

Examiners' Comments on Candidates' Overall Performances in QE2015 Paper D

- This year's paper appears to be balanced with balanced results. No question was particularly easy or hard and overall candidates averaged out in their performance questions by questions. We could therefore see where each candidate was weak in an area clearly. Time management continue to play a factor for some candidates where there is clearly a rush for Qns. 5 and with some very low scores recorded for this question. There is every possibility that if time management is mastered, there could have been more passes. This is especially since Qns. 5 is largely a procedural question.
- On the other hand, there seemed to be an overall weakness in procedure, which is very difficult to comprehend since it is a fundamental part of practice and training.
- Overall, the standard of the candidates was not good. They do not seem to be adequately prepared for the paper, as can be seen from the poor grade achieved for the PCT question (Question 3). Some even had no opinions on the entitlement question and were not able to grasp all of the issues.
- For this year's Paper D, there are some candidates who do not appear at all ready to attempt the paper. These candidates scored marks that were substantially below 30.
- As for the other candidates, of those who passed, a number were able to pass with borderline marks with good performances in one or two questions only.
- In addition, it has to be highlighted that no candidate was able to obtain a pass mark for all questions. This also means that this examiner is unable to recommend a paper to be put up as the best paper.
- Candidates are reminded that if a question is requesting for advice and recommendation, candidates should attempt to provide clearly their advice and recommendation, rather than leaving no conclusion to the question.
- It is also observed that candidates tend to only give citations from the Act and Rules, but do not elaborate more on the text or attempt to apply the provisions more closely to the facts of each question. Mere regurgitation of citations would earn little marks. Legislative provisions when used in answers are also not specific enough, resulting in loss of marks.
- For example, mentioning Rule 9(2)(a) would not attract marks if the question is asking for Rule 9(2)(a)(ii), i.e. for the declared priority date of the application in suit to be brought forward to an earlier date, given that Rule 9(2)(a)(i) is incorrect/irrelevant under the circumstances of the question 2(a)(ii).
- In view of the above, candidates are advised to familiarise themselves with the Act and Rules, and attempt to understand the facts of each question before applying the provisions to each questions.
- The performance of the candidates was generally average. Most candidates that passed were only just able to make it past the post, while others failed badly.
- The importance of time management cannot be overstated. There is no reason to ever leave a question unanswered.
- Candidates should make a conscious effort to state the law (together with citation) and apply the law to the facts because marks are given for both. A citation should be provided for every proposition (if such exists), since marks are invariably awarded for providing specific citations.

- Avoid taking a short-cut to go straight to the conclusion, which does not demonstrate an understanding of the law and results in the needless loss of marks. For example, avoid just mentioning that “if the facts in the question are validly proven” without explaining exactly what needs to be “proven”.
- Advice should be precise in getting to the key issue wherever possible, and note that general comments which can be interpreted in different ways (some interpretations of which give the wrong answer) may not be awarded marks.
- Candidates should avoid making casual remarks when giving advice in the answers, since it shows a lack of professionalism and reflects negatively on the candidate (e.g. casually advising that, “in this case, the client would be OK”).
- One candidate made disparaging remarks about certain questions in his/her answer when it was clear that the candidate just did not understand the issues raised by the questions. Candidates are reminded to refrain from doing so since it wastes time without the possibility of gaining any marks, gives a bad impression and often only succeeds in demonstrating the candidate’s ignorance and unfamiliarity with the relevant law.
- In general, candidates tend to score better in questions that have answers which can almost be directly lifted from the Patent Act and Rules. Most candidates struggle with questions that require a more in-depth understanding of the respective provisions and their practical application.
- In this regard, when preparing for Paper D, candidates are encouraged not only to study the literal wordings of the provisions but also to put in efforts in trying to understand what each provision actually means and how they may be practically applicable in various situations.
- Candidates who did not perform well have a common thread in that Q2 and Q5 were not dealt with adequately. In my view the topics contained in Q2 (priority claim) and Q5 (prosecution and renewals) are “bread and butter” issues forced by patent agents in everyday practice. It is therefore fitting that the candidates who did not do well here have not passed the paper.
- Candidates who have failed the Paper D are generally poorly prepared.
- Poor understanding of the Law of those failed candidates is generally reflected in every question, which cover different aspects of the Law.
- Good candidates are typically able to answer a question from different angles, covering all possible grounds.