

Paper T4

Advanced Trade Mark Search

Element	Description
<i>Level</i>	<i>Advanced</i>
<i>Prerequisites</i>	A. the Trade Mark Foundation paper T2; or B. Patent Foundation Paper P1 and the Common Foundation Papers;
<i>Aim</i>	To test candidates understanding of trade mark searches and be able to analyse trade mark searches
<i>Knowledge and skills required</i>	<ul style="list-style-type: none">• Understand and analyse trade mark searches.• Select conflicting marks and non-conflicting marks.• Compare conflicting marks and goods/services.• Identify and advise on freedom to use and register a trade mark with reference to Infringement, Passing Off and inherent registrability.• Understand and apply the concepts of absolute and relative grounds for refusal.• Analyse and assess grounds for opposition, revocation and invalidity.• Understand and advise on Evidence• Understand limitations of searches
<i>Competencies tested</i>	<ul style="list-style-type: none">• Understand, assess and analyse complex professional issues.• Identify key points in complex professional issues.• Understand, assess and analyse instructions from clients.• Give advice to clients framed according to the audience.• Apply the relevant Laws and Rules to a given set of circumstances.• Consider, assess and analyse different options for clients, and be able to propose the most appropriate recommendations in accordance with a given set of circumstances.• Re-assess the client's position as new information

	<p>comes to light.</p> <ul style="list-style-type: none"> • Be able to identify information which is missing from that provided in order to give an opinion to a client. • Provide practical advice to a client in order to improve their position.
<p><i>Knowledge required (detailed knowledge required unless otherwise specified)</i></p>	<p><u>Clearance of marks for use and registration</u></p> <p><u>Trade mark searches</u></p> <p><u>Company name searches</u></p> <p><u>Common Law searches</u></p> <p><u>Domain name searches</u></p> <p><u>Limitations of searches</u></p> <p><u>“Earlier trade marks” as defined in the Trade Marks Act 1994</u></p> <p><u>Knowledge of Passing Off and common law rights</u></p> <p><u>Knowledge of the law and practice relating to relative grounds for refusal</u></p> <p><u>Infringement</u></p> <p><u>Inherent registrability</u></p> <p><u>Trade Mark Use</u></p> <p><u>Defences to infringement</u></p> <p><u>Licensing and assignment of registered and unregistered trade marks</u></p> <p><u>Opposition</u></p> <p><u>Evidence</u></p> <p><u>Limits of effect of registration under the UK Trade Marks Act 1994</u></p> <p><u>Honest concurrent use</u></p> <p><u>Nature and effect of the threats provision of the UK Trade Marks Act 1994</u></p>

<i>Assessment method and criteria</i>	<p>3 hour unseen examination comprising of a search or searches (no more than 3) requiring candidates to select and compare marks, identify conflicting and non-conflicting marks and to reach a decision on usability and registrability of a chosen mark. Candidates are expected to advise on an appropriate strategy to improve the client's position.</p> <p>The pass mark is 50%.</p>
---------------------------------------	---