

College of Patent Agents & Trademark Agents

*Trademark Agent Skills Examination
Component A Sample Exam Key*

Purpose statement: The sample exam and sample answers are for informational and preparatory purposes only. They are intended to offer prospective test-takers a general understanding of the type and format of questions that may appear on the skills examination, as well as to demonstrate the level of detail expected in responses. For more information, refer to: <https://cpata-cabamc.ca/en/become-an-agent/information-trademark-agent-qualifying-examinations/>

Representation: The sample exam does not represent the full range of topics, difficulty levels, or types of questions that may be encountered on the actual exam. The actual exam may contain questions that differ significantly in form and content.

Predictive value: Performance on this sample exam should not be taken as an indicator of future performance on the corresponding skills examination. This sample is not intended to predict exam outcomes and should not be used as a test-taker's sole preparation material.

Answer key: The sample answers provided are for illustrative purposes only. They represent one of several possible approaches to answering these sample questions. Actual exam responses may vary, and there may be multiple valid ways to address a question.

Updates and changes: Exam content and policies are subject to change. While we aim to keep our preparation materials up-to-date, the sample exam and answers may not reflect the most current version of the actual examination.

No guarantee: Using these sample materials does not guarantee success in the actual skills examination. Examinees are encouraged to engage in comprehensive study and preparation to enhance their understanding of the subject matter.

Confidentiality: The actual examination content is confidential.

Feedback: Feedback on these sample materials is welcome. However, please be aware that individual responses or specific guidance on exam preparation cannot be provided.

Examination information

The *Trademark Agent Skills Examination* takes place over two (2) days. Test-takers have three (3) hours on one day to complete Component A, which focuses on registrability and strategy. Test-takers have three (3) hours on a subsequent day to complete Component B, which focuses on prosecution and on opposition and s. 45 proceedings. Each component is worth 75 marks; the two (2) components are scored together as a single examination worth 150 marks in total.

This is Component A. It consists of 11 questions worth a total of 75 marks.

Component A will be scored together with Component B.

During this examination, test-takers have electronic access to the *Trademarks Act*, RSC 1985, c T-13 (“Trademarks Act”) and *Trademarks Regulations*, SOR/2018-227 (“Trademarks Regulations”), in addition to other background information or resources necessary to respond to the examination questions.

Instructions for test-takers

Review any background information provided. Answer the questions.

Avoid extraneous commentary not directly relevant to the question. Do not assume facts that are not provided.

When asked to support an answer, include relevant discussion or reasoning. While relevant source references (e.g., to case law, statutory provisions, or regulatory provisions) may be helpful to include, separate marks are not provided for such references unless specified in the question.

Point-form answers are acceptable.

Trademark Agent Skills Examination Component A (3 hours, 75 marks)

Question 1 [12 marks in total]

One of your long-standing clients, We Ride Together Inc., operates in the sports industry and specializes in clothing for professional motorcyclists. We Ride Together Inc. is a Canadian company based in Toronto (Ontario), with several stores in the United States, the United Kingdom, and the European Union. The client has been working for several years with vendors located in Bangkok (Thailand).

Your client has recently developed a new lightweight protective jacket that features an innovative ventilation system powered by an innovative technology they've developed. The jacket also boasts a distinctive wave-like design cut on the sleeves. The method and materials they used to integrate this ventilation system have remained proprietary and confidential to the company. This new product will debut during the upcoming motorcycle racing championship in Riyadh (Kingdom of Saudi Arabia), thanks to a sponsorship agreement with one of the racing teams. The race will take place in 2 months and the product has not been publicly released yet.

The jacket, branded as WE FAST, will also display a unique graphic on the back, a creation of an artist from an advertising agency commissioned specifically for the event. This artwork is inspired by the desert dunes and captures the spirit of speed and freedom. The client is planning to advertise and sell the new jacket in their stores internationally and it will be worn by the riders in Riyadh during the event.

Suddenly aware of potential IP vulnerabilities, your client reaches out for an emergency consultation. Upon reviewing their trademark portfolio, you find that We Ride Together Inc. has held the WE FAST trademark registration in Canada since 2014. This registration covers "clothing, namely, jackets" and "motorcycle garments, namely, jackets to protect against injury."

Outline an approach for this client (bullet point is acceptable). In your outline, comment on the client's needs and goals **[2 marks]**, available types of intellectual property protection **[3 marks]**, a recommended trademark filing strategy, based on the facts, for optimal protection of the trademark **[3 marks]**, and any practical or strategic timelines in regard to the trademark filing strategy **[4 marks]**.

