

LAW AND PRACTICE OF PATENTS

EXAMINATION PAPER 2026

Time Allowed: 3 Hours and 20 minutes

Answer **SIX** questions only. Any additional answers will be disregarded and **NOT** marked.

Candidates **MUST** answer Question Number 1 and Question Number 2.

In the event of a Candidate failing to answer Question Number 1 and Question Number 2 the examination paper of that Candidate will **NOT** be considered valid.

1. John is a lecturer in the English department of the University of Westmeath. He has a keen interest in technology and its use in third level education. Finding himself frustrated with the extent to which students have recently been using Artificial Intelligence (“AI”) to produce written work submitted to him, he has in conjunction with Kate, a colleague in the Computer Science department, devised software that can, with on average 93% accuracy, detect AI generated written work on the basis of an assessment of language, grammar, punctuation, syntax and the incidence of so-called “hallucinations” (i.e. made up sources and references).

On the assumption that John and Kate have not as yet taken any steps to disclose into the public domain the concept or the software used to implement it, they seek your detailed advice as to the whether there is any possibility of securing patent protection in respect of any aspect of the technology developed by them or the application thereof.

2. Write notes on **EACH** of the following decisions of the Court of Appeal in *Bristol-Myers Squibb Holdings Ireland Ltd v. Norton (Waterford) Ltd t/a Teva Pharmaceuticals Ireland*:
 - (a) [2023] IECA 173 (29 June 2023 - interlocutory injunction pending trial);
 - (b) [2024] IECA 49 (1 March 2024 – undertaking as to damages);
 - (c) [2024] IECA 143 (13 June 2024 – interlocutory injunction pending appeal on invalidity); **AND**
 - (d) [2024] IECA 287 (28 November 2024 – invalidity).
3. While referring to relevant case law, outline and discuss the concept of “*indirect infringement*” provided for in section 41 of the Patents Act 1992.
4. Discuss the decision of the UK Supreme Court in *Actavis UK Ltd v Eli Lilly and Co.* [2017] UKSC 48 and consider whether the Irish courts should follow it when applying the equivalents provision contained in the Second Schedule to the Patents 1992 Act (as amended).

5. Set out in detail the procedural steps that have to be taken in order to oppose the grant of a European patent and the appellate structure applicable to a determination made in respect of such an opposition.
6. Explain the use and role of auxiliary requests in the context of opposition proceedings before the European Patent Office.
7. Explain the nature and purpose of divisional patents.
8. Explain the rationale and operation of the Unified Patent Court.
9. Set out the procedure to be followed in securing the restoration of a lapsed patent and set out the circumstances in which this is possible.
10. Set out the substantive provisions that one would expect to find in a properly drafted:
 - (a) Patent assignment;

AND

- (b) Exclusive patent licence.