

Foundation Certificate

FC1 UK Patent Law

Friday 24 October 2025

10:00 to 13:20 UK British Summer Time (GMT + 1 hour)

Examination time: 3 hours 20 minutes plus 10 minutes upload time

The 3 hours 20 minutes is allocated as follows:

10 minutes – Downloading and printing the question paper:

3 hours – Answering the questions:

10 minutes – Two screen breaks of 5 minutes each.

At 13.20 you MUST immediately stop answering the questions. You then have **10 minutes** in which to upload your Answer document to the PEBX system.

You MUST upload your Answer document to the PEBX system by 13.30. After 13.30 you will not be able to upload it and your examination will be void.

INSTRUCTIONS TO CANDIDATES

1. You should attempt **ALL** questions in Section A and any **three** questions in Section B.
2. The marks for each question in Section A are shown next to the question. Each question in Section B carries **20** marks.
3. If more than the required three questions are answered in Section B only the first three presented will be marked.
4. The total number of marks available for this paper is 100.
5. You must use the Answer document for your answers.
6. Do not attempt to change the font style, font size, font colour, line spacing or any other pre-set formatting in the Answer document.
7. Start each question on a new page. To begin a new page, press the Control key and the Enter key simultaneously.
8. When you begin a new question, type in the question number at the top of the page.
9. Do not state your name anywhere in your answers.

This question paper consists of **7 sheets** in total, including this sheet.

AT THE END OF THE EXAMINATION

10. Upload your Answer document to the PEBX system. You should upload it as a Word document. PEBX will automatically convert it to PDF.

SECTION A

Question 1

a) Is it possible to claim priority from the following? In each case explain your answer.

i) A US utility patent application filed 13 months ago.

3 marks

ii) An EP application filed 11 months ago. The GB designation has been withdrawn.

1 mark

iii) An application filed at UKIPO comprising a completed Form 1, along with an annotated sketch of a product.

2 marks

b) Explain why it is possible to claim priority from an EP patent application. The EPO is not a party to the Paris Convention.

1 mark

c) Give an example of something from which priority can validly be claimed other than a patent application.

1 mark

Total: 8 marks

Question 2

a) List the main points that should be included under English and Scottish law in a patent assignment document assigning a UK patent application from party A to party B. You are not expected to draft the assignment document.

4 marks

b) What stamp duty is payable on an assignment document which relates solely to the assignment of one UK patent application? You can assume the assignment document was signed in the last ten years. Justify your answer.

2 marks

c) Describe two potential consequences of failing to record an assignment document within six months of execution.

4 marks

Total: 10 marks

Question 3

- a) According to Section 1(2) (*Patentable Inventions*), UK *Patents Act 1977*, what are not inventions?

8 marks

- b) List two grounds on which the UKIPO would object to an application for a perpetual motion machine.

2 marks

Total: 10 marks

Question 4

Actavis v Eli Lilly [2017] UKSC sets out a test under which the prosecution history for a patent may be considered. What is this test?

4 marks

Question 5

Licences of right are available for your client's patent.

List eight potential disadvantages of this for your client.

8 marks

Total for SECTION A: 40 marks

SECTION B

Question 6

Six months ago, Ms Shah started developing her new flask, which is a replacement for vacuum flasks. The walls of the flask are made from chemical X, which is rigid, chemically inert and a good thermal insulator. Two months ago, Ms Shah started advertising and making preparations for sale of her new flask. Ms Shah is interested in the UK only.

Ms Shah has now received a letter from Cups Are Us Ltd (CAUL), bringing their patent GB1 to her attention. The patent was filed on 1 April 2014 and granted on 15 May 2019. Your investigation of the patent shows that the last renewal fee was paid on 30 April 2023.

GB1 discloses a cup made of X and comprises three claims, which are:

1. A container comprising X.
2. A container as claimed in claim 1, wherein the container is a cup.
3. A container as claimed in claim 2, further comprising a stand.

Your prior art search reveals two documents published before GB1:

- M1 A magazine article showing a kettle made from X.
- M2 A further magazine article showing a metal travel mug arranged in a rubber sleeve to retain heat.

