

**LAW AND PRACTICE OF PATENTS**

**EXAMINATION PAPER 2008**

**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. Analyse in detail EITHER:

(a) The judgment of Kelly J in *Smithkline Beecham plc v. Genthon BV* [2003] IEHC 623 (28<sup>th</sup> February 2003);

OR

(b) The judgment of Clarke J in *Ranbaxy Laboratories Ltd v. Warner Lambert Company* [2007] IEHC 256 (10<sup>th</sup> July 2007).

2. Bibillcac is a pungent herb that grows in the Andes. For centuries it has been used to make a tea that was believed to cure a range of illnesses and conditions ranging from the common cold to impotence. However, there has never been any scientific review or analysis as to whether there is any basis for these claims. Last month Yasmin, who is a firm believer in natural remedies, discovered that when Bibillcac is combined with St. John's Wort, garlic and honey in certain defined proportions, it can be successfully used to treat mild asthma attacks.

Yasmin seeks you advise as to whether she could successfully apply for a patent and, if so, the best way to formulate the claim for protection.

3. Analyse the contribution which the Patent Co-operation Treaty has made to the process of applying for patent protection and explain how one goes about taking advantage of it.

4. Set out the provisions which one would expect to find in a properly drafted:

(a) Patent assignment;

AND

(b) Exclusive 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. Outline the procedure to be followed in securing the restoration of a lapsed patent and set out the circumstances in which this is possible.
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. Define the criteria which must be satisfied in order to obtain a Supplementary Protection Certificate under Regulation 1768/92/EEC and set out the application procedure applicable thereto.
9. You have been consulted by a client who has presented what he believes is a new man-made fibre that, when combined with cotton or linen, produces wrinkle-free garments that return to their original shape after washing or dry-cleaning without the need for tumble-drying or ironing. Outline the resources and techniques which you would use in conducting searches to determine whether there is a basis for seeking patent protection.