Sample Response

The following sample answer would receive full marks.

Client's needs and goals:

- To protect the design elements and the technology behind its invention, especially conducting a trademark search and securing a design trademark application for the logo before the start of the racing championship and consult a patent agent to seek advice since there may be patent opportunities; and
- To extend the trademark protection to the countries in which the trademark will be used or advertised.

Available types of intellectual property protection:

- Trademark protection for the word mark "WE FAST"
- A design trademark to protect the graphic design
- A non-traditional trademark consisting of the positioning of a sign to protect the position of the graphic symbol on a three-dimensional object (the jacket)

A recommended trademark filing strategy:

- No need to file a new Canadian trademark application with CIPO; classify the goods of the existing Canadian registration in accordance with the Nice Classification in order to file an International trademark application
- File an International trademark application designating the United States, the United Kingdom, the European Union and Thailand for the goods claimed in the Canada registration relying on existing Canadian registration as basic registration
- In alternative to the International trademark and without the reclassification of the Canadian registration, file trademark applications in the United States, the United Kingdom, the European Union and Thailand directly with local trademark offices
- File a trademark application in the Kingdom of Saudi Arabia with the local Trademark Office. The Kingdom of Saudi Arabia is not a member of the Madrid System.

OR:

- Conduct a search and subject to the availability of the design trademark, file a new application in Canada for the design trademark.
- Assuming the goods in the existing wordmark registration have never been classified according to the Nice Classification, file a request to group the goods in accordance with the Nice Classification (required to file an international application based on the Madrid System).
- File an application for international registration governed by the Madrid System to protect the wordmark in foreign jurisdictions, with the existing Canadian wordmark registration as the base mark and designating the countries of interest for the client: United States, United Kingdom, European Union.

Practical or strategic timelines:

If the international filing is based on a Canadian registration

File the trademark through national applications in the designated countries or via a Madrid application as soon as possible since there is no priority date attached to the Canadian registration.

With a Madrid application, ensure that the existing Canadian trademark registration is renewed in due time as the international registration is dependant for a period of five (5) years with the Canadian registration.

With national application in the designated countries, there is no dependency period with the Canadian registration

OR:

If the international filing is based on a Canadian application

There is a priority date of 6 months based on the Canadian application to file a Madrid application or in any country that has signed the Paris Convention.

With a Madrid application, there is a five (5) year dependency period with the Canadian application.

With national application in the designated countries, the priority date may be lost if the Canadian application is refused or abandoned before the registration in a specific country.

Question 2 [5 marks in total]

Refer to the scenario in question 1. Your client, We Ride Together Inc., sends you some pictures of the new jacket specifically developed to protect against injury, and you note that the name WE RIDE TOGETHER is printed on one of the sleeves. The client never thought of protecting this name since it's the name of the company. You are aware that this type of clothing is classified under class 9. Your client agrees to pay for a full trademark availability search in Canada.

Prepare a note to your new Trademark Agent in Training that briefly outlines the instructions to conduct an effective trademark search in this instance. **[5 marks]**

Sample Response

The following sample answer would receive full marks.

- Conduct an identical word mark search in all classes
- Conduct a search not only focusing on class 9 but also in the classes that include related goods and services in particular clothing in class 25 and sale of clothing in class 35.
- Conduct a search in the trade names database for marks that would be considered confusingly similar
- Conduct a search on Internet for identical marks in use
- Conduct a search for identical marks in use in different sources for determining if the trademark is inherently distinctive

Question 3 [13 marks in total]

Suzie Bellamy is the author of a series of children's books named ABRACADABRA. The first book in this series was published in 2015 and was an instant success with preschoolers throughout Canada. In 2016, Ms. Bellamy launched several promotional items bearing the ABRACADABRA trademark and decided to file a trademark application for the mark with the Canadian Trademarks Office. Another agent in your office helped Ms. Bellamy register the mark as follows:

Application No.: 1,789,789
Filed: 2016-07-03

Registration No.: 991,991
Registered: 2018-03-01

Trademark: ABRACADADRA
Type: word
Category: trademark

Applicant:
Suzie Bellamy
958 Pineview
Vancouver, BC
V5Z 1M9

Goods:
(1) Children's books.
(2) T-shirts, school bags, posters and colouring books.

