

1998 EXAMINATION IN THE LAW AND PRACTICE OF PATENTS (17/12/98)

Answer five questions

Important note: Candidates must attempt questions one and four.
If an answer to either question is omitted from a candidates paper, the paper will be deemed invalid and no award of marks will be made.

1. Explain, by reference to applicable case law and legal principles:
 - (a) Quia Timet injunctions
 - (b) Interim injunctions
 - (c) Interlocutory injunctions
 - (d) Final or permanent injunctions

2. Write a detailed note on the concept of "surrender" of patents in Irish Law.

3. Give a detailed explanation to a Client on the manner in which a short term patent can be secured under the Patents Act 1992, listing all of the necessary steps, and explaining the legal requirements to be met.

4. Compare and contrast the provisions of the Patents Act 1964 with the provisions of the Patents Act 1992 on the question of novelty.

5. Nuts and Bolts Ltd. is an Irish company and has grown enormously over a three year period. It manufactures and sells scales and component parts of scales and has its Head Office in Limerick. So successful has it been that it has now expanded - since the peace process got under way - into Northern Ireland and has a thriving sales office in Lurgan where on a regular basis its Sales Manager, Mr. Slick of the Limerick office, attends on Mondays and Thursdays.

Superior Scales Incorporated is a U.S. company having its place of incorporation in the State of Delaware. It owns an Irish Patent granted in 1991 which covers an invention

comprising a novel nut used on scales of particular sensitivity useful for weighing particles of sand. It has no corresponding United Kingdom Patent, but has a number of corresponding patents in several European countries.

Smart Supplies Ltd. is an Irish company and has its registered offices in Athlone, Co. Westmeath. It in turn has a purchasing office in Portstewart in Northern Ireland an area noted for its sand deposits. Smart Supplies Ltd. has been busy supplying a new product, made in Taiwan, which on its face is an identical copy of the invention protected under the Superior Scales Patent. Mr. Slick of Nuts and Bolts Ltd. has now agreed with Mr. Smart of Smart Supplies that Smart Supplies will procure and sell to Nuts and Bolts Ltd. two dozen of the nuts which are made in Taiwan. That deal is arranged at the Lurgan Office of Nuts and Bolts Ltd. and is made between Mr. Slick and Mr. Smart on behalf of Smart Supplies Ltd. When the deal has been agreed the product is sent from Taiwan by air to London and then to Belfast. Nuts and Bolts Ltd. pays Smart Supplies Ltd., at its Head Office in Athlone in Irish Pounds, since the Athlone Office looks after all of the sales for all of Smart Supplies Ltd. various offices in Athlone, Portstewart, Edinburgh, Lyon, Milan, and Hong Kong. Advise Superior Scales Ltd. of the rights, if any, which it has against Nuts and Bolts Ltd. and against Smart Supplies Ltd. in respect of the transaction described above, under Irish Law or any other applicable Law.

6. What is the precise effect of a Supplementary Protection Certificate on a pharmaceutical product which has been placed on the market in Ireland with an appropriate authorisation and which is protected by an Irish Patent.
7. Explain the basis of and the reasons for the Judgments in the following cases:
 - (a) **Wavin Pipes Ltd. v Hepworth Iron Co. Ltd. (1982)**
FSR 32.
 - (b) **Identification System / Bull (1989) 6EPOR 344**
(use of abstracts in amendment applications).
 - (c) **Rawls v Irish Tyre & Rubber Services Ltd. (1960)**
I.R.II
8. Explain the manner in which an application may be made for a European Patent, giving details of the precise steps involved and the factors to be taken into account in meeting the legislative requirements.

9. What is the rationale behind Section 53 of the Patents Act 1992. Indicate how you consider an Irish Court might interpret and apply this Section, making reference to any case law in other jurisdictions having similar statutory provisions, which you believe might be applicable or influential in coming to a view as to how the Section ought to be interpreted.