

2004 P3 EXAMINERS' COMMENTS

In this question candidates were invited to prepare a patent specification, including the preamble, specific description and claims, but omitting the abstract, for filing in the first instance at the UK Patent Office, the invention relating to a suspension device enabling hanging baskets to be raised and lowered.

What is expected in an answer to such a question is:-

a preamble (15%), which makes the case for there being an invention and generally includes a description of the most pertinent prior art as a basis for making the case for invention and to prepare for a possible PCT and/or European filing;

a specific description (15%), which describes the best method of realization in such a way that a person skilled in the art could build such a device without making further invention, wherein the construction of the device should be set out in such a way that it could stand alone, without the drawings being present, that this will be followed by the *modus operandi* of the device and then, and only then, alternative constructions.

and

a set of claims (70%), which should have at least one main claim broad enough to attract a worthwhile search and a series of graduated dependent claims covering all the various integers of the invention, preferably one integer per claim.

Dealing firstly with the claims, a main claim (40%) which passed muster read as follows:

1. A line dispenser arranged to dispense a length of line therefrom in response to a pulling force, the dispenser comprising a locking mechanism arranged to lock the dispenser against dispensing further line when a desired length of line has been dispensed therefrom, further arranged to release the dispenser when a pulling force is removed and re-lock the dispenser when a second predetermined length has been dispersed.

Integers which typically formed the substance of dependent claims (30%) included:

Rotatable drum carrying the line;

Ratchet and pawl mechanism;

Pawl being hinged;

Biasing means;

Line is tape;

Tape is reinforced plastics;

Gravity operation;

Hanging basket.

An alternative which could have occurred to candidates, and could have been included in the description and claims, is for the device and the hanging basket to be integral one with another.

In most cases candidates who failed did so because their main claim was too narrow by at least two integers.

This is not a case where method claim perform any service and, in general, candidates should recognise that the Examiners only expect method claims where appropriate.

Turning now to the Preamble, some candidates did not mention the use of a hose network but concentrated on the possible use of a pulley system. This was quite reasonable. Few candidates mentioned that one could stand on the ground and project a hose upwards, or that a hose network came into its own when, for example at pubs and hotels, there was a large number of hanging baskets. One or two candidates over egged the danger of using a pulley device. Only a few mentioned that, in most situations, a pulley device is hardly aesthetic. Too many others were determined to shoehorn the invention into a narrowly preconceived notion of what a patent specification should contain; words like “dangerous” and “severe problem” are instances.

One or two candidates rightly stated that the invention was applicable to other objects normally suspended and occasionally requiring servicing. Candles and such ecclesiastical lights are but some examples. One or two candidates even managed to submit answers which didn't mention hanging baskets at all!

As to the specific description, many candidates struggled to describe the Figures accurately and correctly - two of the figures were of opposing views but some candidates put them down as alternative views or (even worse) alternative embodiments. This implied a basic lack of understanding of the invention.

The language of the specific description should link the broad claim language to the specific embodiments, not only for clarity but also to provide fall backs and definitions. Many candidates used the broad terms of the claims when describing specific features shown in the figures - if the feature is an eye, call it an eye, not a suspension means! Some candidates did not provide a specific description of the shape of the lobes and notches, which was needed to describe how the invention actually worked.

Notes to the examiner are generally inappropriate, candidates should realise that they only get marks for their actual answers to the question and that they should draft their specification and claims in such a way as to cover whatever concerns they have.