

Question 1

On 10 April 2024 you received a Communication regarding the Decision to Grant dated 3 April 2024 in relation to a European patent application. The Communication indicates that the mention of the grant will be published in the European Patent Bulletin on 5 June 2024. Your client wishes to file a divisional application for this European patent application.

Which of the following statement(s) is/are correct?

- I. The divisional application can be validly filed on 5 June 2024.
 - II. The divisional application can be validly filed with the European Patent Office in Berlin.
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- a. Only statement I is correct.
 - b. Only statement II is correct.
 - c. Statements I and II are both correct.
 - d. Statements I and II are both incorrect.

Question 2

On 15 May 2024 a European patent application EP1 is validly filed with the description, claims and abstract in Spanish. Simultaneously, a French translation of the patent application is filed.

The request for examination is filed in Dutch. The sole applicant is Mr. W.A. van Buren, who is a Dutch national living in Argentina.

Which of the following statements in relation to EP1 is correct?

- a. The filing fee is reduced, but not the examination fee.
- b. Neither the filing fee nor the examination fee is reduced.
- c. The examination fee is reduced, but not the filing fee.
- d. Both the filing fee and the examination fee are reduced.

Question 3

Dr D. Re is a natural person having the German nationality, and who has her residence in Australia. She has filed European patent application EP1, and is the sole applicant. A filing date for this application has been accorded by the European patent office. Immediately after filing, European patent attorney Mr. P.A. Tent is authorized to be the professional representative for Dr Re.

Tragically, during the examination procedure Mr. Tent dies in a koala bear attack.

Which of the following statement(s) is/are correct?

- I. Dr Re had to appoint a professional representative after filing EP1.
 - II. The examination proceedings will be interrupted upon the death of Mr. Tent.
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- a. Only statement I is correct.
 - b. Only statement II is correct.
 - c. Statements I and II are both correct.
 - d. Statements I and II are both incorrect.

Question 4

A Korean applicant asks you to enter the regional phase before the European Patent Office. The International patent application is published in the Korean language. The international publication contains 35 pages description, 5 pages claims, 18 pages figures and 1 page abstract. The English translation of the international publication contains 32 pages description, 3 pages claims, 14 pages figures and 1 page abstract. The applicant requests you to file a set amended claims at entry, on which the examination should be based. The amended claims are 2 pages in the English language.

For how many additional pages should the page fee be paid?

- a. 24
- b. 17
- c. 15
- d. 21

Question 5

You have received a Communication pursuant to Art. 94(3) EPC dated 15 April 2024 with a time limit for filing a reply of two months. Your client asks you to request an extension of time for as long as possible without the payment of any fees or filing a reasoned statement. What is the last day the reply to the communication can be filed, provided that the proper extension has been requested in time?

- a. 15 August 2024
- b. 16 August 2024
- c. 15 October 2024
- d. 25 October 2024

Question 6

The mention of the grant of European patent application EP1 will be published on 12 June 2024. The filing date of EP1 is 14 July 2020. Your client has requested you to validate EP1 in the Netherlands (NL) and Belgium (BE). Which of the following statements is correct?

- a. The renewal fee for the fifth year must be paid to the European Patent Office (EPO) by the due date of 31 July 2024. After that date, a surcharge to the EPO is due.
- b. The renewal fees for the fifth year must be paid to the national patent offices in NL and BE by the due date of 31 July 2024. After that date, a surcharge is due to the national offices.
- c. The renewal fees for the fifth year can be validly paid to the national patent offices in BE and NL by 12 September 2024 without payment of a surcharge.
- d. The renewal fees for the fifth year can be validly paid to the national patent offices in NL and BE by 12 August 2024 without payment of surcharge.

Question 7

You have been notified of a provisional refusal of a Benelux trademark application from your client. You have informed your client in time, but the three-months deadline to file a response is approaching and you still have not received any instructions.

Which of the following statement(s) is/are correct?

- I. If you do not file a response in due time BOIP takes a final decision based on all facts and circumstances known at the time.
 - II. You could request an extension of time, but the extended period may not exceed six months after the date on which the first notification was sent.
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- a. Only statement I is correct.
 - b. Only statement II is correct.
 - c. Statements I and II are both correct.
 - d. Statements I and II are both incorrect.

