

# College of Patent Agents & Trademark Agents

*Trademark Agent Skills Examination  
Component A Sample*

**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]**.

## 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]**

## 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]**.

## 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  |  |
| <i>noun</i>  |  |
| <ul style="list-style-type: none"> <li>1. the time at which something is most powerful or successful.</li> <li>2. the point in the sky or celestial sphere directly above an observer</li> </ul> |  |
| Adapted from Oxford Languages and Google   |  |

| No. | Trademark         | Status and Appl/Reg. No and Date              | Goods & Services                       | Owner  |
|-----|-------------------|---|--|--|
| 1.  | ZEN-MYTH LAVANDER | Advertised<br>App: 1976285<br>App: 2019-09-06 | Class 3: Body Lotions                  | Beauty Zen LLC<br>268 Horner Str.<br>Ottawa, K1A 0A2,<br>Ontario |
| 2.  | ZENITH            | Registered<br>Reg: TMA498,852                 | Class 1: Tanning oils for animal skins | MOO Group S.P.A.   |

|     |   |  |  |  |
|-----|---|--|--|--|
|     |   | Reg:2012-03-08                                     |  | Viale Abruzzi 4,<br>Milano, 20030, Italia  |
| 3.  |  | Filed<br>Appl: 1978453<br>Appl: 2021-04-18         | Class 5: Flaxseed oil dietary supplement; medicated massage oils   | Miiitaco Inc.<br>259 West 2 <sup>nd</sup> Ave,<br>Edmonton, T5A0B9,<br>Alberta                     |
| 4.  | Z ZENITH  | Abandoned<br>Reg: TMA321,698<br>Reg: 1999-08-09    | Class 3: Essential oils and diffusers  | ZEN Inc.<br>650 Market<br>Str. Philadelphia, PA<br>19103 U.S.A.                                    |
| 5.  | ZENITH CALM   | Filed<br>Appl: 1956234<br>Appl: 2020-05-19         | Class 4: Aromatherapy fragrance candles<br>Class 21: Electric aromatherapy diffusers   | CALM PLS LLC<br>6 Challenger Rd.<br>Ridgefield Park NJ<br>07660 U.S.A.                             |
| 6.  | ZEN IT  | Registered<br>Reg: TMA867,417<br>Reg: 2013-07-09   | Class 25: Clothing, namely, T-Shirts; hats; socks  | Robert Molliere<br>8 Woodward Ave,<br>Detroit MI 48226<br>U.S.A.                                   |
| 7.  | XENITH  | Registered<br>Reg: TMA1,082,365<br>Reg: 2018-04-29 | Class 35: Sales agency services featuring essential oils for perfumery<br>Class 40: Custom blending of essential oils for aromatherapy use | XENITH Inc.<br>245 Pinnacle Drive<br>Wilmington DE 19803<br>U.S.A.                                 |
| 8.  | ZENITH OF LIFE  | Registered<br>Appl: TMA785,318<br>Appl: 2012-12-12 | Class 3: Fragrances for personal use   | ChaoLin Mey<br>Unit 901, No 17,<br>ZhongGhe Str.,<br>Beijing, 100176<br>China                      |
| 9.  | SENITE  | Registered<br>Reg: TMA852,364<br>Reg: 2014-07-22   | Class 29: Lavender oil for culinary purposes   | BBYOU LLC.<br>78 Pauline Ave,<br>Toronto, M6H 0B1,<br>Ontario                                      |
| 10. | ZENITH  | Advertised<br>Appl: 0925587<br>Adv.: 2019-09-03    | Classes 1-45   | Royal Astronomical Society of Canada<br>265 Hella West,<br>Vancouver, Y5V 0C1,<br>British Columbia |

### 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... | <a href="https://www.bonbon.com/us/product/zenith-kit">https://www.bonbon.com/us/product/zenith-kit</a> |
|-------|------------|---|---|

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]**.

**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”

**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

**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]**

**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]**

### **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]**

### 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]**