

Final Diploma

FD1 Advanced IP Law and Practice

Specimen Question Paper

For first examination in October 2025

10:00 to 14:00 UK British Summer Time (GMT + 1 hour)

Examination time: 4 hours 25 minutes plus 10 minutes upload time

The 4 hours 25 minutes is allocated as follows:

- 10 minutes** – Downloading and printing the question paper;
- 4 hours** – Answering the questions;
- 15 minutes** – Three screen breaks of 5 minutes each.

At 14.25 you MUST immediately stop answering the questions. You then have **10 minutes** in which to upload your Answer document to the PEBX system.

You MUST upload your Answer document to the PEBX system by 14.35. After 14.35 you will not be able to upload it and your examination will be void.

INSTRUCTIONS TO CANDIDATES

1. There are six questions in this Question Paper, three in Part A and three in Part B. **You should attempt all six questions.**
2. The marks for each question in Part A are shown next to the question. Each question in Part B carries **25** marks.
3. The total number of marks available for this paper is 100.
4. You must use the Answer document for your answers.
5. Do not attempt to change the font style, font size, font colour, line spacing or any other pre-set formatting.
6. Start each question on a new page. Press the control key and the enter key simultaneously to begin a new page.
7. When you begin a new question, type in the question number at the top of the page.
8. Do not state your name anywhere in the answers.
9. This question paper consists of **3 sheets** in total, including this sheet.

AT THE END OF THE EXAMINATION

10. Save your Answer document to your hard drive and follow the instructions for uploading your document onto the PEBX system.

This specimen question paper is based on assumption that the date of the examination is 14 October 2024.

Part A

Question 1

You work in-house as a patent attorney for UK Company Horizon. In early June 2023 a research scientist named Drew submitted a detailed Invention Disclosure Form for review. It was agreed that the concept (Concept X) was commercially significant and should be progressed, and so shortly afterwards, your predecessor (Attorney P) drafted and filed a GB patent application. The patent application GB-1 was filed on 30 June 2023.

Today, a literature article by UK Company Skyline has come to light, which contains a full disclosure of Concept X. Drew is mentioned as deviser of Concept X and the leader of the team that developed the invention. The article was submitted on 31 May and the publication date is 10 August 2023.

A report from Human Resources shows that Drew joined Horizon from Skyline on 1 June 2023, having worked there as a research scientist.

Prepare notes for a meeting with your Leadership Team to discuss the issue.

8 marks

Question 2

Your new UK-based client asks for advice regarding its European patent application, EP1, filed on 1 April 2020 claiming priority from a UK patent application, GB1, filed on 1 April 2019. GB1 has lapsed irrevocably. GB1 and EP1 both disclose and claim the product 'Block'. An intention to grant communication (under Rule 71(3) EPC) was issued by the European Patent Office in October 2022. However, after paying the grant fee and filing German and French translated claims, your client decided that, at the time, it had no wish to proceed with validations. Your client is contacting you to say that circumstances have changed: its latest version of product Block is selling well in the UK and it now wishes to have UK patent protection.

Advise your client on the situation.

9 marks

Question 3

Last month you filed a patent application, GB1, at the UK IPO in Chinese directed towards protective boots for dogs and cats. GB1 claims priority from a Chinese application, CN1, filed on 2 October 2023. All fees were paid on filing and the priority document was filed. Today, you receive notification from the UK IPO, dated 11 October, that a translation is required. On review of the case, you notice that all references to the sizes of the boots have been written in metres instead of centimetres in both CN1 and GB1, and it is clear that the sizes referred to would not provide suitable shoe sizes for the pets described.

Prepare notes for a meeting with your client.

8 marks

Part B

Question 4

The Chief Executive Officer of a new client, Daisy Dairies (D), contacts you for advice. Daisy Dairies is an organic UK dairy company which has carried out research for ways to reduce the incidence of biting flies in its dairy herds without using insecticides. Biting flies are a major problem as the bites of the flies cause disease in the cows and the flies stress the animals, which stops them from grazing, feeding and sleeping.