Question 8

A European trademark application was published on 9 February 2024. What is the last possible day to file an opposition against this trademark application.

- a. 9 May 2024
- b. 10 May 2024
- c. 8 May 2024
- d. 9 November 2024

Question 9

Excluded from Examination

Question 10

What is not a requirement for obtaining a filing date of a Benelux design?

- a. Indicating the name of the applicant.
- b. Address of the applicant.
- c. Legal form of the applicant.
- d. Appointment of a representative .

Question 11

Your client has shown his design to potential customers in the Netherlands and now asks you if he can file a Registered Community Design (RCD). Is it still possible to obtain a valid Registered Community Design?

- a. No, this is no longer possible.
- b. Yes, but only if the design was first disclosed less than 1 month ago.
- c. Yes, but only if the design was first disclosed less than 6 months ago.
- d. Yes, but only if the design was first disclosed less than 12 months ago.

Question 12

Which of the following statement(s) concerning the inventor(s) of an International patent application is/are correct?

- I. It is necessary to indicate the name and other prescribed data of the inventor in the request for an International patent application to obtain a filing date.
 - II. It is possible to request the International Bureau of WIPO to register an additional inventor and the International Bureau of WIPO shall record such change if the request is filed within 16 months from the priority date.
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- a. Only statement I is correct.
 - b. Only statement II is correct.
 - c. Statements I and II are both correct.
 - d. Statements I and II are both incorrect.

Question 13

An International patent application was filed by your firm on 18 November 2022 claiming priority from a European patent application that was filed on 22 November 2021.

Today, 28 May 2024, you receive instructions to enter the regional phase before the European Patent Office and the national phases in China and Japan.

Which of the following statements is correct?

- a. It is too late to enter any of the requested national and regional phases.
- b. It is still possible to enter all of the requested national and regional phases.
- c. It is still possible to enter the national phases in China and Japan, but not the regional phase before the European Patent Office.
- d. It is still possible to enter the national phase in China and the regional phase before the European Patent Office, but not the national phase in Japan.

Question 14

An International patent application was filed on 12 October 2023, validly claiming priority from a European patent application filed on 13 October 2022.

The International Search Report and Written Opinion were drawn up by the European Patent Office (EPO) acting as the International Searching Authority (ISA) on 4 March 2024, and transmitted to the applicant on 21 March 2024.

What is the last date to validly file a demand for international preliminary examination under Art. 31 PCT for this International patent application?

- a. 4 June 2024.
- b. 21 June 2024.
- c. 12 August 2024.
- d. 13 August 2024.

Question 15

One of your Chinese clients has recently filed an International patent application in the Chinese language with the China National Intellectual Property Administration (CNIPA) as Receiving Office (RO). No indication as to the choice of International Searching Authority (ISA) was made at the time of filing and your client received a communication inviting him to choose an ISA today.

Your client asks you to ensure that his application is searched by either the United States Patent and Trademark Office or the European Patent Office acting as ISA with the aim to receive a search report and written opinion in the English language.

Which of the following statement(s) is/are correct?

- I. It is possible to choose either the United States Patent and Trademark Office (USPTO) or the European Patent Office (EPO) as ISA as long as an English translation of the International patent application is filed.
 - II. An appropriate translation must be filed with the ISA within one month from the date on which the International patent application was received by the RO, or in response to an invitation thereto.
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- a. Only statement I is correct.
 - b. Only statement II is correct.
 - c. Statements I and II are both correct.
 - d. Statements I and II are both incorrect.

Question 16

Which of the following statements concerning the request for processing an International patent application according to the PCT that is submitted with the European Patent Office is not correct?

- a. The request must contain the name of the applicant.
- b. Form PCT/RO/101 must be used for the request.
- c. The title of the invention must be indicated in the request.
- d. The request must be signed by all applicants where there are two or more applicants.

Question 17

Mr. Oliveira from Brazil has validly filed an International patent application in the Portuguese language yesterday, 27 May 2024. The International patent application validly claims priority from a European patent application filed on 27 May 2023. After the international phase, Mr. Oliveira wishes to enter the national phase in Brazil, Argentina, France, Taiwan, Suriname, and Venezuela.

Which of the following statement(s) is/are correct?

