

PEB Qualifying Examinations

Candidate Guidance – FD2 Drafting of Specifications

Introduction

This guidance has been prepared to assist candidates preparing for the PEB Qualifying Examinations. It is intended to identify the knowledge and experience candidates should attain prior to sitting the examination.

Different candidates will have widely different opportunities for training and gaining experience, depending on the pattern of work in their firms or companies. This guidance is designed to help candidates to identify areas where the knowledge and experience gained in the workplace will have to be supplemented through tutorials, seminars, training courses, private study or other means.

This guidance should be read together with the FD2 syllabus. Syllabi are reviewed annually and updated versions are published on the PEB website in the April before the October examination session. It is recommended that candidates familiarise themselves with the Acts and Rules set out in the syllabus.

Candidates are recommended to make use of past question papers and mark schemes, which are also available on the PEB website. In addition, the Principal Examiners' reports on the examinations explain common areas of weakness seen in candidates' answers.

Examiners report that there is a clear link between the length of professional experience and success in the Qualifying Examinations. It is unlikely that candidates with less than three years' experience in the profession, including at least a year acting mainly on their own responsibility, will have sufficient experience to be successful in the FD2 examination.

In addition to professional experience listed below, candidates are advised to attend at least twelve hours per year of CPD seminars, including some delivered outside their workplace, such as those offered by CIPA. Candidates are also advised to regularly read a monthly IP law publication.

Overview

The FD2 examination is a test of competence to understand a simple technical problem and, primarily, to draft claims for a new patent application that clearly define the invention and give the maximum potential for protection in view of the disclosed information. While the technical problem will differ from paper to paper, candidates will always be expected to draft GB claims, both independent and dependent; and to draft a specification, either whole or in part, made up of an introduction, prior art review, object, statement(s) of invention, specific description and abstract.

The FD examinations test candidates' ability to assess issues pertinent to the facts presented taking into account regulatory requirements (IPReg's Core Regulatory Framework), the Registered Patent Attorney's duties to clients, and professional ethics applicable to IP practitioners. A script that contains unethical advice, proposals or statements does not meet the requirements for award of a Pass in an FD examination.

Guidance

It is strongly recommended that before taking the FD2 examination, candidates should:

1. Have drafted at least ten UK patent applications.

2. Understand how to apply the significant case law on drafting specifications, especially claims, as indicated in the relevant sections of or as reported in:
 - *CIPA Guide to the Patents Acts* (2022) Ed. Paul Cole, pub. Sweet and Maxwell ("The Black Book")
 - Reports of patent, design and trade marks cases.
3. Be familiar with the principles of drafting descriptions, claims and abstracts for UK, European and International patent applications as indicated in:
 - The Patent Office Manual of Patent Practice
 - Fundamentals of Patent Drafting (2006) Paul Cole, pub CIPA.
4. Be competent in amendment practice as examined by FD3 Amendment of Specifications.
5. Have attempted under timed conditions, and have had reviewed, at least five past FD2 papers.

Although FD2 tests candidates' competence in drafting for UK applications only, from a broader practice perspective candidates are recommended to:

6. Have a basic knowledge of the principles of drafting claims for Europe, United States, Australian and Japanese Claims.
7. Have prepared at least one patent application for use in one or more of United States, Australia and Japan.
8. Have prepared EP or PCT patent applications.