

Examiner's Report January 2018

ICPA - Introductory Certificate in Patent Administration

Introduction

Candidates are congratulated on their performance in the examination. Most had obviously worked hard and had a good understanding of formalities. The date calculations were generally well executed and clear, and good candidates used the calendars provided to recognise where dates fell on weekends in order to calculate the final date. Candidates are reminded to show their working, as otherwise full marks cannot be awarded.

The forms questions were completed to a reasonable standard. It should be noted that some boxes on the forms give clear instructions as to what details should be entered, and marks were not awarded if candidates failed to enter data as specified, particularly the inclusion of the country in address fields. Candidates are advised to pay particular attention to the spelling of names and addresses, for example where a name is spelt with a double letter. Candidates are also well-advised to be familiar with these forms, and the data required.

Where a question asked for a particular number of answers, e.g. 'List three parts of ...', only the first relevant number of answers were marked.

Candidates should make every attempt to familiarise themselves with the terminology and use the correct terms.

Due to a printing issue, one of the marks for question 8 (the EPO form) was not available. Question 8 was therefore marked out of 13, rather than 14. Consequently, the paper as a whole was marked out of 79, rather than out of 80. No candidate lost a mark due to this printing problem.

Grade boundaries

It is noted that the percentage mark required to obtain a pass or merit is higher this year than has been the case in previous years. In 2018 this 'pass' boundary was quite high (75%) but the level attained by candidates reaching this boundary was consistent with the level attained by candidates reaching the pass boundary in previous years. This would indicate that the 2018 paper was more straightforward and that it was necessary to score a higher mark in order to demonstrate sufficient competence.

The proportion of people passing at any grade is in line with those passing in 2017.

The ICPA examination does not have a fixed pass rate, neither does it have a fixed percentage of candidates to whom it awards a particular grade (fail, pass, merit or distinction). The grade boundaries are chosen to ensure they reflect a consistent level of performance by candidates at a particular grade from year to year regardless of the different question papers.

No two question papers can be of equal demand. Each year, examiners scrutinise marked answer scripts very carefully to decide where the minimally competent candidate sits in terms of the percentage mark they have obtained.

Generally, candidates are able to show minimum competence by demonstrating in their answers that they understand a range of material, and are able both to take the appropriate action and also not to make critical errors.

Each year a range of questions are written aimed at both testing minimum competence, and distinguishing merit and distinction candidates. This year, since the paper was more straightforward overall, there was a smaller range of marks where candidates could show that they had a greater level of knowledge and understanding of the course subject matter. This led to a reduced range of marks for which a merit was awarded. The achievement level of candidates awarded a merit was, however, in line with the range in previous years.

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Question number	Comments on questions
Question 1	General knowledge of the components of a patent specification was required, and most candidates correctly identified 3 parts. Only the first three items listed were marked.
Question 2	<p>The UK Patents Form 1 was completed very well by most candidates. The question required extraction of the correct information from the details provided for completion of the form. Some candidates spelt the name 'Grabbitt' wrong missing out the double letters.</p> <p>Section 7 of the form caused some difficulty. The applicant was clearly not the inventor, therefore the 'No' box should have been checked.</p> <p>Section 10 of the form required both 'Request for search (Patents Form 9A)' to be checked, and 'Fee Sheet' to be specified against 'Any other documents'. A mark was not awarded if these were not included.</p> <p>Section 12 required the email address of the agent as the contact point for the applicant. In some instances this was not spelt correctly and therefore no mark was awarded.</p> <p>Patents Form 9A was also completed well. The good candidates identified which type of search was required in box 4 - i.e. (b) a search under Section 17(1) for any other application.</p>
Question 3	<p>A straightforward UK formalities question, generally well answered.</p> <p>Candidates were required to demonstrate knowledge of dates calculated when there is a priority claim, and select the correct base date.</p> <p>The Statement of Inventorship (form PF7) is due 16 months from the earliest priority date. Use of the calendars showed that the calculated date fell on a Sunday, therefore the due date carried over to Monday.</p>
Question 4	<p>Another straightforward UK formalities question, generally well answered.</p> <p>Candidates were required to demonstrate knowledge of dates calculated when there is no priority claim.</p> <p>The formal drawings are due 15 months from the filing date. No other information was required in this instance.</p>
Question 5	<p>A straightforward PCT formalities question to test candidates' knowledge of the requirements for filing an international patent application. Only four requirements were requested, therefore the first four answers only were marked.</p> <p>Candidates should note that the language of a specification is not a requirement for a PCT application, therefore no mark was awarded for this.</p>

