations for "ventilation gap" – "ventilation passage"</p>	30 marks
	<p>Note:</p> <p>This is an example version only. Variations without practical difference in scope will still be awarded full marks. Importantly, the answer has to clearly distinguish on the basis of limiting deformation and the provision of ventilation gap/passage over the various prior art documents and to exclude non-working embodiments. Candidates are not penalized if</p>	

	<p>limiting the deformation of the frame is not literally mentioned in the claim, as long as the limitation of such deformation is inherent from the claim wording.</p> <p>For example, candidates will NOT be penalized if they use the term 'protective glasses' in the claims.</p> <p>Another example, candidates will NOT be penalized if they do not include the nose pad structure specifically.</p> <p>Another example, means plus function definitions will NOT be penalized as such, provided that the essential features are defined.</p> <p>Another example, candidates WILL BE penalized if they include temple bars in the main claim.</p> <p>1(ii) Example Method Claim</p> <p>A process of manufacturing a protective eyewear device, the method comprising the steps of:</p> <ul style="list-style-type: none"> forming a frame configured to support two lenses aligned with a wearer's eyes, providing a nose pad structure on the frame, the nose pad structure adapted to contact the wearer's nose; wherein the frame comprises side portions adapted to extend partially around the wearer's temple; and providing a temple pad structure on each side portion, the temple pad structure adapted to engage the wearer's temple for limiting deformation of the frame under impact at or near the wearer's temple and to keep the frame at a distance from the wearer's forehead by a ventilation gap. 	<p>30 marks</p>
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	<p>Deductions:</p> <ul style="list-style-type: none"> Independent claim not novel, <ul style="list-style-type: none"> As a note, it is at the Examiner's discretion as to whether the claim has been anticipated by the provided prior art; <p>Examples of not novel independent claim:</p> <ul style="list-style-type: none"> Only "limiting bending" but without "ventilation gap" (and vice versa) defining the "ventilation passage" without "keeping frame at a distance from the forehead", i.e. avoid reading onto the prior art of ventilation openings in seal/pad (e.g. document C) <ul style="list-style-type: none"> Independent Claim does not cover all embodiments <ul style="list-style-type: none"> Example: Include temple bars Clarity issues <ul style="list-style-type: none"> Low level: For instance, poor grammar, missing words, spelling mistakes Medium level: For instance, a clarity error having a material effect on the meaning of the claim, including vagueness; High level: Feature worded so poorly that it cannot be understood; Insufficiency <ul style="list-style-type: none"> Defining the invention as having at least one temple pad. This lacks support since the eyeware device is described to work with two temple pads and not just one temple pad. 	<p>No marks will be awarded.</p> <p>No marks will be awarded</p> <p>- 1 mark per instance</p> <p>- 2 marks per instance</p> <p>- 3 marks per instance</p> <p>No marks will be awarded</p>
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	<ul style="list-style-type: none"> • Inconsistent language <ul style="list-style-type: none"> – For instance, a term or feature is defined differently between distinct claims, or between the claims and the description; • For each unnecessary limitation beyond novelty such as: <ul style="list-style-type: none"> – “distance/gap along the entire length of frame”; – “nose pad <u>and</u> temple pads configured to maintain the distance”; – “frame contoured to the head” 	<p>- 5 marks per instance</p> <p>-15 marks per instance</p>
2	<p>Dependent Claims</p> <p>2.5 marks per claim up to a maximum of 20m</p> <p>Only award marks for each meaningful dependent claim, examples of which are provided below.</p> <ul style="list-style-type: none"> - temple pad attached by adhesive layer <ul style="list-style-type: none"> - adhesive layer choices - temple pad with connecting section receivable in an opening in each side portion - connecting section secured in opening with a screw - temple bars adapted to attach headband - temple bars with holes for receiving hook on headband - temple pad material choices - temple pad and nose pad structure adapted to keep the frame at a distance from the wearer’s forehead along the entire length of the frame. <p>Note: Paper asks to limit to 10 claims, including independent apparatus and method claims. Therefore, only the <u>first</u> 8 dependent claims are to be marked, regardless of the number drafted or their dependency.</p>	20 marks

	Deductions: <ul style="list-style-type: none"> Major clarity issue – added feature cannot be construed - 4 marks Inappropriate terms such as “preferably”, “may”, “optionally” etc, - 2 marks <ul style="list-style-type: none"> when marking the claim, all words after the inappropriate term are to be disregarded, with the claim marked according to the text preceding this word. Medium level clarity issue – feature may be construed but would require amendments - 2 marks Inappropriately used dependency - 1 mark <ul style="list-style-type: none"> E.g. the hooks to connect to temple bars cannot refer back claim without temple bars Antecedent - 1 mark 	
3	Description No marks awarded if figures omitted Marks to be awarded: <ul style="list-style-type: none"> a) Advantage statement for independent claim(s) 2 x 4 marks b) Background with discussion of Prior Art A with disadvantage 2 marks c) Background with discussion of Prior Art B with disadvantage 2 marks d) Background with discussion of Prior Art C with disadvantage 2 marks e) Remove “limiting statements” (see question) 3 x 2 marks 	20 marks
Total marks		100 marks

END