

LAW AND PRACTICE OF PATENTS

EXAMINATION PAPER 2007

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) Smithkline Beecham plc v. Genthon BV, High Court, 28th February 2003 (Kelly J).
 - (e) Ranbaxy Laboratories Limited v. Warner Lambert Co. [2006] 1 ILRM 377.

2. 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. In 2000 it secured an Irish registered patent for the system. Aldos Motor Company Limited did not apply for patent protection in the United States. In the last year it has discovered that a system which falls within the claims of its patent has been fitted to cars manufactured in Detroit by Bocacero Automotive Inc. These cars have captured the imagination of Irish consumers, fifteen of whom have ordered cars for delivery in Ireland through Bocacero Automotive Inc.'s website www.bocacero.com. These cars are due to be delivered next week and are being carried to Ireland on board "The Osta", a cargo ship owned by Celtic Freight Limited, an Irish registered company. The carriage of the cars on board "The Osta" was organised on behalf of the fifteen purchasers by Paddy Smiley, a motor dealer who specialises in the importation of luxury foreign cars for private buyers.

Aldos Motor Company Limited seeks your advice as to the liability of Bocacero Automotive Inc., Celtic Freight Limited, Paddy Smiley and the fifteen purchasers for patent infringement and such remedies as are available against them.

3. Set out:
 - (a) The procedural steps which have to be taken in order that a European patent will have effect in Ireland;

AND

 - (b) The procedural steps which have to be followed in order to oppose the grant of a European patent.
4. Set out the provisions which one would expect to find in a properly drafted:
 - (a) Patent assignment;

AND

 - (b) Exclusive patent licence.
5. Identify the principles to be applied in determining the entitlement to apply for a patent as between employer and employee and the means by which a dispute on this issue can be determined.
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. Outline the procedure to be followed in securing the restoration of a lapsed patent and set out the circumstances in which this is possible.
8. With reference to decided case law and relevant statutory provisions, discuss the approach to be taken in interpreting patent claims in the context of an infringement action.
9. You have been consulted by a client who has presented what he believes is a new type of security lock for the exterior doors of houses and apartments. Outline the resources and techniques which you would use in conducting searches to determine whether there is a basis for seeking patent protection.