

Examiners' Comments on Overall Performance of Candidates in QE2020 Paper A

The invention relates to a relatively simple everyday tool (a wrench) so that most, if not all candidates are able to understand the invention without much difficulty.

The challenge of this paper is to navigate the three prior art documents that disclose almost all the features of the invention and present a novel and inventive independent claim over each of the prior art document.

Two of the prior art documents A and B has distance between 'edge portions' that can vary or are adjustable (i.e. not fixed), while prior art document C has distance between 'edge portion' that is permanently fixed but the edge portions of prior art document C are not part a unitary opening. To differentiate from each of the prior art documents A, B, and C, candidates have to include the limitations that (i.) distance between 'edge portions' are fixed; and (ii.) at least two adjacent edges portions that are part of a unitary opening.

Although many candidates identified the necessary feature of 'a fixed opening structure', few were able to identify the necessary limitations of at least two adjacent edge portions, each spaced apart by a fixed distance, and that the fixed distances associated with each edge section are different from the other'. Without the aforementioned limitations, candidates typically are unable to distinguish from all the prior art documents.

A noticeable number of candidates included unnecessary limitations such as 'edge section arranged parallel to the edge', 'handle' that is recited as a feature in addition to the head, 'in order of the distances between the edges', 'three edge sections' etc. in their answers. Although such limitations coupled with the essential limitations may render the independent claim novel and inventive, such unnecessary limitations will compromise the client's ability to obtain the broadest scope of protection. Hints are presented in the paper to inform the candidate that a limitation is unnecessary. For example, 'the head may take on the function of the handle...'.

One candidate did not attach any drawings. Candidates are reminded that failure to include drawings will result in loss of valuable marks associated with the description of the invention, which can make a difference between a pass and a fail grade.

While most candidates have drafted method claims related to the fabrication of the wrench, a few candidates included further unnecessary limitations in the independent method claim (e.g. press cutting). Again, such unnecessary limitation(s) result in the loss of valuable marks.

The technology for this year's paper is straightforward. Based on the answer scripts, there does not seem to be any candidates having difficulty understanding the technology. However, the majority of candidates did not manage to identify all the essential features that are required to distinguish the invention from the prior art documents. Most of the candidates included some essential features to distinguish from certain prior art documents but failed to include other equally important features to distinguish the invention from the rest of the prior art documents. For example, most of the candidates either lack the essential feature of the opening being fixed or the differing sections having differing spacing distances for engaging different size nuts.

The independent method claim was also poorly done. A large proportion of candidates included unnecessary limitations in the material used and/or the specific manufacturing steps taken despite considering the structural features of the product to be sufficiently distinguished from the art.

Candidates are reminded that to obtain a passing mark for this paper, they 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.

The wrench device being tested was considered easy to understand, with the prior art being relatively close. However, many candidates had difficulty in writing a claim distinguishable from the prior art, without being unnecessarily narrow. To pass the paper, the candidate would need to essentially define a wrench with an opening having different pairs of opposing parallel edges that are disposed at different fixed distances. Only a few candidates that this examiner marked managed to capture both, that the distances are different and fixed. Some stated that the distances between opposing edges are fixed, omitting they could accommodate nuts of different sizes. Others stated that the opposing edges could accommodate nuts of different sizes but failed to state that the distances between opposing edges are fixed. It should have been relatively easy to write the corresponding method claim to the wrench apparatus claim. Instead, all candidates that this examiner marked included limitations to their method claim that were not present in their corresponding wrench apparatus claim. For example, some candidates correctly defined a wrench comprising "a head piece". Instead of simply stating "providing a head piece" for their corresponding method claim, they instead stated that the head piece was press cut or the wrench was made from steel or cut. Each was an unnecessary limitation.

The challenges for this year's paper included that the "exact" claim feature wording for the essential features was not to be found in the question paper/description as such. Instead, the claim language needed to be deduced from the clear disadvantages, and other clear hints in the description.

This should have yielded the first essential feature of "fixed" structure a "single opening with multiple different sizes/distances" needed to be deduced as the second essential feature.

5 candidates successfully did so, without at the same time adding unnecessary limitations such as "parallel edges" or "order of sizes/distances".

Generally, the method claims in this years' answers were poor – only very few candidates presented a "corresponding" method claims to the device claims. Instead, details of the example fabrication embodiments such as "cutting", "press cutting", "die", "sheet" or material choices were included.

A few candidates did not include the actual Figures in the specification, which, given the "on computer" nature of the exams is inexcusable – zero points for the description awarded in such cases.

There was one paper which lacked any discernible concepts of (independent) claims drafting, no description as such, and no figures. Such a candidate(s) should continue to be discouraged from taking the exam(s), for example by requiring a stringent practical experience evidence.