

## INFRINGEMENT & VALIDITY, FD4: PHIL BARNES' 1.8 DAY COURSES

### Location:

Milton Keynes, 10am on Day 1 to 4.30pm on Day 2

### Tutor:

Philip Barnes (IP Asset Partnership): Phil has had experience as a P6/FD4 examiner and has presented FD4 courses for JDD since 2015.

### Features of this course

In common with our other 1.8 day courses, the tutor will set out, through an initial presentation, guidance on how to approach the FD4 paper, where marks are won (and lost) and how to maximise your performance.

There will then follow, during the course, practice of a past paper and personalised feedback from the tutor.

This course differs from the other 1.8 day courses in that:

1. You will be asked ahead of the course to submit an answer to a specified recent past paper. Your answer will be marked by the tutor, with personalised feedback provided.
2. You will be asked to answer **two further** recent past papers – one during the course and one after – and, again, your answers will be marked and personalised feedback provided by the tutor.

This will enable you, and the tutor, to identify progress in your effectiveness in answering FD4 and help identify areas to concentrate on during the remaining weeks of practice ahead of the exam.

Obviously this high level of tutor interaction incurs additional costs and this is why the course fee is higher than for the other 1.8 day courses.

## ANNEX A: PREPARING FOR FD4 AND THIS COURSE

### A. General preparation for FD4

#### **1. Read and familiarise yourself with the FD4 syllabus to understand:**

- what knowledge and skills you need for the exam;
- what you will have to demonstrate in the exam to show that you have the required knowledge and skills; and
- the key sections of legal provisions relevant to FD4.

The syllabus is available from the Patent Examination Board (PEB) website.

#### **2. Ensure you are up to date on the areas of law and practice that are set out in the FD4 syllabus and tested in the exam. The key reference books are:**

- **CIPA Guide to the Patents Act** ('Black Book': latest edition, Ed. Paul Cole, and supplement), including the relevant cases.
- **Terrell on the Law of Patents** (latest edition).

#### **3. Read (and listen to):**

- ***Infringement & Validity: How to Pass FD4/ P6*** (Nigel Frankland: 2015). Available from CIPA.
- The FD4 (P6) lectures in the Informals area of the CIPA website.

#### **4. As noted in the Examination Guidance issued until 2014 for P6**

- Ensure you are familiar with **case law** relating to interpretation of claims by UK courts and assessment of novelty, obviousness and infringement.
- It is a good idea to study at least **three decisions**, to learn how the UK courts deal with interpretation.

#### **5. Seek out opportunities to get relevant practical experience in two areas which will assist in the FD4 exam:**

- Drafting and prosecution: to assist candidates in interpreting a claim and establishing the validity of the claim, as interpreted, against prior art as well as determining whether there is infringement of a valid claim.
- Advising on "freedom to use" or in connection with infringement proceedings:
  - "Freedom to use" exercises assist in understanding the three-way situation of a patent, possible infringement and prior art which is tested in FD4. In drafting and prosecution training, candidates must learn to criticise the work done (e.g. claims drafted) and assess whether the work would withstand an attack on validity and be effective to deter a possible infringer. If a candidate can get experience of a real-life "freedom to use" situation it would be a useful exercise if the candidate is given the basic papers (e.g. from a previous situation) and asked to prepare a report. This can be compared with the eventual advice given.

- Involvement in infringement proceedings, or in part of their preparation, will assist in appreciating that others will often take a different (at least initial) interpretation of a given claim. As suitable real-life infringement situations are not common, using a past example as an exercise is recommended.

## **B. Specific preparation for this course and the FD4 exam**

The FD4 exam is a test of skill that can only be acquired by **practice**. This course will provide direction, focus and support for your preparations: with guidance on how to tackle a FD4 paper and how to structure answers, and feedback on your work. But merely coming on this course will not give you the necessary level of skill. You need to be prepared to set aside sufficient time before and after the course to practice and refine your technique.

FD4 is a difficult exam in which marks are clustered closely either side of the 50 mark pass hurdle. Gaining an extra 4 to 5 marks may mean the difference between a pass and a fail, so practice to improve your skills and give you resilience is key.

### Ahead of the course:

- Read Nigel Frankland's ***Infringement & Validity: How to pass FD4/P6*** (2015).
- Attempt the past paper the tutor will specify and email your answer two weeks before the course so that it can be marked by the tutor. You will need to allocate a full day to this.

### During the course

- You will be asked to answer a recent P6/FD4 paper specified by the tutor, which will be marked with feedback from the tutor.

### After the course:

- You will be asked to answer another recent P6/FD4 paper which the tutor will mark and provide personalised feedback.
- Thereafter, you should also aim to answer another two or more papers to reinforce what you have learned and hone, through practice, your skills.