

Question 1

Answer: C

- a. There are safety-net procedures in various countries for validation in case of rejection UP
- b. Turkish is not an official EU language
- c. **Yes, the opt-out shall be deemed to have been withdrawn and it is not possible to opt-out a unitary patent (Rule 5(9) rules of procedure)**
- d. No, this deadline is non-extendable (Rule 22(6) UPR)Rule 7(3) UPR

If the requirements under Rule 5, paragraph 2, are met and the request for unitary effect complies with Rule 6, paragraph 1, but fails to comply with the requirements of Rule 6, paragraph 2, the European Patent Office shall invite the requester to correct the deficiencies noted within a non-extendable period of one month. If the deficiencies are not corrected in due time, the European Patent Office shall reject the request.

Rule 5(9) rules of procedure

Where an application for a European patent subject to an opt-out pursuant to this Rule proceeds to grant as a European patent with unitary effect the opt-out shall be deemed to have been withdrawn and the Registrar shall as soon as practicable enter the withdrawal in the register.

Question 2

Answer: B

National law IV. Translation requirements after grant – Georgia

Georgian translation of the patent specification (the description of an invention, the claims, the drawings, the abstract) must be filed with Sakpatenti.

There is a six-month period from the due date for requesting reinstatement of the patent by paying the missed maintenance fee without surcharge.

Question 3

Answer: D

Date of Communication = 7 April 2025 + two months = 7 June 2025 (Saturday, shifts to Monday 9 June 2025 (Whit Monday) shifts to 10 June 2025.

Question 4

Answer: B

a. Incorrect, since one of the applicants does not have a residence or principal place of business within a Contracting State they cannot benefit from a language-fee reduction under R. 7a(1) EPC. Rule 7a(5) EPC.

b. Correct, They can benefit from a 30% micro-entity fee reduction under Rule 7a(3) EPC on both the designation and examination fee.

c. Incorrect, they can benefit from a 30% micro-entity fee reduction under Rule 7a(3) EPC.

d. Incorrect, the micro-entity fee reduction shall not be available where the same person has filed five or more European patent applications or Euro-PCT applications within a period of five years preceding

OJ EPO 2024, A8

Rule 7a

Reduction of fees

(1) Where a person referred to in Article 14, paragraph 4, files a European patent application or a request for examination in a language admitted in that provision, the filing fee or examination fee shall be reduced in accordance with the Rules relating to Fees.

(2) The reduction of fees referred to in paragraph 1 shall be available for:

(a) microenterprises;

(b) small and medium-sized enterprises;

(c) natural persons;

(d) non-profit organisations, universities or public research organisations.

(3) Where a microenterprise, natural person, non-profit organisation, university or public research organisation files a European patent application or, in respect of an international application, performs the acts referred to in Rule 159, the following fees shall be reduced in accordance with the Rules relating to Fees:

(a) filing fee;

(b) fee for a European or supplementary European search;

(c) examination fee, and in addition the previously paid international search fee where the European Patent Office acted as International Searching Authority;

(d) designation fee;

(e) fee for grant;

(f) renewal fees for the European patent application.

(4) The reduction of fees referred to in paragraph 3 shall not be available where the same person has filed five or more European patent applications or Euro-PCT applications within a period of five years preceding

–the date of filing of the European patent application concerned or

–the date of entry into the European phase of the Euro-PCT application concerned.

The relevant date for previous applications shall be the date of filing in the case of a European patent application or the date of entry into the European phase in the case of a Euro-PCT application.

(5) In the case of multiple persons filing a European patent application or a Euro-PCT application, the reduction under paragraph 1 or 3 shall be available only if each applicant fulfils the applicable eligibility criteria.

(6) The eligibility criteria laid down in paragraphs 1 to 3 shall be fulfilled on the date of the payment of the fee concerned.

Question 5

Answer D

(R 162(3)).

(1) If the application documents on which the European grant procedure is to be based comprise more than fifteen claims, claims fees shall be paid for the sixteenth and each subsequent claim as laid down in the Rules relating to Fees within the period under Rule 159, paragraph 1.

(2)²⁰⁴ If the claims fees are not paid in due time, they may still be paid within the period under Rule 161, paragraph 1 or paragraph 2, as the case may be. If within this period amended claims are filed, the claims fees due shall be computed on the basis of such amended claims and shall be paid within this period.