Claims: Used in Canada since at least as early as December 2015 on goods (1). Used in Canada since at least as early as June 2016 on goods (2).

In September 2018, Ms. Bellamy started selling her books and merchandise in several English-speaking countries. She has now launched an educational software application for tablets and smartphones and this application has quickly become one of the most downloaded educational applications in Canada, the United States, the United Kingdom, Ireland, and Australia.

The agent who worked with Ms. Bellamy before has now retired and you have inherited their files. Ms. Bellamy contacts you because she would like to protect her trademark internationally for her books, merchandise, and educational application, but she has a limited budget. In her voicemail message, she also expressed having been confused by the process previously and wanting to better understand the costs and benefits of trademark protection in her situation.

She shares a detailed business strategy document with you, highlighting future product lines and marketing campaigns. The strategy document identifies a need to find a new location for their storage. The real estate department of your law firm partners with a real estate agency specialized in business solution and you think that they can help your client. Outline an approach for this client (bullet point is acceptable). In your outline, comment on the client's needs and goals **[3 marks]**, the benefits/advantages and risks/disadvantages of trademark protection **[4 marks]**, a recommended trademark filing strategy, based on the facts, for optimal protection

of the trademark [3 marks], and the steps to take before connecting the real estate agency and your client [3 marks].

Sample Response

The following sample answer would receive full marks.

Client's needs and goals:

- Identify and secure a trademark registration for the goods and services not covered by the existing registration
- Secure a trademark registration abroad in the client's countries of interest, where they market their products
- Have a better understanding of the trademark registration process and the protection it ultimately provides

Benefits/advantages and risks/disadvantages of trademark protection:

- Benefit/Advantage: Exclusive rights across Canada (instead of relying on common law rights which requires extensive evidence of reputation in a given geographical area)
- Benefit/Advantage: Ability to initiate trademark infringement proceedings if a third party uses a similar trademark in Canada or in the designated country once the trademark is registered
- Benefit/Advantage: An up-to-date trademark registration is a deterrent measure as it shows that the trademark owner is active in protecting its trademark and is likely to defend and enforce it
- Risk/Disadvantage: While the filing costs in Canada and through the Madrid system can be lower than filing applications directly in all countries of interest can be lower, there can still be high costs in the examination and opposition stages since this happens on a national basis.

Recommended trademark filing strategy:

- File a request to group the goods of the existing registrations according to the Nice Classification.
- In order to obtain protection of the trademark in association with the goods not covered by the existing application, it is possible to file a request to extend the goods of the existing registration or it is possible to file a new application to protect for the same trademark for the new goods.
- Filing an international application based on the Madrid System makes it possible to add additional countries later through subsequent designations,

which is helpful to keep the filing costs at bay and extend the geographical protection of the trademark only when required and when expanding to new markets.

Steps to take before connecting the real estate agency and your client:

- Check with Ms. Bellamy if she is interested in working with the real estate agency
- Confirm with Ms. Bellamy that she agrees to the communication of her contact information (confidential information) to the new client and get their instructions to proceed accordingly

Question 4 [15 marks in total]

Your client is interested in applying to register the trademark ZENITH for use in association with essential oils, specifically lavender essential oils for personal and domestic use. The mark has not yet been used in Canada. Prior to filing an application to register the ZENITH mark, your client has asked you to conduct a search of the Canadian Trademarks Register and to provide your opinion on the availability of the mark for registration and use.

The first part of the search report includes a selection of trademarks from the Canadian Trademark Register. For each of the marks identified by the search and set out below, assess whether the mark is likely to pose an obstacle to registration of the ZENITH mark for the goods of interest based on the criteria of confusion found in Section 6(5) and any other material facts, such as same ownership as the client. Provide a brief rationale for each. **[1 mark per trademark for a total of 10 marks]** Take an examination/Trademarks Office perspective, rather than an opposition perspective.


