

## Introduction

The subject was a climbing “chock” or wedge, by which a safety line is secured in a crack in a rock face. The main inventive feature of the claims as filed is that opposite faces of the chock are concave and convex. This is said in the description to provide three-point engagement with faces of the crack, and fit a wider variety of shapes of rock in the rock. The prior art cited shows a generally similar chock with only convex faces (i.e. no concave face) (D2), and a rather different kind of trefoil-shaped chock (D1) which could be said to have concave “faces” opposite convex faces on the ends of each arm.

## Claim 1

D1 could at first glance be distinguished by not offering “three-point contact”, as does the invention. However, it is not so easy to be sure how it functions – if it tips, can it be said to make “three-point contact”, even if this traps the line/rope? In any event a claim whose distinguishing feature is determined by what the chock does *in situ* is vulnerable.

The Examiners were looking for an amended claim that drew upon the further advantage of the invention according to which the body of the chock encloses and protects the safety line, in particular, specifying how the line is protected by the (concave and convex) sides of the chock.

Neither the device of D1 nor that of D2 is capable of combining three-point engagement with protection of the rope. As above, three-point engagement of the chock of D1 would trap the rope against the rock. The D2 chock protects the rope to some extent, though, as many candidates pointed out, D2’s “walls” are more open than the present invention, but cannot achieve three-point engagement.

As an alternative approach, it is certainly possible to argue that D1 does not have “end faces” as the chock in the application does, though this was not seen as being closely related to its function. Even D2 hardly has distinct “faces”; one point to make about D2 is that it achieves versatility by using all three orientations, while the invention uses just one, but taking advantage of the concave face.

Some candidates argued, to good effect, that because Claim 1 specified a “climbing chock”, there was no need to introduce a rope or line explicitly, as this was implied by the word used. Such argumentation obtained the relevant marks.

When it came to the wording, the examiners were looking for a main amendment that would cover all embodiments in the application, and which would not unduly limit the scope of protection. An amendment requiring the presence of two (separate) passageways in the body of the chock was not considered to be as favourable as an amendment clearly encompassing a chock having merged internal passageways. The application as filed had basis for the rope to be accommodated in a “passageway means”, which could be further defined in a dependent claim as including two separate passageways.

## **Dependent claims**

In the subclaims, it seems useful (assuming that one has specified a “passageway means” in Claim 1) to include a more specific claim to the twin-passage version of the Figures. Care then needs to be taken, if a further dependent claim is included to the amalgamation of these, to link this back to the “passageway means”.

In dealing with the originally independent Claim 4, this is really to be seen as a source of claims dependent on Claim 1 (for example to the other side faces being plane and tapered); there seems no value in pursuing it as a claim in a divisional application.

## **Response**

Candidates generally had no problem in pointing out and supporting the amendments made to the claims, though sometimes more is needed than a simple line reference, such as when a feature is taken in isolation from Claim 4. Again, most candidates did this at least adequately.

On inventive step and common general knowledge, it cannot be assumed (and certainly should not be admitted) that either D1 or D2 represents the CGK, but the introductions to the documents seem to be general and could usefully be cited. If the problem-and-solution approach is followed, either D1 or D2 could be taken as a starting-point, and probably both should be. Candidates using a structured approach, setting out the various steps of the test used (Pozzoli or Problem/Solution), arguing for inventive step over each of D1 and D2 individually, and then the combination of D1+D2, achieved the most marks.

## **Report**

It is likely to be advantageous to put the Notes for advising the Client in the form of bullet points, rather than as a letter to the client, not only because one can be briefer, but also because the points can include matters that one might not report to the client directly but that would form the basis of one's advice. On the whole, and as in past years, candidates did less well in this section, possibly because of a shortage of time; this part of the paper allows one to set out the process of assessing various options for responding to the IPO Examiner, which inspires confidence that the response itself is sound.

Marks are available both for explaining the choice of amendment, and for commenting on alternative amendments that were considered, but rejected. Marks are also available for justifying the particular wording chosen for an amendment (e.g. passageway means rather than ‘two passageways’).

## **Miscellaneous**

It is not necessary to spend a great deal of time “tidying” (for example putting in or taking out reference numerals).