

# LAW AND PRACTICE OF PATENTS

## EXAMINATION PAPER 2015

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. Norbert has devised an anti-theft device for cars. It involves the location of sensors around the exterior of the car. These sensors are connected to a standard factory-fitted alarm within the car. In the event of a thief tampering with the car, the alarm will be triggered and that in turn will activate a spray that dispenses a jet of foul-smelling green liquid that covers the thief and thus deters him or her from continuing with the attempt to steal the vehicle or its contents. The green liquid is non-toxic, but it is extremely difficult to remove from skin, hair and clothing. There are a number of spray heads located around the vehicle and the sensors that are linked to the alarm, when activated by the alarm, indicate the spray head closest to the site of disturbance and that spray head is then activated so as to disgorge a widely-dispersed spray. Norbert got the idea for the device after watching a television documentary about the growing trend of violent car-jacking in South Africa. The programme featured a device that enabled a car driver who was in immediate danger of being attacked to activate a flame thrower which would set fire to assailants attempting to gain access through the doors of the car. Norbert recognised that he could not incorporate something that would cause death or injury into his device and so he came up with the idea of the green liquid (the composition of which he devised) by analogy with cash boxes used in bank deliveries that release indelible dye when an unauthorised attempt is made to open them.

Norbert now wishes to apply for a patent in respect of his anti-theft device and seeks your advice.

2. Examine the nature and significance of the amendments to section 42 of the Patents Act 1992 made by section 2 of the Intellectual Property (Miscellaneous Provisions) Act 2014.
3. Set out the translation requirements applicable where a European patent is to have force in Ireland.
4. While making appropriate reference to relevant legislative provisions and case law, define the criteria that must be satisfied in order to obtain a Supplementary Protection Certificate and the extent of the protection thereby conferred.

5. Set out the procedural steps to be followed within the European Patent Office in order to pursue an opposition to the grant of a European patent and any appeal pertaining thereto.
6. Analyse in detail the judgment of Kelly J in *Smithkline Beecham plc v. Genthon BV* [2003] IEHC 623 (High Court) and consider what implications, if any, this decision has for the availability of interlocutory injunctions in patent infringement actions.
7. Analyse the contribution that 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.
8. Outline the procedure to be followed in securing the restoration of a lapsed patent and set out the circumstances in which this is possible.
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.
10. Set out the advantages and disadvantages of seeking a declaration of non-infringement pursuant to section 54 of the Patents Act 1992.