

Chief Examiner's comments

Written examination

The range of scores suggests that the questions had the right mix of easy, medium and difficult allowing better candidates to show their abilities without making it too difficult for the worse candidates.

The performance of the candidates was better on those questions which only required them to remember facts taught as opposed to applying their learning to scenario questions. As commented on by the Principal Examiner, those questions were not answered so well. This is to be expected as answering correctly a scenario question requires more than factual regurgitation but analysis of the law to a set of facts.

Oral examination

The candidates performed well in the oral examination. This shows that the training at the weekend is good. If a criticism had to be made, it is that many of the performances are very similar (indeed often including verbatim the same words). This suggests that the candidates (who work through the case study over the weekend) have over-rehearsed their performances in groups. As commented on by me before, a better test of their advocacy skills would be to give them a similar but not the same case study after the weekend so that their skills and abilities to prepare and deliver their **own** speeches is examined.

Principal Examiner's comments

IPLC1 Written examination

The questions for the written examination were again designed with a range of difficulty levels. All the candidates appearing for the examination attained the required pass mark, with most candidates obtaining in the region of 35 to 45 marks. The time available for the exam appears sufficient as candidates managed to attempt all the questions in the given time.

The Examiners noticed that many candidates did not provide context appropriate answers to certain questions, instead digressing to discuss points which were not directly addressing the issues addressed, thereby missing marks. Questions relating to assessment of costs again posed issues for several candidates. A question relating to success in appealing exercise of discretion by the IPEC judge was also not attempted well.

Questions

Question number	Comments on question
Question 1	About 50% of the candidates got the 1 mark available for this question. The candidates who did not achieve the mark failed to appreciate that there is a difference between 'disputed facts' and 'facts in issue'.
Question 2	Parts a) and c) of this question were generally well answered. Part b) predictably caused more problems as many candidates could not specify the deadline for lodging the trial bundle with the Court for interim applications.
Question 3	This question was well answered by most candidates who appreciated that an advocate's duty to the Court overrides her duty to the client.
Question 4	A majority of candidates noted that a Commissioner for Oaths must be independent of the person making the affidavit and in this case there is no such independence. Most, although not all, also appreciated that another independent patent attorney from the firm could act as Commissioner.
Question 5	This was a straightforward question but only a minority of candidates were able to obtain all the available marks.
Question 6	This question, particularly advising on the prospects of success, was generally poorly answered. Most candidates did not identify that a decision concerning exercise of discretion is difficult to appeal or the specific circumstances in which such exercise of discretion is interfered with by the appellate authority.
Question 7	Most candidates were able to score some of the available marks by mentioning cost caps but summary assessment was not mentioned or explained by many.
Question 8	This question was generally very well answered.
Question 9	This question was straightforward but candidates should have noted that the question asked for <i>important</i> differences to be identified. Not all minor differences in procedure would therefore gain marks.
Question 10	This question was generally very well answered.
Question 11	Most candidates identified the concern regarding threats action and some potential courses of action. However, most failed to clearly identify the concern regarding potential for damages to secondary infringers in view of questions regarding validity of the patent.

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IPLC1 and IPLC2 – Litigation Skills

Question 12	Most candidates identified that IPREG Rules require attorneys to carry out their professional work competently. However, many did not appreciate the possibility that the regulated person can supplement his team with other legal advisors who have relevant specialist knowledge. Credit was given to candidates who suggested a sensible course of action even if that was not the exact action indicated in the mark scheme.
Question 13	This question was generally well answered although some candidates lost one or two marks by not clearly identifying that Howlett's tactics constituted confidential information of a former client which the attorney is bound to keep confidential and that continuing to act for Christine Jenkins would make the attorney bound to disclose that confidential information.
Question 14	Given that Judicial Review is a self-contained topic and the question was a straightforward one, it was not well answered. Very few candidate were able to obtain all of the available marks.
Question 15	Many candidates did not achieve any marks for this question as they did not appreciate the reason behind a 'without prejudice' meeting of experts. The fact that this was the last question may also have contributed to the low score due to some candidates running short on time.

Principal Examiner's Comments

IPLC2 Oral examination

This series of oral examinations was run at CIPA, Chancery Lane. The venue is generally very good. The room used was the library which entirely appropriate for the purpose. Facilities at the venue are good and the equipment functioned well. I am not aware of any issues.

All candidates arrived in good time and in general were well prepared and well presented for examination.

The acoustics in the room are good and the audio recording was of good quality

Some candidates were extremely nervous and whilst some nerves are understandable candidates should try and relax more if possible.

Responses to the oral task

The task sets out to test LO 3 and 7 and candidates need to show they can present a well prepared and persuasive address to IPEC which addresses the facts of the case and the applicable law and uses these two elements in support of the order sought. This requires a preparation of the task and persuasive advocacy.

All 17 candidates passed with a spread of marks from 65% to 95% all candidates successfully addressed the requirements of the task.

A good response was characterised by thorough preparation and a succinct persuasive delivery which addressed the facts of the case, explained the applicable law, deployed the evidence available and then clearly explained how the evidence supported the application by reference to the law. The oral presentation of a good candidate was engaging with good variation in pitch and tone. Delivery was well paced and good eye contact maintained and did not rely too much on reference to notes.

On this occasion all candidates had prepared well and the submissions were all well-structured.

The difference between a good delivery and a poorer one was that in the latter case delivery was not engaging, lacked any persuasive element and in places was a simple reading of a prepared script.

The use of notes appears to still be problematic for some candidates but less so than last year. Notes should be used as an aide memoir and can be referred to during the presentation. Bullet points are better than a full script simply because the reading of a script will rob the presentation of those essential elements of engagement and persuasiveness. No candidate attempted the task without notes on this occasion.