

## **Drafting of Specifications**

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### **Drafting of Specifications FD2 (P3)**

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**Effective from and including the 2016 examinations**

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## **1. Guidance for Candidates**

The aim of the Final Diploma examinations is to assess whether a candidate has built on knowledge gained at the Foundation level and reached a minimum level of competency at which the candidate is deemed to be safe to practise. The Final Diploma examinations are based on core competencies that are expected of a patent attorney.

Final Diploma candidates need to demonstrate that they:

- have a thorough knowledge and understanding of the law;
- can apply their knowledge of the law in a manner that is appropriate to the facts provided and the client's needs; and
- are able to express advice in a clear and consistent manner.

The Final Diploma examinations test candidates' ability to:

- see the overall picture;
- assimilate and make use of data, information, themes and ideas provided;
- extract and identify key issues and consider how best to present these in the context of the situation provided;
- write in a logical, cohesive and clear manner; and
- provide outcomes and proposals that:
  - i. reflect the client's needs and priorities;
  - ii. are based on analysis of information available and, where appropriate, risks and costs;
  - iii. are practicable and achievable; and
  - iv. meet the requirements of relevant law and represent good practice with an appreciation of commercial realities of the situation presented.

This syllabus tests candidates' ability to:

- recognise novel and inventive concepts;

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- analyse an invention for essential and non-essential features and distinguish features of an invention from those of the prior art;
- draft a complete patent specification of reasonable and appropriate scope, based on the information available, for filing at the United Kingdom Intellectual Property Office.

### **Format of PEB syllabuses**

Each syllabus contains:

- A **summary** which gives an overview of the examination content and scope.
- A **content** section which advises you what knowledge and/or skills you need for the examination.
- A **learning outcomes** section which describes what you will have to demonstrate in the examination to show that you have the required knowledge and/or skills.
- Lists of the key sections of the **legal provisions** relevant to the content and learning outcomes (where relevant).

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## 2. The Syllabus

The syllabus is set out in an order which guides candidates through the tasks to be undertaken in the examination.

**Summary:** To complete this examination successfully, you will need to demonstrate a full understanding of the law and practice and technical requirements of patent specifications in the UK. You will also need to be able to draft patent specifications in line with the needs of lay clients.

The **Content** advises you what knowledge and skills you need for this examination.

The **Learning Outcomes** describe what you will have to demonstrate in the examination to show that you have the required knowledge and skills.

The final two columns list the key sections of the **legal provisions** relevant to the content.

	<b>Content</b>	<b>Learning Outcomes</b>	<b><u>Patents Act 1977</u></b>	<b><u>Patent Rules 2007</u></b>
1	The law and practice relating to patentable inventions in the UK	a) Apply the law and practice governing patentable inventions to a given situation  b) Determine the prior art  c) Apply prior art to the lay client's idea to determine what might be patentable	PA1 – Patentable inventions PA2 – Novelty PA3 – Inventive step PA4 – Industrial application PA125 – Extent of invention	PR5
2	The needs of lay clients	a) Incorporate the wishes and priorities of the lay client into the patent specification where possible		

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	<b>Content</b>	<b>Learning Outcomes</b>	<b><u>Patents Act 1977</u></b>	<b><u>Patent Rules 2007</u></b>
3	The requirements for claims of a patent specification suitable for filing as part of a UK patent application	<p>Using your conclusions from 1 and 2 above:</p> <p>a) Analyse an invention for essential and inessential features</p> <p>b) Draft an independent claim(s) which is of sufficient breadth to cover the lay client's interest, contains all the essential features, and which is distinguished from the prior art</p> <p>c) Draft a set of dependent claims with an appropriate hierarchy and which provide suitable fall back positions if independent claim(s) fail(s) during prosecution</p>	PA 14 – Making of an application	PR 16

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	<b>Content</b>	<b>Learning Outcomes</b>	<b><u>Patents Act 1977</u></b>	<b><u>Patent Rules 2007</u></b>
4	Requirements for a description within a patent specification suitable for filing as part of a UK patent application	a) Draft an appropriate description of the field of the invention and the prior art  b) Draft statements of invention appropriate to the claims  c) Distinguish the claimed features from those of the prior art  d) Draft a specific description of the embodiment(s) of the lay client's invention to provide support for the claims	PA14 – Making of an application	PR12
5	The requirements for an abstract of a patent specification suitable for filing as part of a UK patent application	a) Draft an abstract for use as part of a UK patent application	PA14 – Making of an application	PR15

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### **3. Reading List**

NB All the Acts and Rules referred to in this syllabus are essential reading.

Other books and/or websites listed here can be used to support your learning. It is not an exhaustive list and other sources of information can be used.

- *CIPA Guide to the Patents Acts* (2011) Ed. Paul Cole, pub. Sweet and Maxwell The Black Book)
- *Fundamentals of Patent Drafting* (2006) Paul Cole pub. CIPA
- *How to Pass P3* (2013) Iain Russell, pub. CIPA
- [\*The Manual of Patent Practice\*](#) (2014), pub. UK IPO

This list of books and/or websites should be used to support your learning. It is not an exhaustive list and other sources of information can be used.

### **4. The Examination**

This syllabus is assessed via a four hour unseen examination. The pass mark is 50%.

Candidates will be instructed to analyse the information provided and undertake the following task:

Your task is to prepare a complete patent specification that is ready for filing at the UK Intellectual Property Office. The specification should be drafted with a view to obtaining a UK patent.