- I. The International patent application will be published in Portuguese.
 - II. The International patent application can only enter the national phase in Brazil.
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- a. Only statement I is correct.
 - b. Only statement II is correct.
 - c. Statements I and II are both correct.
 - d. Statements I and II are both incorrect.

Question 18

You received a Communication pursuant to Art. 94(3) EPC on 3 April 2024 for a European patent application. Since this Communication states new prior art, you check if there is a corresponding US patent application.

You notice that there is a corresponding US patent application for which a Notice of Allowance dated 28 March 2024 has been received. The US patent will be issued on 28 June 2024. Today is 28 May 2024.

Which of the following statements is not correct?

- a. You should send the received Communication pursuant to Art. 94(3) EPC including the cited prior art to the US agent as soon as possible instructing to file an Information Disclosure Statement (IDS).
- b. Since a Notice of Allowance has been issued in the US patent application, there is no further duty to file an IDS.
- c. The US agent may have to file a Request for Continued Examination to be able to file an IDS.
- d. The US agent could request a Quick Path IDS (QPIDS) to avoid unnecessary reopening of the prosecution.

Question 19

For a Dutch patent application you have received a novelty search report from the Netherlands Patent Office which contains a declaration of lack of unity of invention.

Which of the following statements is correct?

- a. You can protest against the finding of lack of unity of invention.
- b. In order to have more than one group of inventions searched you will need to pay one or more additional search fees.
- c. The only way to obtain protection for the unsearched claims is to file a divisional application.
- d. The filing of divisional applications is not allowed under Dutch patent law.

Question 20

Which of the following statement(s) regarding a DAS code request with the Netherlands Patent Office is/are correct?

- I. The fees related to the DAS code will be automatically charged from your deposit account.
 - II. You can request a DAS code by regular mail, via online filing (eOLF) and via e-mail.
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- a. Only statement I is correct.
 - b. Only statement II is correct.
 - c. Statements I and II are both correct.
 - d. Statements I and II are both incorrect.

Case 1

On 12 April 2023 Rupinchang Export Ltd Co. based in China requested your firm to file a trademark registration for VOITA in the EU ((EU-TM1) for milk and butter in Nice class 29, and biscuits and cakes in Nice class 30. Rupinchang Export Ltd Co. itself has no presence in Europe and is also not active in Europe, but has a subsidiary in the Netherlands Rupinchang NL B.V..

Rupinchang Export Ltd Co. already had a national trademark registration in China for VOITA for the same goods and services (CN-TM1). CN-TM1 was filed on 10 March 2023.

- a. Could Rupinchang Export Ltd Co. have filed the European trademark application EU-TM1 at the EUIPO without a representative? Motivate your answer.

Rupinchang was considering to have the European trademark application EU-TM1 claim priority from the Chinese trademark registration CN-TM1.

- b. What are the formal requirements for claiming priority for a European trademark application?

The European trademark application EU-TM1 was filed without claiming priority.

- c. Which fee(s) needed to be paid for the application to obtain a filing date and by when were these due?

Originally, Rupinchang Export Ltd Co. was considering to file EU-TM1 just for the goods in class 29, and add the goods in class 30 optionally at a later moment.

- d. Would it have been possible to add the goods in class 30 after filing EU-TM1?

EU-TM1 was filed in English.

- e. Is English allowed as first language? Motivate your answer.
- f. Which languages may be chosen as second language (language of the office) for EU-TM1?

The client has heard that EU-TM1 could be challenged in an opposition, and would like to have some further information on this.

- g. From what moment on is it possible to file an opposition, and what is the opposition period?

Before registration the client wants to divide EU-TM1 into 2 separate applications.

- h. What are the requirements regarding goods and services of the divisional application?
- i. Is it possible to divide EU-TM1 after publication, but before registration? Motivate your answer.

Case 2

Retsno Meikeok Ltd. (hereafter: “Applicant”) is a firm with its principal place of business in the United Kingdom. Applicant has filed International patent application PCT1 with a description, claims, and abstract in English on 11 May 2023. PCT1 relates to a new method of producing biscuits, and contains 12 claims. No priority has been claimed.

The European Patent Office (EPO) as the International Searching Authority (ISA) has issued the International Search Report and Written Opinion. Applicant’s in-house European patent attorney, Ms. Omle Revorg, has prepared a new set of claims which contains 11 claims, an amended description, and a reply to the Written Opinion.