Then, provide your interpretation of the search results and any further advice or recommendations you would give your client. **[5 marks]** Do not assume acquired distinctiveness.

ze-nith

noun

- 1. the time at which something is most powerful or successful.
- 2. the point in the sky or celestial sphere directly above an observer


Adapted from Oxford Languages and Google

No.	Trademark	Status and Appl/Reg. No and Date	Goods & Services	Owner
1.	ZEN-MYTH LAVANDER	Advertised App: 1976285 App: 2019-09-06	Class 3: Body Lotions;	Beauty Zen LLC 268 Horner Str. Ottawa, K1A 0A2, Ontario
2.	ZENITH	Registered Reg: TMA498,852 Reg:2012-03-08	Class 1: Tanning oils for animal skins	MOO Group S.P.A. Viale Abruzzi 4, Milano, 20030, Italia
3.		Filed Appl: 1978453 Appl: 2021-04-18	Class 5: Flaxseed oil dietary supplement; medicated massage oils	Miitaco Inc. 259 West 2 nd Ave, Edmonton, T5A0B9, Alberta
4.	Z ZENITH	Abandoned Reg: TMA321,698 Reg: 1999-08-09	Class 3: Essential oils and diffusers	ZEN Inc. 650 Market Str. Philadelphia, PA 19103 U.S.A.
5.	ZENITH CALM	Filed Appl: 1956234 Appl: 2020-05-19	Class 4: Aromatherapy fragrance candles Class 21: Electric aromatherapy diffusers	CALM PLS LLC 6 Challenger Rd. Ridgefield Park NJ 07660 U.S.A.
6.	ZEN IT	Registered Reg: TMA867,417 Reg: 2013-07-09	Class 25: Clothing, namely, T-Shirts; hats; socks	Robert Molliere 8 Woodward Ave, Detroit MI 48226 U.S.A.
7.	XENITH	Registered Reg: TMA1,082,365 Reg: 2018-04-29	Class 35: Sales agency services featuring essential oils for perfumery Class 40: Custom blending of essential oils for aromatherapy use	XENITH Inc. 245 Pinnacle Drive Wilmington DE 19803 U.S.A.
8.	ZENITH OF LIFE	Registered Appl: TMA785,318 Appl: 2012-12-12	Class 3: Fragrances for personal use	ChaoLin Mey Unit 901, No 17, ZhongGhe Str., Beijing, 100176 China

No.	Trademark	Status and Appl/Reg. No and Date	Goods & Services	Owner
9.	SENITE	Registered Reg: TMA852,364 Reg: 2014-07-22	Class 29: Lavender oil for culinary purposes	BBYOU LLC. 78 Pauline Ave, Toronto, M6H 0B1, Ontario
10.	ZENITH	Advertised Appl: 0925587 Adv.: 2019-09-03	Classes 1-45	Royal Astronomical Society of Canada 265 Hella West, Vancouver, Y5V 0C1, British Columbia

Sample Response

The following sample answer would receive full marks.

No.	Trademark	Answer
1.	ZEN-MYTH LAVANDER	No (not an obstacle to registration) because marks differ in appearance, sound and connotation/idea suggested
2.	ZENITH	No (not an obstacle to registration) because the goods are different
3.		Yes (obstacle to registration) because the Client's mark is identical to the word element of this mark
4.	Z ZENITH	No (not an obstacle to registration) because the mark has been abandoned
5.	ZENITH CALM	Yes (obstacle to registration) because the Client's mark is identical to the first word of this mark (or this mark contains the Client's mark in its entirety) AND goods are similar/overlapping (or the channels of trade are similar)
6.	ZEN IT	No (not an obstacle to registration) because marks differ in appearance and connotations/idea suggested the goods are different
7.	XENITH	Yes (obstacle to registration) because the marks are phonetically similar
8.	ZENITH OF LIFE	Yes (obstacle to registration) because the Client's mark is identical to the first word of this mark (or this mark contains the Client's mark in

		its entirety) AND goods are similar/overlapping (or the channels of trade are similar)
9.	SENITE	No (not an obstacle to registration) because marks differ in appearance, sound, and connotation/idea suggested
10.	ZENITH	Yes (obstacle to registration) because the Client's mark consists of the Official Mark or so nearly reassembles as to be likely mistaken for the Official Mark

Interpretation:

There are 5 potential conflicting trademarks (nos. 3, 5, 7, 8, and 10). The client may wish to monitor the status of mark nos. 3 and 5 as the applications are still pending, in case they are abandoned. The client should check whether mark nos. 7 and 8 are still in use and could consider Section 45 proceedings (cancellation action for non-use). The official mark will be an obstacle to registration and would require obtaining written consent from the public authority to the use and registration of the client's trademark. The client may want to conduct an additional search to check if mark no. 4, despite being abandoned, is still being used by its owner to assess the opposition risks, but it will not be an obstacle at the examination stage.

