

Introduction

This FC3 paper followed the general format of previous papers, including both knowledge-based and scenario-based questions. Overall, the paper was answered very well by the vast majority of candidates.

Pleasingly, a number of candidates provided excellent answers in Part B. It remains the case that for scenario-based questions, some candidates reproduced the relevant legal provisions without applying them to the facts of the matter at hand. Such an approach naturally limited the number of marks obtained by the candidate.

The overall pass rate for this FC3 paper was comparable with previous years.

Questions

Part A

Question number	Comments on questions
Question 1	This question sought to test the candidates' knowledge of European Patent Office practice regarding calculating deadlines and the 10-day rule. Candidates answered the question well, but several failed to appreciate that the extension of time request must be filed before the expiry of the initial deadline for response. Additionally, a small number of candidates did not appreciate that using the '10-days' does not remove the application from accelerated examination.
Question 2	This question sought to test the candidates' knowledge of the routes to seek patent protection in Hong Kong. A significant number of candidates simply regurgitated the law in this area, rather than applying these legal principles to the facts of the question. Also, many candidates failed to mention that a direct application in Hong Kong was no longer possible as the invention had been disclosed. A priority claiming application was no longer possible as the 12 month Paris Convention period had expired.
Question 3	This question sought to test the candidates' knowledge regarding the 71(3) stage of a European patent. This question was well answered, with most candidates identifying the relevant points and correctly identifying the acts required and associated deadlines. In Part (a), some candidates lost marks due to a lack of specificity in the translations required.

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	<p>For Part (b), candidates stated their answers in various ways and marks were awarded where candidates appreciated that the further processing fee due was a single flat fee and 50% of the excess claims fees however this was presented.</p> <p>Part (c) was well handled by candidates, with the majority correctly identifying the process for requesting the amendments to the text intended from grant.</p>
Question 4	<p>This question sought to test the candidates' knowledge concerning correcting errors in the PCT stage. This question was poorly answered, although some candidates did produce excellent responses. In Part (a), very few candidates could identify the correct competent authority to decide on the correction of a mistake in the request.</p> <p>For Part (b), candidates generally appreciated the mistake must be obvious but could not articulate how this was evaluated. Candidates typically performed better on Part (c), correctly identifying the relevant deadline for the request for correction.</p>
Question 5	<p>This question sought to test the candidates' knowledge of grace periods in Japan, Singapore and South Africa. Many candidates failed to apply the correct law in Singapore. In South Africa, whilst the patent could likely be registered, it would not be valid as requested by the question due to the lack of an applicable grace period.</p>
Question 6	<p>This question sought to test the candidates' knowledge of opposition procedures in Japan and Europe. Many candidates produced strong answers to this question, with weaker candidates also scoring well. Candidates well understood the grounds of opposition available in both Japan and Europe.</p> <p>Part (e) was also generally well answered, though it proved more challenging for candidates than the previous parts of the question.</p>

Part B

Question number	Comments on question
Question 7	<p>This question sought to test the candidates' knowledge regarding the assignment of priority, the filing of a national phase and the acts required to continue prosecution of an application before the European Patent Office. Candidates produced strong responses to</p>

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	<p>all parts of this question, although some candidates lost marks in Part (c) due to the incorrect addition of the '10-days' to the 21 May 2021 date.</p> <p>In Part (c), the strongest candidates recognised the need to pay a renewal fee in November 2021.</p>
Question 8	<p>Part (a) of this question was well answered by candidates, with a number achieving excellent marks. When reciting passages of law, candidates should be accurate in their language to ensure marks can be awarded.</p> <p>Parts (b), (c) and (d) are similar to questions posed in previous FC3 papers, with candidates scoring well. Candidates had a good grasp of the benefits and disadvantages of utility models. Overall, answers to Part (d) were strong, with the majority of candidates having a good understanding of the law surrounding evaluating an applicant's entity status before the USPTO.</p> <p>Candidates sometimes lost marks where they did not explicitly apply the test for the entity status of the applicant, and instead just provided a list of requirements.</p>
Question 9	<p>This question included a knowledge-based part on the options of amendment of a PCT application alongside a scenario-based part dealing with an infringement issue in Germany and France.</p> <p>Overall, candidates produced detailed and well-rewarded answers to Part (a), demonstrating a good knowledge of the options available.</p> <p>Part (b) was answered less strongly, although the best candidates picked up the majority of the marks on offer. Filing a German utility model was a strong example of practical advice, and candidates who suggested this were well rewarded.</p>
Question 10	<p>Few candidates answered this question.</p> <p>Parts (a) to (e) were answered well, with candidates often obtaining full marks for these parts where they had a good understanding of the relevant laws.</p> <p>Part (f) was less well answered. Whilst the majority of candidates appreciated that DE-1 was not a sufficient disclosure of the invention, they failed to apply this fact to the validity of EP-A's priority claim.</p>

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	<p>Candidates scored well in the remainder Parts (h) being rewarded for good points in both and (i).</p> <p>There was a typographical error in the scenario, which rendered Part (i) redundant. However, candidates dealt well with this part question. PEB reassures candidates that processes were put in place to ensure they were not disadvantaged by the error and marks were awarded for any relevant point.</p>
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