

LAW AND PRACTICE OF PATENTS

EXAMINATION PAPER 2003

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 [1960] IR 11.
 - (b) Plant Genetic Systems/Glutamine Synthetase Inhibitors [1995] EPOR 357.
 - (c) Merck & Co Inc. v. G.D. Searle & Co. [2001] 2 ILRM 363.
 - (d) IBM's Application [1999] RPC 861.
 - (e) Pharmon v. Hoechst [1985] 3 CMLR 775.

2. Sunscreen Limited has been involved in developing products to enable light-skinned people to obtain darker skin colouring. It has designed the SKINLARM, a device which monitors the amount of ultraviolet light falling upon the skin when the subject is sun-bathing and sounds an alarm when the level reaches the point at which damage to the skin will result. Each device is specially calibrated to accommodate the particular skin type of the user. The company has also produced PERMATAN, a cream which, when applied to the skin on a regular basis, instead of merely giving the appearance of a tan, actually alters the skin pigmentation so as to give the subject darker skin. This effect can last indefinitely as long as the cream is used at least once a month. Although the company plans to market PERMATAN as a beauty treatment, laboratory tests have revealed that the change in pigmentation may render the subject less susceptible to skin cancer.

Advise Sunscreen Limited as to the patentability of SKINLARM and PERMATAN.

3. While making reference to such case law as you consider relevant, examine the rationale behind section 53 of the Patents Act 1992 (the so-called 'groundless threats' provision) and explain the circumstances in which it can be invoked.

4. 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.
5. Set out in detail the procedural steps which have to be taken in order to obtain a European patent.
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. With reference to decided case law and relevant statutory provisions, discuss the rationale behind the so-called 'Swiss form' of patent claim and the extent to which such claims are permissible.
8. Set out the provisions which one would expect to find in a properly drafted:
 - (a) Patent assignment;
and
 - (b) Exclusive patent licence.
9. Write notes on THREE of the following:
 - (a) The surrender of a patent.
 - (b) The Patent Co-operation Treaty.
 - (c) Short term patents.
 - (d) Divisional patents.