

LAW AND PRACTICE OF PATENTS

EXAMINATION PAPER 2019

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. Kleen Drains Limited is the proprietor of a patent for a method of cleaning and unblocking drains through the combining of a caustic soda solution with a slow dissolving water based gel (which gel was previously used only for hair styling) in specified proportions, which are then poured into the drain, thereby exposing the blockage to a slow release action that enables the caustic soda to have an optimum effect in respect of large and/or stubborn blockages.

Rex Hardware Limited, which operates a DIY store, has started selling plastic bottles of caustic soda taped to tubes of the hairstyling gel (manufactured by an unrelated company called Good Hair Day Limited), together with instructions as to how to combine the two in order to unblock drains.

Advise Rex Hardware Limited as to whether it has a potential liability for patent infringement. Your advice should be confined to the liability issue alone and you are not required to consider issues of validity in respect of the patent.

2. Analyse and discuss **EACH** of the following:
 - (a) The judgment of Barrett J permitting amendment of the Statement of Opposition to amendment of the patent in *Re Boehringer Ingelheim Pharma GmbH* [2018] IEHC 165 (High Court);

AND

- (b) The judgment of Barniville J refusing to grant an interlocutory injunction in *Teva Pharmaceutical Industries v. Mylan Teoranta* [2018] IEHC 324 (High Court).
3. Explain the use and role of auxiliary requests in the context of opposition proceedings before the European Patent Office.
4. Set out the substantive provisions that one would expect to find in a properly drafted:
 - (a) Patent assignment;

AND

- (b) Exclusive patent licence.

5. Critically analyse the decision of the Grand Chamber of the CJEU in Case C-121/17 *Teva UK Ltd v. Gilead Sciences Inc* delivered on 25 July 2018.
6. Set out the translation requirements applicable where a European patent is to have force in Ireland.
7. Outline the concept of priority in the context of patent applications and set out the means by which priority is claimed.
8. Explain the nature and purpose of divisional patents.
9. Describe the typical format and structure of a patent specification and outline the particular methodology that you would employ in drafting one.
10. While making appropriate reference to relevant case law, explain:
 - (a) *AgrEvo* obviousness (T-939/92 *AgrEvo/Triazoles* [1996] EPOR 171);

AND

- (b) The concept of “*common general knowledge*” as applied in the context of obviousness.