**Comments from the Markers of the 2021 Categorization Exam and the**

**General Theory Short Answer Questions.**

A. Comments on the categorization exam

The categorization exam consisted of one patent publication that was either a granted Australian patent, a granted European patent or a granted United States patent depending on the time zone region in which the candidates sat for the exam as summarized in Table 1 below. Each granted patent disclosed and claimed the same subject matter. In addition to the patent, the candidates were given six documents that they were told were the results of a prior art search. The six publications were identical in subject matter across all four time zone regions.

| Table 1– Summary of 2021 Categorization Exam A/B, C and D | | |
|---|---|---|
| Exam | Time Zone Region | Documents Provided During Exam |
| A | UTC+9<br>(Australasia time zone region) | Australian Patent No. AUXXXXXX<br>+<br>six prior art search results labelled as 1A1, 1A2, 1A3, 1A4, 1A5 and 1A6 |
| B | UTC+5.5<br>(India time zone region) | |
| C | UTC+1<br>(Europe and Africa time zone region) | European Patent No. EP Z ZZZ ZZZ<br>+<br>six prior art search results labelled as 2B1, 2B2, 2B3, 2B4, 2B5 and 2B6 |
| D | UTC-5<br>(North and South America time zone region) | United States Patent No. US P,PPP,PPP<br>+<br>six prior art search results labelled as 3C1, 3C2, 3C3, 3C4, 3C5 and 3C6 |

The candidates were also provided with two answer templates (Tables A and B) with the exam question that they could use to record their answers and many of the candidates used the templates.

The first task of the exam was to identify the independent claims of the provided patent. Unfortunately, about half of the candidates failed to indicate in their answers that the patent had three independent claims, namely claims 1, 5 and 6. Claim 1 claimed an electrical toaster appliance, claim 5 claimed a method of browning an edible food and claim 6 claimed a set of browned slices of bread. All candidates correctly identified that claim 1 is an independent claim, but not all candidates identified claim 5 or 6 as independent claims. The fact that there is a reference in claim 5 to an electric appliance as defined in claim 1 appears to have led some candidates to conclude that claim 5 was a dependent claim. This was a surprising outcome, because claim 5 is directed at a ***method of browning an edible food*** and **not** an ***electric appliance*** as is claimed in claim 1. A similar situation arose for claim 6 in that there

is a reference in claim 6 to claim 5, but claim 6 is directed to a product (i.e. a **set of browned slices of bread**) and **not** a **method of browning an edible food** as claimed in claim 5. Despite the fact that an electric appliance, a method of browning edible food and a set of browned slices of bread are clearly not in the same category of subject matter, some candidates seem to have concluded that claims 5 and 6 are dependent claims.

Claim 5 is not a dependent claim of claim 1, because claim 5 does not narrow the scope of claim 1. Similarly, claim 6 is not a dependent claim of claim 5, because claim 6 does not narrow the scope of claim 5. The ability of an experienced patent information professional to identify independent and dependent claims is an important skill to have. Fortunately, none of the candidates made the mistake of identifying one of the dependent claims (i.e. claims 2-4) as an independent claim.

After identifying the independent claims, the next task expected from the candidates was to categorize the six documents as being (i) of interest, (ii) possibly of interest or (iii) not of interest regarding the **novelty** of each of the three independent claims and to provide reasons for their categorizations. As mentioned above, the candidates could use Table A to record their categorizations and the reasons for their categorizations. Those candidates who did not identify claims 5 and 6 as independent claims did not categorize the six documents regarding claims 5 and 6 and therefore lost considerable marks. Some candidates also lost marks for miscategorizing a document as being of interest when in fact the document was not of interest or *vice versa*. And some candidates also lost marks simply because they did not provide any reasons for why they categorized a document as being of interest, possibly of interest or not of interest.

The final task asked of the candidates was to compare each of the documents they categorized as being of interest to the claimed features of all of the independent claims. In making the comparisons, the candidates had to identify passages in the document that discloses each of the claimed features for each of the three independent claims. As mentioned above, the candidates could use Table B to record the claim features and the cited passages. Most candidates correctly divided claim 1 into its individual features and identified the relevant passages in the documents for this claim relatively well. However, marks were lost if the same was not done for claims 5 and 6.

A copy of the 2021 categorization exams A/B, C and D and the accompanying documents together with a sample answer for the exam is available at:
https://www.qpip.org/documentation


B.      Comments on general theory short answer questions

The general theory short answer question section of the exam consisted of 12 questions that were randomly selected by the online examination platform from six categories as follows:

        (i) classification & kind codes;

        (ii) prior art scenarios;

        (iii) search syntax, methodology or search databases;

        (iv) claim interpretation;

        (v) priority claims; and

(vi) patent related regulations including patent status.

Two questions were randomly selected from each of the six categories for a total of 12 questions that the candidates had to answer in a period of 30 minutes. In general the questions were answered well by the candidates and although a few candidates did not answer all 12 questions, it appeared that a large majority of the candidates had sufficient time to answer all questions.

For some of the questions, marks were awarded on the basis of both the reasoning provided and the final answer. If a candidate failed to provide their reasoning despite the question requesting a short explanation for their answer, then some marks were lost.

An example of the types of questions that were asked for each of the six categories and the model answers for those questions are available at: https://www.qpip.org/documentation