Daisy Dairies has found that if the cows are painted with black-and-white stripes so that the cows look like zebras, the cows have 50% fewer flies on their bodies and exhibit significantly less stressed behaviour, such as flicking their tails and shaking their heads. Cows painted with only white stripes or only black stripes did not show any reduction in the number of flies on their bodies. The paint used in the research was commercially available paint.

Daisy Dairies filed a priority application, GB-P1, on 2 April 2022 and a PCT application, PCT1, claiming priority from GB-P1 on 2 April 2023. The specifications of GB-P1 and PCT1 are identical. Category 'A' citations were identified in the International Search Report. PCT1 has a single claim to:

A method of treating a livestock animal, the method comprising painting black-and-white stripes onto the animal such that biting fly attacks are reduced.

Because painting individual cows is time-consuming and the paint rubs off after a few days, Daisy Dairies has carried out further research and has found that if the cows are covered with a black-and-white striped blanket, the same reduction in biting flies is observed. The blanket is made of an extremely thin but strong, breathable material which is comfortable for the cows. The material is commercially available.

The company filed a priority application, GBP2, on 17 July 2022, and a PCT application, PCT2, claiming priority from GBP2, on 17 July 2023. The specifications of GBP2 and PCT2 are identical. PCT2 has only category 'A' citations identified in the International Search Report and has a single claim to:

A protective blanket for a livestock animal, the blanket comprising:

- a) *a black-and-white striped blanket; and*
- b) *a magnetic closure comprising first and second magnetic sections on opposing surfaces of an end flap of the blanket, wherein the first and second magnetic sections are releasably engageable with one another.*

Daisy Dairies has now discovered that a competitor in the UK, Mabel Milk (M), is using exactly the same striped blankets with their cows, except that the blankets use hook and loop fasteners instead of magnetic closures. Mabel Milk is also exporting the blankets with the hook and loop fasteners to the US and Japan, where they have become immediately and immensely popular with beef producers.

The CEO of Daisy Dairies tells you that she wants to know if Mabel Milk or the beef producers are infringing PCT1 or PCT2.

Write notes in preparation for a meeting with your client. Ignore any potential issues concerning designs and trademarks. **25 marks**

Question 5

Your client, Storeit plc, uses storage silos to store cement, which is a powdery material. The silos are emptied from the bottom and refilled from the top, and filling a silo too quickly or overfilling a silo can give rise to damage to the silo. To minimise the risks, the top of a silo is fitted with a pressure release valve (valve) to prevent excess pressure building up. Because the cement is powdery, there is a risk that the valve can become blocked and regular cleaning is required.

Storeit purchases valves from Protectit plc and agreed to purchase on a trial basis a newly available valve, which was then installed in one of Storeit's silos. The new valve is said to be self-cleaning and is covered by Protectit's European patent EPB. EPB was filed in November 2021 without any claim to priority and granted six months ago. The new valve is not functioning as well as expected, and Storeit has made and tested a modified valve on one of its own silos. The modification made by Storeit has resulted in a dramatic improvement in the self-cleaning function over Protectit's product. You recently filed a UK patent application GBA for the modification on behalf of Storeit.

The market potential for Storeit's improved valve is worldwide, but Storeit does not have the capability to meet potential demand. Storeit told Protectit about the modification after filing GBA. Protectit is keen to make and sell the modified valve, but says it does not need to account to Storeit because the modified valve is a straightforward change to its product and, anyway, it owns the modification because it is a variation on the subject matter of EPB and falls within the scope of the claims of EPB.

The Technical Director of Storeit has been talking to a colleague at another company, Keepit Ltd, which also uses cement storage silos. The Technical Director believes that in October 2021 Keepit purchased two valves made in accordance with EPB from Protectit. These two valves were installed by Keepit at the tops of two of its silos.

Prepare notes forming the basis for advice to your client.

25 marks

Question 6

A longstanding client calls you sounding panicked. They inform you that they have stumbled on a third-party EP patent which granted a few months ago. They believe that the claims, despite using unusual terminology, encompass a very profitable product which the client has been making and selling in the UK for nearly 8 years. The client is particularly concerned as the case was not identified during analysis of a freedom to operate search, which your firm conducted prior to product launch.

Prepare points to consider as part of a subsequent analysis.

25 marks