

## Introduction

45 out of 55 candidates, i.e. 82%, passed this year's FC3 paper.

The syllabus for FC3 covers a broad range of countries. While several questions focus on European, US and PCT patent law, candidates should expect questions to cover any country listed in the syllabus. Detailed knowledge of patent laws of every country listed is not required but candidates should have at least a working knowledge of core principles in each country. This year, it was evident that many candidates had a good understanding of the commonly tested areas of European, US and PCT patent law. Questions relating to more complex topics and other jurisdictions were, for the most part, not answered as well.

## Questions

Question number	Comments on questions
<b>Question 1</b>	<p>Question 1 related to validation of a European patent. Part (a) asked candidates to identify the correct deadline for validation. Part 1b) asked candidates to discuss translation requirements in Germany, Italy and the Netherlands.</p> <p>A number of candidates incorrectly identified the deadline for requesting validation of the European patent. Most candidates correctly identified why Germany did not require translations after grant of a European patent and why Italy did require translations. Less candidates correctly identified the translation requirements in the Netherlands.</p> <p>Part 1b) was looking for discussion of the London Agreement. Marks were awarded where correct principles were stated even if the London Agreement was not specifically mentioned.</p>
<b>Question 2</b>	<p>Question 2 related to the deadline for responding to a European Patent Office examination report issued in accordance with Article 94(3) EPC. Part 2a) asked candidates to identify the deadline. Part 2b) asked candidates to identify options for extending the deadline. Part 2c) asked candidates to identify two limitations to claim amendments in response to the examination report.</p> <p>Most candidates correctly identified the deadline for responding to the examination report. Similarly, most candidates identified the requirements for an as-of-right two-month extension of time. While most candidates identified that further processing was available, calculation of the deadline for responding and mention of the need to perform the omitted act and pay fees were not present in many answers.</p>

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<b>Question 3</b>	<p>Question 3 related to availability of patent protection in Hong Kong off the back of a granted UK patent.</p> <p>This question required simple recitation of the required acts and associated deadlines. Most candidates scored well on this question. Terminology for the required acts was variable but marks were awarded where it was clear that the candidate understood what was required and when.</p>
<b>Question 4</b>	<p>Question 4 related to the possible actions that an applicant for a US patent could take following receipt of a final office action. The three courses of action that the mark scheme was looking for were: i) file a request for continued examination; ii) file a continuation application; and iii) file an appeal. Several candidates discussed the After Final program and marks were awarded for relevant discussion.</p> <p>This question was generally well answered with many candidates achieving full marks.</p>
<b>Question 5</b>	<p>Question 5 tested candidate's knowledge of PCT filing and search. Part 5a) asked candidates to identify the requirements for accordance of a filing date; Part 5b) asked candidates to identify where the PCT application could have been filed; and Part 5c) asked candidates to identify the deadline for responding to the international search report.</p> <p>This question was very well answered with many candidates scoring very highly.</p>
<b>Question 6</b>	<p>Question 6 asked whether business methods and software inventions are patentable in China, Japan and India. A simple yes/no answer was required. Most candidates did well on this question.</p>

Part B

Question number	Comments on question
<b>Question 7</b>	<p>Part 7a) asked candidates to provide 3 options for responding to an R71(3) EPC communication. The mark scheme provides marks for i) paying the grant fee and filing translation; ii) disapproving the text intended for grant, and iii) doing nothing and requesting further processing after issuance of a notification of loss of rights.</p> <p>Part 7b) asked candidates to discuss the process for filing a European divisional application and the associated deadlines and fees.</p> <p>This question was answered by most candidates. Both parts of the question were answered well in the most part.</p> <p>In Part 7a) most candidates identified the two main options of approving or disapproving the text for grant. A common answer for the third option was to disapprove the text intended for grant and waive the right to a further R71(3) communication. Very few candidates identified that doing nothing and requesting further processing was a valid option.</p> <p>Most candidates identified the fees that would be due during pendency of the divisional application. Fewer candidates could identify all the relevant deadlines.</p>
<b>Question 8</b>	<p>Part 8a) asked candidates to discuss the options for obtaining both patent and utility model protection in China for the same invention. Part 8b) asked candidates to propose a suitable international patent filing strategy.</p> <p>Very few candidates could identify an approach for securing both patent and utility model protection. A significant number of candidates wasted time setting out the patent application process in China. This was not asked for in the question and no marks could be awarded.</p> <p>Part 8b) was answered very well by most candidates and offset poor scores in Part 8a).</p>

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<b>Question 9</b>	<p>Part 9a) asked candidates to identify the renewal deadlines for a granted US patent. Part 9b) asked candidates to discuss the combined search and examination procedure in Singapore. Part 9c) asked candidates to discuss an applicant's ability to obtain patent protection in the US, Europe, Australia and China after a disclosure.</p> <p>Part 9a) was answered well with most candidates scoring highly.</p> <p>About half of the answers for Part 9b) were quite abstract and lacking in detail and, therefore, could not be awarded high marks. Several candidates wasted time writing down what they knew about all methods of search and examination and Singapore. The question asked candidates to focus solely on combined search and examination.</p> <p>Part 9c) was answered well by most candidates with many candidates obtaining full marks. Answers to Parts 9a) and 9c) largely offset the poor answers to part 9b).</p>
<b>Question 10</b>	<p>Part 10a) asked candidates to briefly describe US inter partes review and ex parte re-examination. Part 10b) asked candidates to identify whether an opposition could still be filed in Japan. Part 10c) asked candidates to discuss options for revoking a granted European patent. Part 10d) asked candidates to discuss patent revocation in Germany.</p> <p>Part 10a) was generally not answered well. The mark scheme was not looking for detailed discussion of inter partes review and ex parte re-examination but was looking for an appreciation of the basic principles.</p> <p>Part 10b) was generally answered well with most candidates obtaining full marks.</p> <p>Part 10c) was also generally answered well.</p> <p>Many answers to Part 10d) simply set out the grounds for revocation in Germany. While such answers attracted some marks, the majority of available marks were available for discussion of the revocation procedure.</p>