

Examiner's Report 2024

FD3 – Amendment of Specifications

Introduction

This paper was generally well answered, with many candidates covering all the main points. Some candidates clearly practise exclusively before the EPO but were still able to give sound answers.

The main amendment was in general terms not difficult to spot, with the device of the invention able to fit securely two different types of ladder, though minor alternatives or features were also present, and dealing with these (in the Notes) demonstrated a good understanding.

Lack of time did not appear to be a widespread problem with this paper.

On logistical matters, candidates are reminded to start each section (Claims, Letter, Notes) on a separate page, and also to ensure that deletions appear (in the claims) inline and not in balloons.

Claim 1

Nearly all candidates rightly went in some way for the stepped shape of the hook formation. However, care was needed as to the exact wording. For instance, merely mentioning two different shapes in a stepped socket is perhaps novel but not of itself inventive. In the opinion of the examiners, it is best to link the stepped shape with its function, i.e. the narrow and wide portions fitting rungs (and perhaps other horizontal members) and steps respectively. On the other hand, it is not necessary nor advisable to include all the detail of the page 7 paragraph.

Claim 1 clearly needed broadening to cover rungs/steps/bars etc, but one needed to ensure the language is consistent throughout, for example in the first and last paragraphs.

Some candidates deleted much of the initial paragraph concerning ladders. This was not thought necessary, and runs the risk of providing insufficient context for the later definition of the stepped shape.

Candidates who tidied up the “hook formation”/“hook means” language showed that they were on the ball.

Broadening Claim 1 to cover a single stabilizer leg attracted marks, but care was needed to ensure there was basis for the wording of the amendment.

Dependent claims

In general, there are many features that could be used to expand the set of dependent claims, with those mentioned by the client (tray, button) being worthy of more attention than others (materials, dimensions).

If Claim 1 is broadened to a single stabilizer leg, then a subclaim to the pair of legs was expected, and also Claim 4 would have to depend on this subclaim. Not all candidates realised this.

Response

Several candidates referred to completing a form and paying a fee for accelerated prosecution; neither is necessary nor possible, merely a reasoned request. One referred to (the EPO's) PACE programme. Several were unclear regarding the reasons that can be given for acceleration.

A few candidates asserted that the deadline was wrong, so wasted time discussing possibilities if the compliance deadline had passed. This is no doubt due to unfamiliarity with UK practice, and some preparation on typical timescales and deadlines is advised.

Examiner's Report 2024

FD3 – Amendment of Specifications

Some candidates felt the need to request that they be given the opportunity to file a divisional: this has not been required since the introduction of the notice of intention to grant communication, some years ago.

A provisional request for oral proceedings would be for EPO (not UK IPO) practice, but candidates were not specifically penalised for such a request.

Reporting notes

Many candidates “explained their working” well here, and clearly took time over this section. Better answers referred to the points in the client’s letter, even if disagreeing with them.

As ever, if a candidate’s amendments to the claims went in a different direction to the marking guide, marks were available for explaining why, for instance if the broadening to a single leg was not made.

As with previous years, candidates should be aware that cutting and pasting comments from the response letter into the memo does not attract additional marks.