Question 5 [7 marks in total]

Refer to the facts in Question 4. The second part of the search report includes Internet searches, and your attention is immediately drawn on the following web result:

Web Results	TM	Page Title	URL
WEB 1	Zenith Kit	Zenith Kit – Diffuser & Relaxing Blend...	https://www.bonbon.com/us/product/zenith-kit

During the first meeting, your client mentioned that Bon Bon SARL is a French company, and it is your client's biggest competitor. By quickly reviewing the "new products" section on the Bon Bon SARL's website, you find their ZENITH KIT, composed of an electric essential oil diffuser and its compatible liquid blend. Their website

clearly states that online sale and shipment are within the U.S. only, the currency is USD, and their online store locator does not show any Canadian locations.

Based on this information, summarize the main points of the response you would provide to the client. The response should include your assessment of entitlement to registration **[3 marks]** and potential areas of conflict with third parties **[4 marks]**.

Sample Response

The following sample answer would receive full marks.

This additional information does not affect the availability of the client's mark in Canada. The ZENITH KIT product appears to be unavailable in Canada, as it is not sold nor shipped in Canada. Even if Canadian consumers could access the website, there seem to be no available option to order the product and get it delivered in Canada (the price is in USD and the website clearly states that the sale and shipment are exclusively in the U.S.). Therefore, there is no use of the trademark pursuant to section 4 of the Trademarks Act.

However, the client should conduct additional searches to check whether the company Bon Bon SARL has a reseller or licensee in Canada. Indeed, if the trademark is used in Canada by another party, the owner of the ZENITH KIT trademark could oppose to the registration of the client's trademark or take legal action such as a passing off action. The owner of the ZENITH KIT trademark could also oppose to the registration if it has made known the trademark in Canada. In addition, we should check with the client whether they intend to launch their products in the United States as well, as this conflicting trademark is likely to be problematic in this jurisdiction.

Question 6 [6 marks in total]

For each of the following trademarks, advise whether the mark is registrable or not registrable for the associated goods or services and why (brief reason or relevant provision of the Act or Rules). Do not assume acquired distinctiveness. **[2 marks per trademark for a total of 6 marks]**

(a) QUICK CONNECT in association with "electrical connectors for cable"

- (b) The colour YELLOW in association with “tennis balls”
- (c) WILDLIFE SAMBUCA in association with “spirits”

Sample Response	
<i>The following sample answer would receive full marks.</i>	
QUICK CONNECT in association with “electrical connectors for cable”	Not registrable. The trademark clearly describes the character and quality of the goods, i.e., that the connectors enable a quick connection (paragraph 12(1)(b) of the <i>Trademarks Act</i>)
The colour YELLOW in association with “tennis balls”	Not registrable. The trademark is not inherently distinctive as the colour yellow is typically the colour of tennis balls (paragraph 12(2) of the <i>Trademarks Act</i>)
WILDLIFE SAMBUCA in association with “spirits”	Registrable. The trademark is not clearly descriptive of the character of the good (paragraph 12(1)(b) and S. 11.18(4)(d) of the <i>Trademarks Act</i>)

Question 7 [4 marks in total]

Your client sends you a design trademark for filing in “tiff” format for the following design: A | M™. The client gives you the Pantone identification numbers. Assume that you have all the other relevant and correct information for the filing.

Based on the facts provided, identify the potential technical objections or issues likely to be encountered if the following application were filed without modification.

[4 marks]

Applicant Details

Dressy People
123 The Street
Toronto, ON

M1M 1M1

Agent Details

Agent LLP
456 The Street
Toronto, ON
M1M 1M1

Trademark Details

Trademark reference:

AM & Design

Trademark type(s):

Design

Visual Representation:

A | M™

Colour Claim:

Colour is claimed as a feature of the trademark. The letters “A” and “M” in the trademark are the colour light blue (PANTONE 317C).

Goods

Class: 25 dress shirts; dress apparel

Sample Response

The following sample answer would receive full marks.

- The TM symbol should be deleted from the visual representation
- The colours must be accurately described / the line between the A and M letter should be described as black
- The colour claim statement should specify that Pantone is a registered trademark
- The goods “dress apparel” in class 25 are not in ordinary commercial terms and will require further specification

Question 8 [2 marks in total]

A client tells you that they are about to launch new bicycles and they are already advertising this product on the company's website. You can see pictures of the bicycles with the trademark printed on the frame and Canadian customers can pre-order the good. No sale of the bicycles has taken place yet.

