

ANSWER GUIDELINES TO QE 2015 PAPER C

Note: The answer guidelines contain a non-exhaustive list of points that examiners expect candidates to cover in the answer to this Paper.

S/N	Category	Marks
1	Construction	22
2	Infringement Analysis	21
3	Validity – Novelty	25
4	Validity – Inventive Step	13
5	Miscellaneous Issues	19
		100

(i) Construction (22 marks)

Claim	Feature	Meaning	Marks
1	cutting element	blade - (plain, original meaning)	1
	housing	enclosure, handle, casing, (plain, original meaning)	1
	passageway "for the cutting element"	"Passage way" - a space "between cover portion 3 and base portion 2 for receiving the cutting element", which can be constructed to include the meanings of either in base portion alone, or formed between cover 3 and base portion 2. also "Passage way" is defined as a space " which receives and permits the movement along the grip (housing) of a blade shifting element" (Pg 8, Ln12-13)	2
		"for..." means that "the cutting element is received in and slidable along the passageway"?	2
	"shifting element"	what structure /element / variation that "shifting element" covers? Slider? Knob? Can the meaning broader enough to include "screw + nut + Knob"? Substantial meaning: "element that moves the cutting element" (discuss	2

		whether it has broaden meaning and if so where can find support in the description)	
	"connected to the cutting element"	"connected to": what types of connection it covers? - 'snap-in' vs "pin-hole" effect: shifting element carries the cutting element to move/slide, including "connection via a middle element"	2
	"connected to ... the housing"	"connected to": what types of connection it covers? Fixedly connected? Movably connected? Engaged? Lockable to housing?	2
	"shifting element being engageable to the housing..."	"engagable...": what kinds of engagement it refers? Does it cover "screw-tightening"?	2
2	"means to lock..."	what does "lock" mean, and what it may cover?	2
3	fixed detent formations	ribs/recesses - engagement type	2
4	parallel lines of scoring transverse to its length to represent zones of weakness	for breaking off the tips	1
5	shifting element is provided with a projection or stud connected to an aperture in the cutting element	projection-fit into hole	1
6	...a detachable end component push-in fitted to a rear end of the housing...	"back-facing slot" - is the scope limited to opening to "back-facing" direction, or also (purposively) including facing other directions as long as the slot can receive the blade tip for breaking it off?	2
			22m

- (ii) Infringement Analysis (21 marks)
(if conclusion inconsistent with analysis, -3 for claim 1, and -1 for each dependent claim)

Claim	Feature	Present in the product?	Marks
1	cutting element	Yes (Blade 2)	1
	housing	Yes (Shell 1)	1
	passageway "for the cutting element"	("cooperating channels 19 in shell 1") in which "carriage 7 is slidably engaged"(Pg5, Ln6-8), and "blade 2 ... fitted in carriage 7...: (Pg5, Lns 13-14), therefore "channel 19" is within the meaning of "passage way" because the two serve the same purpose , i.e. "for the blade and shifting element"	2
		blade 2 slidable (via carriage 7) in channel 19 of shell 1	2
	"shifting element"	Yes "shank+ nut+ knob+ carriage 7" moves the blade	2
	"connected to the cutting element"	Yes "...connected to blade 2 through shank + carriage 7)	2
	"connected to ... the housing"	Yes "... connected to shell 1 through slots 4, 4'	2
	"shifting element being engageable to the housing..."	Yes, "shank engages to shell 1"	2
2	"means to lock..."	Yes (Screw head + shank + nut, when screw head 3 is tightened)	1
3	fixed detent formations	No detent structure formed in the "shank+ nut+ screw head+ carriage" assembly and the shell	2

4	parallel lines of scoring transverse to its length to represent zones of weakness	Yes (weakening cuts 27 for being broken off to obtain sharp tip)	1
5	shifting element is provided with a projection or stud connected to an aperture in the cutting element	No (no "projection" structure connected to a hole of the blade	1
6	...a detachable end component push-in fitted to a rear end of the housing...	Yes (1) "magazine 16" - within the meaning of "detachable end component"? (purposively/functionally the same) (2) "recess 28" - within the meaning of "slot"? (purposively/functionally the same)	2
			21m

