

# LAW AND PRACTICE OF PATENTS

## EXAMINATION PAPER 2005

**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) Wavin Pipes Ltd v. Hepworth Iron Co. Ltd [1982] FSR 32.
  - (b) Plant Genetic Systems / Glutamine Synthetase Inhibitors [1995] EPOR 357.
  - (c) Merck & Co Inc. v. G.D. Searle & Co. [2001] 2 ILRM 363.
  - (d) Proctor & Gamble / Gastrointestinal Compositions [1999] EPOR 528.
  - (e) Pharmon v. Hoechst [1985] 3 CMLR 775.
2. In 1988 a botanist on holiday in Florida discovered a previously unknown plant which has been called “the Haliber”. The Haliber has lush leaves which give off a pleasant and distinctive fragrance. For the last fifteen years The Natural Cosmetic Company Limited has, like many other cosmetic companies, been engaged in the manufacture of hair shampoo and conditioner containing extract of Haliber. Recently it has attempted to identify other product ranges that could contain Haliber. During the course of trials of a skin moisturiser containing Haliber, The Natural Cosmetic Company Limited discovered that when applied to human skin creams containing extract of Haliber provide a highly effective shield against sun burn. The Natural Cosmetic Company Limited believes that no one has discovered this use for Haliber and it is keen to obtain patent protection. You have been asked to advise it on the issues of patentability which arise.
3. 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.
4. (a) Identify and discuss the various matters regarding patents which are capable of being entered upon the Register of Patents.

AND

- (b) Set out the provisions which should be contained in a properly drafted patent licence.
5. 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.
  6. Analyse in detail the judgment of Kelly J in *Smithkline Beecham plc v. Genthon BV*, High Court, 28<sup>th</sup> February 2003 and consider what implications, if any, this decision has for the availability of interlocutory injunctions in patent infringement actions.
  7. Outline and discuss the criteria to be applied when deciding whether an alleged invention involves an inventive step.
  8. Set out in detail the procedural steps which have to be taken in order to obtain a European patent.
  9. Write notes on THREE of the following:
    - (a) The surrender of a patent.
    - (b) The restoration of a lapsed patent.
    - (c) Compulsory licences.
    - (d) The doctrine of equivalents.