

# LAW AND PRACTICE OF PATENTS

## EXAMINATION PAPER 2023

Time Allowed: 3 Hours and 20 minutes

Answer SIX questions only. Any additional answers will be disregarded and NOT marked.

Candidates MUST answer Question Number 1 and Question Number 2.

In the event of a Candidate failing to answer Question Number 1 and Question Number 2 the examination paper of that Candidate will NOT be considered valid.

1. Puffo Limited has developed what it believes to be a revolutionary means of reducing carcinogenic substances in tobacco leaves and consequently producing cigarettes that are less harmful to health than products made with tobacco that has not been so treated.

While being mindful that public health advice actively discourages smoking, Puffo Limited nevertheless believes that its innovation has health benefits and enormous commercial potential. Accordingly, it is anxious to obtain as much patent protection as possible in respect the method of treating the tobacco and products made from the treated tobacco. It seeks your detailed advice as to how it should proceed, such options as are available to it and any potential obstacles that it may encounter.

2. Analyse in detail the judgment of Charleton J in *Glaxo Group and the Patents Act (Patent 65535)* [2009] IEHC 277 (26 June 2009) and in particular the consideration given to the differences between the Boards of Appeal of the European Patent Office and the English courts on the test of obviousness.
3. Explain the use and role of auxiliary requests in the context of opposition proceedings before the European Patent Office.
4. Analyse the contribution which the Patent Co-operation Treaty has made to the process of applying for patent protection and explain how one goes about taking advantage of it.

5. Differentiate between EACH of the following:

(a) (i) Independent and (ii) dependent patent claims;

and

(b) (i) Product and (ii) process patent claims,

set out in each case the respective purposes of such claims and, in any area of science or industry of your choosing, provide examples of how these claims are worded and structured.

6. Write notes on THREE of the following:

(a) An Arrow Declaration (*Arrow Generics Ltd. v Merck & Co Inc* [2007] EWHC 1900 (Pat)).

(b) An account of profits.

- (c) A declaration as to non-infringement.
  - (d) Damages for patent infringement in respect of "*convoyed goods*".
7. Explain the nature and purpose of divisional patents.
  8. You have been consulted by a client who has presented what he believes is a new method of fast charging for electric vehicles. Outline the resources and techniques that you would use in conducting searches to determine whether there is a basis for seeking patent protection.
  9. Explain the purpose of a know-how licensing agreement, the circumstances in which one might find recourse being had to such an agreement and the provisions that one would expect to see in a properly drafted know-how licensing agreement.