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<p>Question 6</p>	<p>The question set a scenario from which candidates were required to extract the correct information for completion of a PCT Request Form (PCT/RO/101). This proved to be challenging for a number of candidates.</p> <p>Most boxes on this form give clear instructions on the information required, and care should be taken when completing forms, paying attention to the correct title of the invention, and full names of applicant, inventor and agent. Marks were not awarded if any of the details were incorrect.</p> <p>For Name and Address boxes, the country (GB/United Kingdom) was required where explicitly stated on the form. No mark was allocated if this was omitted.</p> <p>On page 1, Box No. III - Further Applicant(s) and/or Further Inventor(s) - needed to be checked.</p> <p>There were two applicants to be stated. Justin Thyme was applicant/inventor and should have been included as such.</p>
<p>Question 7</p>	<p>A PCT national/regional phase question requiring candidates to demonstrate a knowledge of the 30/31 month deadline and whether this date is calculated from the priority or filing date. Most candidates were aware that the deadline at the EPO is 31 months, from the (earliest) priority date. Candidates are reminded to check whether due dates fall on non-working days, and to calculate new due dates as appropriate.</p>
<p>Question 8</p>	<p>The question set a scenario from which candidates were required to extract the correct information for completion of a European Divisional application. Completion of the EP Form 1001 proved challenging, although it was generally well executed.</p> <p>A problem with printing had resulted in the 'Applicant's Reference' boxes being marked 'Leave Blank'. As a result only 13 marks were available. This led to the paper being marked out of 79, rather than 80.</p> <p>The question specified that the association (Brown and Partners LLP) should be named as representative. Box 15 should have named Brown and Partners LLP, with their address in Box 16. No mark was awarded if Trevor Brown was named as representative.</p> <p>Box 29 for the claims required 29.1 to be checked. Note that 29.2 is only checked if 26.2 is checked indicating filing by reference to a previous application with replacement claims.</p> <p>The question instructed that the deposit account should be specified for refunds. Candidates should understand the difference between an Automatic Debit Order and payment by deposit account.</p> <p>No mark was awarded if the Automatic Debit Order box 42 was completed.</p> <p>The Receipt for Documents page 9 caused most candidates a problem. A mark was awarded for completing the address box. Some candidates gained this mark. Sections 47, 48 and 49 give clear instructions on what</p>

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	is required and all the information was contained in the question. Good candidates were able to gain the marks in these sections.
Question 9	This was a straightforward question to test knowledge of how to calculate the period for filing an Opposition to a European patent. This was generally well answered.
Question 10	<p>A straightforward question to test candidates' knowledge of the actions to be taken when a Rule 71(3) communication (intention to grant a patent) is received. The question stated that all claims fees had been paid and that the application was in English.</p> <p>Candidates should be aware that the text is approved by filing a translation of the claims - in this case into French and German - and by paying the fee for grant including the fee for publication.</p> <p>No marks were awarded for 'approving the text for grant', nor for 'request translation of claims'.</p>
Question 11	<p>An EP Renewals question requiring candidates to calculate the date for payment of the 2018 renewal fee and to recognise that for EP applications renewals are due by the last day of the month. This was generally well answered.</p> <p>As the 'Decision to Grant' form EP2006 had issued, candidates were required to determine to which office(s) the renewal fee should be paid, by selecting the correct date. Good candidates were able to determine that the patent would be pending on the date for payment of the renewal fee (31 January 2018), as grant would not occur until 7 February 2018.</p>
Question 12	<p>An EP Office Action was presented in the form of a copy of a communication. Both the issue date and date of receipt of the communication were given so that candidates were required to identify from which date the calculations should be made (here, the issue date). Most candidates correctly identified this.</p> <p>In part a) the 10-day rule was correctly applied by most candidates. Use of the calendar provided would have shown that 7 January 2018 is a Sunday, therefore the due date would be carried forward to the next working day.</p> <p>In part b) it was necessary to apply the 10-day rule and add 6 months to that date. No marks were awarded to candidates for simply adding 2 months to the previous answer as this did not demonstrate that they</p>

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	<p>knew the full calculation, i.e. adding 10-days then 6 months. Simply adding 2 months to the unextended deadline would give an incorrect due date.</p>
Question 13	<p>An EP publications question to distinguish between A2 and A3 publications and what actions are triggered.</p> <p>Most candidates correctly identified the actions to be taken. No mark was awarded for 'request examination' as this is requested by payment of the examination fee.</p> <p>Most candidates correctly identified that the deadline was 6 months from the date of publication of the A3 document.</p>
Question 14	<p>A UK Designs question to test knowledge of the minimum requirements to obtain a filing date. This was generally well answered.</p> <p>Candidates should note the difference between a patent and a design. 'An indication that a patent is sought' does not relate to a design.</p>
Question 15	<p>A UK Designs renewals question requiring candidates to show knowledge of distinguishing the difference between filing and registration dates and the calculation of renewals.</p> <p>Part b) required the candidate to show knowledge of the first month extension being free.</p>