(iii) Validity – Novelty (25 marks)

Claim	Feature	Novelty - Prior art #1	Marks	Novelty - Prior art #2	Marks
1	cutting element	Present	0.5	Present	0.5
	housing	Present (handle 10 housing the blade 11)	0.5	Present (handle 1)	0.5
	passageway "for the cutting element"	Present Handle 10 "maybe defined as open sided ... to give a ... contour..." (Pg16, Ln24-28), i.e. it discloses a handle having a space between track members 18, 19 and end members 20, 21, including a portion between "their inner flat faces 22, and 23" in which the blocks 32, 35 are disposed, and "grooves 24 and 25" in which the blade is disposed. Therefore, these parts discloses "passageway "for "receiving and permitting movement of the shifting element and the cutting element... "	2	Present "guide slot 4" discloses a "passageway" in which " blade 10 and handle 7" are received and movable	2

		Present (blade 11 slides in handle 10)	1	Present	1
	"shifting element"	Present (blocks 32, 35)	1	Present (slide 7 sliding within handle 1)	1
	"connected to the cutting element"	Present (blocks 32, 35 connected to blade 11 by screws 33)	1	Present	1
	"connected to ... the housing"	Present (blocks 32,35 engages to handle 10)	1	Present	1
	"shifting element being engagable to the housing..."	Present	1	Present (part 11 of the blade slide releasably engage with recesses 15)	1
2	"means to lock..."	Present (locking lug pin 38 is adapted to be engaged in any one of holes 44)	1	Present	1
3	fixed detent formations	Absent	1	Absent	1

4	parallel lines of scoring transverse to its length to represent zones of weakness	Absent	0.5	Present	0.5
5	shifting element is provided with a projection or stud connected to an aperture in the cutting element	Present? (by screw connection)	1	Absent	1
6	...a detachable end component push-in fitted to a rear end of the housing...	Absent	1	Absent	1
			12.5m		12.5m

(iv) Validity – Inventive step (13 marks)

Claim	Feature	I.S. - Prior Art #1	Marks	I.S. - Prior Art #2	Marks
1	cutting element	Present	0.5	Present	0.5
	housing				
	passageway "for the cutting element"				
	"shifting element"				
	"connected to the cutting element"				
	"connected to ... the housing"				
	"shifting element being engagable to the housing..."				
2	"means to lock..."	Present	0.5	Present	0.5
3	fixed detent formations	Inventive?	1	Inventive?	1
4	parallel lines of scoring transverse to its length to represent zones of weakness	absent	0.5	Present	0.5
5	shifting element is provided with a projection or stud connected to an aperture in the cutting element	Inventive?	1.5	Inventive?	1.5
6	...a detachable end component push-in fitted to a rear end of the housing...	Inventive?	2.5	Inventive?	2.5
			6.5m		6.5m

(v) Miscellaneous (19 marks)

S/N	Miscellaneous		Marks
A	Summary	Infringement + validity	3
B	what KnifeX is entitled to, and when?	patent not granted, cannot bring legal action until grant. Remedies available to KnifeX	2
C	KnifeX's letter	Threat? - spot out this issue, discussion on clients' right	2
D	Client's strategies	Possible design-around?	1
		propose one feature for design-around and discuss	2
		License? discuss + proposal	2
E	Possible Pre-grant amendment?	spot out this possibility and give reasoning	2
		discuss the pros and cons to client	1
F	Possible post-grant amendment?	spot out this possibility and give reasoning	1
		discuss the pros and cons to client	1
G	Possible divisional application	Spotting out and discuss	1
H	"We have never heard of this company..."	"innocent infringement"? (spotting out and discuss)	1
			19m