

# LAW AND PRACTICE OF PATENTS

## EXAMINATION PAPER 2001

Time Allowed: 3 Hours

Answer **SIX** questions only.

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) Rawls v. Irish Tyre and Rubber Services Ltd [1960] IR 11.
  - (b) Allen and Hanburys Ltd. v. The Controller of Patents, Designs and Trade Marks [1997] 1 ILRM 416.
  - (c) McDermott Laboratories Ltd. v. The Controller of Patents, Designs and Trade Marks [1998] 2 IR 276.
  - (d) IBM's Application [1999] RPC 861.
  - (e) Salminen - Pigs III [1989] EPOR 125.
  
2. Aldos Motor Company Limited 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 which 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 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. Bob, the managing director of Aldos Motor Company Limited, 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.

Aldos Motor Company Limited now wishes to apply for a patent in respect of its anti-theft device and seeks your advice.

3. Section 45(3) of the Patents Act 1992 provides:

'In the interpretation of this section, the Court shall have regard to the directions contained in the Protocol on the Interpretation of Article 69 of the European Patent Convention and set out in the Second Schedule to this Act.'

Explain the significance of this provision.

4. With reference to decided case law and relevant statutory provisions, discuss the principles to be applied when considering whether an innovation involving the use of a computer program is patentable.
5. Discuss the circumstances in which an Irish patent can be amended after grant and consider whether decisions of the courts of the United Kingdom in this area are likely to be followed in Ireland.
6. 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.

7. Provide a detailed explanation to a client regarding the manner in which a short term patent can be secured under the Patents Act 1992 and list all of the procedural steps and legal requirements which must be followed.
8. While making detailed reference to the provisions of the EU Commission Proposal for a Council Regulation on the Community Patent (August 2000, COM 2000 412 Final, 2000/0177 (cns)), outline the principal advantages which will flow from the introduction of a Community Patent.
9. Write notes on THREE of the following:
- (a) Divisional patent applications.
  - (b) Supplementary Protection Certificates.
  - (c) The Patent Co-operation Treaty.

(d) The 'Swiss form' of patent claims.