On 1 November 2023 applicant became aware that its sole competitor Limited Ltd. had been applying the method claimed in PCT1 since 18 October 2023. Limited Ltd. is only commercially active in the United Kingdom, the Netherlands, France, and Germany.

Therefore, applicant does not wish to file the amended claims in the international phase, nor do they want to file a demand for international preliminary examination. Instead, applicant asks your firm to enter the regional phase before the European Patent Office well before the end of the 31-month deadline, and accelerate the procedure as much as possible. There are no patent applications corresponding to PCT1 in other jurisdictions. Applicant is not interested in validation and extension states.

- a. Which actions must be taken to validly enter the regional phase before the EPO?
- b. Which actions can be taken upon filing to accelerate the procedure as much as possible?

PCT1 successfully entered the regional phase before the EPO and was continued as EP1. After some time, your firm received a Communication under Article 94(3) EPC. In response, you filed a set of amended claims consisting of 20 claims. On 11 January 2024 your firm received a Communication under Rule 71(3) EPC dated 9 January 2024 indicating that the grant of a patent is intended.

- c. What is/was the deadline for responding to the Communication under Rule 71(3) EPC?

Despite several reminders and all due care you received applicant’s instructions on 13 May 2024. Applicant wishes to approve the text intended for grant and the bibliographic data, and to complete all necessary acts to proceed to grant.

- d. Which actions must be taken?
- e. What is the total amount of fees that needs to be paid with the response?

Eventually, you receive the Decision to Grant, indicating that the mention of grant will be published in the European Patent Bulletin of 31 July 2024.

- f. What are the options to have a valid patent based on EP1 in countries where Limited Ltd. is commercially active (United Kingdom, the Netherlands, France, and Germany)?
- g. For each option, which steps need to be taken? What are the time limits?

Case 3

Mr. X, a Dutch inventor, is the applicant of International patent application PCT-A which he filed himself with the International Bureau of WIPO (IB) on 14 August 2023. The International patent application claims priority of US provisional patent application US-B, filed on 18 August 2022. Mr. X received a letter from the IB, dated and received on 21 August 2023, stating that defects were found in PCT-A as filed. The letter invited him to file claims within two months from the date of the invitation.

- a. What would have happened to PCT-A if the claims were not filed in time?

Upon checking the filed application, Mr. X noticed that he also forgot to file the abstract and that he did not pay the required fees. Mr. X sends a set of claims by regular mail to the IB on 11 October 2023. He sends the abstract by regular mail to the IB on 14 October 2023. The claims were received by the IB on 12 October 2023 and the abstract was received by the IB on 16 October 2023. Mr. X paid the fees by PayPal to the IB on 20 October 2023.

- b. What will be the filing date of PCT-A? Motivate your answer.

Your Dutch IP law firm receives an email from Mr. X asking your firm to take over the representation of PCT-A.

- c. What action do you need to take in order to appoint your firm as agent for PCT-A?

After successfully appointing your IP law firm as agent of PCT-A you received an invitation from the IB to correct the priority claim or request restoration of the priority claim. You did not respond to the invitation.

- d. Will the priority claim be considered void? Motivate your answer.

On 26 January 2024 your IP law firm received a letter from the European Patent Office (EPO) acting as International Searching Authority of PCT-A, that according to the EPO, PCT-A does not comply with the requirements of unity of invention and relates to two inventions: P1 and P2. The letter was sent together with a partial International Search Report. You reported the letter to Mr. X, asking for instructions. Mr. X did not agree with the finding of lack of unity of invention by the ISA and wanted to protest.

- e. What actions must have been taken in order to protest against the finding of lack of unity of invention?

The protest was examined by a review panel of the EPO and was found entirely justified.

- f. Will there be any fee(s) refunded, and if so, which fee(s)?

Today Mr. X informs you that he has sold the invention and PCT-A to the Dutch company IP Holding B.V. IP Holding B.V. intends to keep your firm as agent for PCT-A and would like to ensure that possible national/regional entry applications can be filed directly in the name of IP Holding B.V.

- g. Which steps do you need to take and what is the latest day to do so in order to record the change of applicant for PCT-A?

- h. Will there be any additional documents required for recording this change in case IP Holding B.V. decides to appoint another agent and have at the same time record the change of applicant by the other agent?