Examiners' Comments on Candidates' Overall Performance in QE2017 Paper D

- There was better time management this year compared with previous years. However, some candidates did not answer the question directly, preferring to spend time discussing matters that were not relevant. In addition, there were candidates who did not read the questions carefully, and did not, in particular, analyse the specific question. This is not a reference to the background information given, but to the actual question itself. Also, candidates may not have paid attention to the mark allocation for the specific question. Overall, candidates have come to expect a question on infringement and were well prepared for it.

- Most candidates did well on Questions 1 and 2. It could be that most candidates ran out of time with Questions 3-5.

- On the cover page of Paper D, it is stated that candidates are advised to include supporting references (the Patents Act & Rules, PCT provisions) in their answers. Yet such references are absent in some answers. Candidates also generally miss certain points in questions, e.g. where the question states that the client wants to preserve the entire portfolio, telling the client to abandon certain claims completely does not meet the client's need. When a question asks to discuss novelty and inventive step, discussing only novelty will not result in full marks being awarded. Several candidates also answered "pay prescribed fee" in some questions which specifically ask for Forms and Fees. Simply stating "prescribed fee" does not answer the question. Overall, the strategy to passing Paper D is: identify the issue, identify the relevant statutory provisions, apply these to the facts of the given case, state the relevant deadlines, and Form & Fees where required.

- Candidates are generally discouraged from answering in point form since the answers should be in an advisory style, although candidates have not been penalised so far for style. In general, candidates were aware that they should answer the questions by citing the applicable law together with the authorities to support the answers.

- Most of the candidates did attempt to ensure they cited sections in support of the law and their conclusions.

- As a whole, those candidates who failed were not necessarily unprepared for the exams, but they were not able to capitalise on those questions which were more straightforward to gain marks. Overall, the candidates did not exhibit an overall good understanding of core patent concepts and practice. The candidates did at least exhibit a rudimentary understanding of patent law, suggesting that they did make some preparatory efforts for Paper D and were not wholly unprepared. Such efforts may be commendable; but in practice, they are not enough in showing that the candidates are capable of acting independently as patent agents for their clients in practice. Aside from adequate preparation in tackling Paper D, some candidates also showed a lack of proper time management, leading to easy marks not being gained in the process.