Based on the facts provided, assess whether there is use of the trademark. [2 marks]

Sample Response

The following sample answer would receive full marks.

No, there is no use of the trademark pursuant to paragraph 4 of the *Trademarks Act* (**this source reference is not necessary for full marks**); and the trademark is advertised but there has not been any sale of the product.

Question 9 [3 marks in total]

123456 Canada Inc. is your client. There are only 2 shareholders, and both are also the only directors. The client has registered the trademark SOSO in association with "gloves" and "wine." These 2 shareholders have decided to go separate ways. As part of the agreement, Shareholder "A" will keep the company and use the trademark SOSO only in association with "gloves" while Shareholder "B" has incorporated a new company called Zen Inc. and will use the trademark SOSO in association with "wine."

Based on the facts provided, what would the parties need to do to put this arrangement in effect with respect to the registered SOSO trademark? [3 marks]

Sample Response

The following sample answer would receive full marks.

- File with the Registrar a request to record a partial assignment pursuant to section 48(1) of the *Trademarks Act*, which is the transfer of a trademark in respect of only a portion of the goods and services in the registration.
- They would need to provide the prescribed fee to record the partial assignment, and provide the transferee's name and postal address.

Question 10 [3 marks in total]

Your client, a national chain of brew pubs, owns trademark registration no. TMA678,910 for the trademark SANDCASTLE in association with beer. This trademark was registered on November 18, 2010, and your client has been using the mark continuously since September 2010. In your regular watch search for this client, the following trademark application is identified:

Application No.: 1,987,654
Trademark: SANDCASTLE B
Applicant name and address:
Windy Beach Breach Brewing Co.
188 Sandy Way, Parksville, British Columbia
Goods: beer and cider
Filing date: August 15, 2023

After hiring an investigator to acquire more facts, you discover that Windy Beach Brewing Co. is a small craft brewing operation in Parksville, British Columbia, which appears to have been using the trademark SANDCASTLE B since 2008 in association with beer and cider.

When you advise the client about this application, your client indicates that it was not, and has never been, aware of this small business in Parksville when the client adopted the trademark SANDCASTLE.

Based on the facts provided, explain why or why not the registration may be at risk of invalidation. **[3 marks]**

Sample Response

The following sample answer would receive full marks.

The client's trademark registration is not at risk of invalidation.

This is because it is now incontestable as the trademark has been registered for more than five years, making it impossible for a third party to initiate invalidation proceedings based on prior use of a similar trademark, unless it is established that the person who adopted the registered trademark in Canada did so with

knowledge of that previous use or making known (paragraph 17(2) of the *Trademarks Act*).

Note: source reference is not required for full marks.

Question 11 [5 marks in total]

Your client, Promise Mode Inc., wishes to register the trademark BRYLLYANTE KUT for goods in Class 14 (precious gems, diamonds, jewellery) and Class 25 (clothing, t-shirts). After you have done a trademark availability search, you are of opinion that:

1. The trademark BRYLLYANTE KUT is clearly descriptive or deceptively misdescriptive of the goods in Class 14. The term is seen as a play on "BRILLIANT CUT," which describes gems shaped in a specific way.
2. A prior pending application exists for the trademark BRILLIANTIA & Circle Design, filed by Bold Chrono Ltd. This application is for goods in Class 26 (hair accessories) and could be seen as potentially confusingly similar to BRYLLYANTE KUT.
3. The description of the goods in Class 25 as "clothing" is deemed too broad and not specific enough according to the Regulations.

Based on the facts provided, suggest at least 5 potential ways to render the mark registrable. **[5 marks]**

Sample Response

The following sample answer would receive full marks.

To render the mark registrable:

1. The client could add a distinctive and dominant design element to the terms "BRYLLYANTE KUT" and file a design trademark instead of a word mark.
2. The client could limit the application to class 25, as the trademark is not clearly descriptive of the clothing goods. The statement of goods would need to be amended to "clothing, namely, t-shirts".

3. The client could modify/alter the trademark so that it no longer is a phonetic equivalent of a descriptive word.

4. At the examination stage, if the trademark BRILLIANTIA & Circle Design is cited as a confusingly similar trademark, the client could file arguments to the effect that there is no likelihood of confusion because the trademarks are different in appearance, sound and connotation, making it unlikely for the average consumer to believe that the respective goods originate from the same source.

5. The client could also monitor the conflicting application for opposition in due time, assuming the client has prior use.