You can assume there are no further patents owned by CAUL and there is no further prior art.

Write notes for a meeting with Ms Shah. Your notes should cover the following areas:

- a) how CAUL might address failure to pay the renewal fee for GB1; 3 marks
- b) third-party rights potentially acquired by Ms Shah; 5 marks
- c) infringement of GB1. Consider each claim in turn; 4 marks
- d) validity of GB1. Again, consider each claim in turn; and 3 marks
- e) advice to the client as to how to proceed in view of the letter from CAUL. 5 marks

Total: 20 marks

Question 7

You have received the following email from the CEO of your client, BigWidget Ltd (BWL):

As you are already aware, we have a GB patent for the five-sided widget (the Penta-widget). We have now developed the Octo-widget, which is an update of the Penta-widget. We are very excited about the Octo-widget as it is a significant improvement on the original. The scope of the original patent is sufficiently broad that it covers the update but, nonetheless, we would be grateful if you could file a further application for the improvement.

The inventor retired from our company last year but still comes in two days a week as an R&D expert, during which time he developed the Octo-widget. We have never signed any paperwork with him relating to this. Nonetheless, the Octo-widget was developed using our money and resources, and so belongs to us. We are not sure the inventor agrees with this and would not be surprised if he tried to commercialise it himself.

Finally, we have shown the Octo-widget to one of our customers – Teton Gears Ltd (Teton). Teton have a confidential process for testing widgets and have sent us data showing a significant improvement in widget performance. Please include this data in the application.

Write notes for a meeting with your client. Your notes should be broken down into the following areas:

- | | |
|--|---------|
| a) ownership and inventorship; | 9 marks |
| b) the client's disclosure to Teton; | 3 marks |
| c) use of the Teton data; and | 3 marks |
| d) steps that should be taken, by the client, in particular in relation to the inventor. | 5 marks |

Total: 20 marks

Question 8

Your client has invented a new method of processing vegetable seeds. Seeds processed by the method grow into plants which look the same as normal except that they have blue leaves. Vegetables from such plants look and taste identical to normal but the vegetables are resistant to vegetable fly.

Your client has filed a PCT application in English with one claim, which is to a method of processing seeds. The PCT application was filed 28 months ago with no priority claim. The client has not as yet sold any seeds made by the method.

Your client has recently seen a field full of vegetable plants with blue leaves. Your client has spoken to the farmer, who says these new seeds are a big hit this year. Farmers for miles around are buying them from Seeds Are Us Ltd, in Nottingham. Your client would like to stop farmers from stealing the invention.

Prepare notes for a meeting with your client. Your notes should cover:

- a) **entry of the PCT application into the GB national phase. You are not expected to calculate deadlines or consider addition of further claims;**
5 marks
- b) **who are the potential infringers, the infringing acts and any defences to infringement there may be?; and**
10 marks
- c) **any proactive steps that can be taken in relation to the infringers at this time.**
5 marks

Total: 20 marks

Question 9

Your client has acquired a portfolio of UK patent applications.

For each of D1–D4 listed below, advise your client as to how to proceed:

- a) Patent application D1 was filed on 2 June 2021. A first office action issued on 25 February 2025 and a response has been filed. The UKIPO has yet to reply. The client wishes to file a divisional application. For any dates you give, explain how they have been calculated.

7 marks

- b) D2 was filed 17 months ago with no priority claim. The filing and search fees have been paid. There are no excess pages or excess claims. However, D2 was filed in the name of your client and, on further discussion with your client, it appears the invention was jointly developed with the brother of your client. The brother of your client has no interest in obtaining patent protection.

4 marks

- c) For D3, filed five years ago, your client has received a notice of intention to grant dated one month ago. There is a grant fee payable. However, the client is not happy with claim 1 and desires a further claim amendment.

5 marks

- d) For D4, your client has also received a notice of intention to grant and a grant fee is due in one month's time. The client, however, has an EP patent (filed in English) claiming priority from D4. The EP patent was granted ten months ago and has not been opposed. You are not expected to consider what should be done in respect of the EP patent.

4 marks

Total: 20 marks