

LAW AND PRACTICE OF PATENTS

EXAMINATION PAPER 2006

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. Write notes on any **THREE** of the following cases:
 - (a) Re Sanyko Co. Limited [2005] IEHC 114; [2006] 1 ILRM 161.
 - (b) Re Akzo Nobel N.V., High Court (Kelly J) 1st December 2005.
 - (c) Merck & Co Inc. v. G.D. Searle & Co. [2001] 2 ILRM 363.
 - (d) Merck v. Stephar [1981] 3 CMLR 463.
 - (e) Wavin Pipes Ltd v. Hepworth Iron Co. Ltd [1982] FSR 32.

2. Tom Gavin is the proprietor of an Irish patent relating to improvements in the design of the cylindrical blade attachment for an electric lawnmower which cuts and slightly flattens the grass in one direction so as to create a noticeable stripe in the lawn. The attachment is of the same size and dimensions as traditional cylindrical blades and thus can be fitted to conventional electric lawnmowers. One of the claims in the patent reads:

“A lawnmower fitted with the cylindrical blade attachment described in Claim 1 above.”

Tom has discovered that Bevis DIY Limited is selling electric lawnmowers which contain blades identical to those described in his patent. Further investigations have revealed that the lawnmowers are being assembled by Clotts Limited which in turn procured the cylindrical blade attachments from Gower Mechanicals Limited. When challenged by Tom, Gower Mechanicals Limited claimed that it did not know that there was a patent in existence and simply manufactured the cylindrical blade attachments according to specifications furnished by Clotts Limited. Tom has also discovered that Clotts Limited manufactures the rest of the components for the lawnmowers save for the electric motors and cables which are supplied by Heaney Electrical Solutions Limited.

You have been asked to advise Tom as to which of the aforesaid persons would have a liability for patent infringement and in each case to explain the basis of that liability and the remedy or remedies which might be available.

3. Write notes on EACH of the following insofar as they are relevant to actions for patent infringement:
 - (a) A quia timet injunction.
 - (b) An interim injunction.
 - (c) An interlocutory injunction.
 - (d) An Anton Piller injunction.
 - (e) A permanent injunction.

Refer to relevant case law to illustrate how Irish courts have laid down and applied the principles applicable to each of these types of injunction.

4. Set out the provisions which one would expect to find in a properly drafted:
 - (a) Patent assignment; and
 - (b) Exclusive patent licence.
5. 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 9(4) of the Patents Act 1992.
6. Analyse in detail the decision of the House of Lords in *Synthon B.V. v. SmithKline Beecham plc* [2005] UKHL 59 and consider to what extent, if any, it has extended or refined the notion of anticipation.
7. Define the criteria which must be satisfied in order to obtain a Supplementary Protection Certificate under Regulation 1768/92/EEC and set out the application procedure applicable thereto.
8. 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.
9. Write notes on THREE of the following:
 - (a) The surrender of a patent.
 - (b) The restoration of a lapsed patent.
 - (c) The Swiss form of claim.

(d) Divisional patent applications.