

**FC1 – UK Patent Law
Question Paper – Sample Assessment Material**

SECTION A

Question 1

With reference to Section 1 ('*Patentable Inventions*') *UK Patents Act 1977*, what are not inventions for the purposes of the *UK Patents Act 1977*?

8 marks

Question 2

What is meant by the phrases:

a) 'Special technical features' and

1 mark

b) 'Single inventive concept'?

2 marks

Total: 3 marks

Question 3

You have filed a UK patent application. It does not claim priority. What prior art effect do the following documents have?

a) A UK application with a filing and publication date before the filing date of your application.

1 mark

b) A UK application with a filing date before the filing date of your application? It has not as yet been published.

2 marks

c) A European application filed before the filing date of your application and published after the filing date of your application.

1 mark

d) A *PCT* application designating the UK as a national designation (there is no EP designation) filed before your application but published after.

3 marks

Total: 7 marks

Question 4

With reference to Section 60 ('*Meaning of infringement*') *UK Patents Act 1977*, what is meant by contributory infringement?

5 marks

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Question 5

On what grounds may a UK patent be revoked?

5 marks

Question 6

With reference to Section 14 (*'Making of an application'*) *UK Patents Act 1977*, what requirements must the claims of a UK patent application satisfy?

3 marks

Question 7

On what grounds may the validity of a UK patent be put in issue before a UK court?

5 marks

Question 8

UK patent application B claims priority from UK patent application A.

- a) What test must the subject matter of A satisfy in relation to the invention of B for the priority claim to be valid?**

1 mark

UK patent application B was filed exactly 12 months after the filing date of UK patent application A. On reviewing the file a week later you notice the priority claim to application A was accidentally omitted.

- b) How would you proceed and by when?**

2 marks

- c) Can this deadline be extended?**

1 mark

Total: 4 marks

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SECTION B

Question 9

Your rather unscrupulous client, Mr D Geezer, has arranged a visit to ask for your opinion on various aspects of his business practice.

For each of the following aspects, provide notes to advise Mr D Geezer, limiting your advice to UK patent law only.

- a) **I intend to just name myself as sole inventor for any invention made by any of my employees. My employees have agreed to this.**

3 marks

- b) **We often copy the products of our competitors. We intentionally do not check to see if they have patents because if we do not know about it we are not guilty.**

5 marks

- c) **For one product we are copying, we are aware that our competitor has a published patent application covering it. We intend to keep on manufacturing until the patent is granted then stop so that we do not infringe the patent.**

4 marks

You receive a letter from another client, Mrs G Plaice, as follows:

One of my employees invented something which is becoming commercially very valuable. The contract of employment states that anything invented by an employee is the property of my company and that employees have no financial claim on profits from any inventions they may invent.

Write a memo to advise your client on:

- d) **what significance the statement in the contract of employment would have regarding the claim on profits on any award of compensation to the inventor;**

1 mark

- e) **where the employee would need to apply for compensation and by when; and**

2 marks

- f) **what factors would be taken into account when determining if an award is to be made in an employee's favour.**

5 marks

Total: 20 marks

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Question 10

Part A

You have been asked by a client to file a request that the UK Intellectual Property Office notifies you of certain events relating to patents and applications owned by a third party.

Write a memo to your client advising them:

- a) **how you would proceed;** **3 marks**

- b) **what events (for both patents and patent applications) the UK Intellectual Property Office will notify you of.** **7 marks**

In relation to UK patent applications:

- c) **who, apart from the Comptroller, may inspect any unpublished UK patent application, and for what purpose.** **1 mark**

Part B

Your client owns a large number of bicycle racks which they make available to their employees to store their bicycles whilst at work. This is the only use the client makes of the bicycle racks. The racks are manufactured by the company next door. Your client has received a letter from a third party, the essence of which is that they intend to sue your client for both manufacture for sale of the cycle racks and also sale of the cycle racks. They intend to do this as soon as their unpublished patent application is granted. Your client is aggrieved by this.

- d) **What advice would you give your client in relation to:**
 - i) **infringement; and** **3 marks**

 - ii) **threats?** **6 marks**

Total: 20 marks

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Question 11

- a) Inspection of the register of the UK Intellectual Property Office shows that a patent has been marked 'licences available as of right'. What does this mean?
2 marks
- b) What is the procedure for endorsing a patent as 'licence of right'?
11 marks
- c) Explain when the holder of a licence of right can bring proceedings for patent infringement.
2 marks
- d) What is the liability of the licensor in infringement proceedings brought by the licensee?
2 marks
- e) What is the difference between a sole licence and an exclusive licence?
1 mark
- f) Why is this difference important in infringement proceedings?
2 marks

Total: 20 marks

Question 12

Your client, Great Gears Ltd, owns UK patent GB1234567 relating to a gear assembly. You receive the following email from a director of Great Gears Ltd:

We have recently become aware of a competitor, Britney Gears Ltd, who has started manufacturing and selling an almost identical gear assembly. We have checked the status of our patent online and have found it has lapsed due to non-payment of a renewal fee. We are surprised by this as we use a renewal reminder service to send us reminders but we never received the reminder. Our default instructions to the reminder service are to pay a renewal fee in the absence of instructions from us. What can we do?

Prepare notes for a meeting with your client, restricting your answer to issues relating to patents only. The notes should contain advice to your client in relation to both actions your client could take and also third-party rights.

Total: 20 marks