

# LAW AND PRACTICE OF PATENTS

## EXAMINATION PAPER 2012

Time Allowed: 3 Hours

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. Aldos Motor Company Limited manufactures luxury cars. It has developed a suspension system for cars which facilitates parallel parking by rotating the wheels of the car until they are perpendicular to the car. This enables the car to move in and out of parking spaces that are only slightly longer than the car. The new system has been fitted to ten cars manufactured by Aldos Motor Company Limited and those cars have been loaned to directors of the company for a trial period of one month. Each of the cars has been driven around the city of Dublin and on at least 40 occasions the new system has been used so as to enable the car in question to park on a city street. One of the directors let her son use one of the cars over the course of a weekend when it was damaged in a minor accident. No damage to the suspension was suffered in this accident. The son left the car into a local garage where it stayed for two days so that repairs could be effected to the car's bodywork.

Aldos Motor Company Limited now wishes to apply for a patent in respect of the suspension system and seeks your advice.

2. Analyse in detail the judgment of Charleton J in *Glaxo Group and the Patents Act (Patent 65535)* [2009] IEHC 277 (26<sup>th</sup> 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. You have been consulted by a client who holds a patent for a new technique for resoling leather shoes. The client believes that the only commercially viable means of exploiting this invention is the grant of licences to the operators of small shoe repair businesses of which there are thousands throughout the State. Outline how such a system of licences might be put in place, the terms for inclusion in such licences which you would recommend in this specific scenario, and such other issues as may arise as a consequence of this means of exploiting the patent.
4. Analyse the decision of the Court of Justice in Case C-322/10 *Medeva v. Comptroller General of Patents* (24<sup>th</sup> November 2011) and its significance as regards the scope of the protection available under Supplementary Protection Certificates.

5. Outline the procedure to be followed in securing the restoration of a lapsed patent and set out the circumstances in which this is possible.
6. Outline the concept of priority in the context of patent applications and set out the means by which priority is claimed.
7. Set out the requirements that have to be satisfied in order to obtain a short term patent and discuss the advantages and disadvantages of such a patent as compared with a standard patent.
8. Set out in detail the procedural steps which have to be taken in order to obtain a European patent.
9. While making reference to relevant case law, discuss the criteria that govern whether an invention comes within the exclusion regarding methods for treatment of the human or animal body contained in section 10(1)(c) of the Patents Act 1992 (as amended).