(3) Any claims fees paid within the period under paragraph 1 and in excess of those due under paragraph 2, second sentence, shall be refunded.

(4) Where a claims fee is not paid in due time, the claim concerned shall be deemed to be abandoned.

Question 6

Answer: B

Opposition period: 4 September 2024 + 9 months = 4 June 2025 (Wednesday). A translation shall be filed within one month of filing the notice of opposition. 2 May 2025 + 1 month = 2 June 2025 (Monday), 4 June 2025. Where the document is a notice of opposition or appeal, or a statement of grounds of appeal, or a petition for review, the translation may be filed within the period for filing such a notice or statement or petition, if that period expires later. 4 June is later so answer b is correct.

Art. 14(4) EPC

Natural or legal persons having their residence or principal place of business within a Contracting State having a language other than English, French or German as an official language, and nationals of that State who are resident abroad, may file documents which have to be filed within a time limit in an official language of that State. They shall, however, file a translation in an official language of the European Patent Office in accordance with the Implementing Regulations. If any document, other than those documents making up the European patent application, is not filed in the prescribed language, or if any required translation is not filed in due time, the document shall be deemed not to have been filed.

Rule 6(2) EPC

A translation under Article 14, paragraph 4, shall be filed within one month of filing the document. This shall also apply to requests under Article 105a. Where the document is a notice of opposition or appeal, or a statement of grounds of appeal, or a petition for review, the translation may be filed within the period for filing such a notice or statement or petition, if that period expires later.

Rule 3(1) EPC

(1) In written proceedings before the European Patent Office, any party may use any official language of the European Patent Office. The translation referred to in Article 14, paragraph 4, may be filed in any official language of the European Patent Office.

Question 7

Answer: C

CN 32 maanden

EP 31 > FP > 2 maanden

IN > Met betaling van taksen tot ,...

Patents Amendment Rules 2024, effective 15 March 2024 > Filing PCT national phase application beyond the due date of 31 months from the earliest priority date, is now possible and will attract punitive fees

Question 8

Answer: C

Rule 26bis.1 PCT - correction or Addition of Priority Claim

- a. The applicant may correct a priority claim or add a priority claim to the request by a notice submitted to the receiving Office or the International Bureau within a time limit of 16 months from the priority date or, where the correction or addition would cause a change in the priority date, 16 months from the priority date as so changed, whichever 16-month period expires first, provided that such a notice may be submitted until the expiration of four months from the international filing date.

26bis.2 Defects in Priority Claims

(a) Where the receiving Office or, if the receiving Office fails to do so, the International Bureau, finds in relation to a priority claim:

- (i) that the international application has an international filing date which is later than the date on which the priority period expired and that a request for restoration of the right of priority under Rule 26bis.3 has not been submitted;
- (ii) that the priority claim does not comply with the requirements of Rule 4.10; or
- (iii) that any indication in the priority claim is inconsistent with the corresponding indication appearing in the priority document;

the receiving Office or the International Bureau, as the case may be, shall invite the applicant to correct the priority claim. In the case referred to in item (i), where the international filing date is within two months from the date on which the priority period expired, the receiving Office or the International Bureau, as the case may be, shall also notify the applicant of the possibility of submitting a request for the restoration of the right of priority in accordance with Rule 26bis.3, unless the receiving Office has notified the International Bureau under Rule 26bis.3(i) of the incompatibility of Rule 26bis.3(a) to (i) with the national law applied by that Office.

Question 9

Answer: C

Art. 11 PCT – 1(e): Claims are necessary to obtain an international filing date

If the receiving Office finds that the international application did not, at the time of receipt, fulfil the requirements listed in paragraph (1), it shall, as provided in the Regulations, invite the applicant to file the required correction.

(b) If the applicant complies with the invitation, as provided in the Regulations, the receiving Office shall accord as the international filing date the date of receipt of the required correction.

Question 10

Answer: B

PCT Receiving Office Guidelines

Chapter VI: Article 14 Check and Other Formal Requirements

CORRECTIONS OF DEFECTS

Corrections under Article 14(1)(b) and Rule 26

153. **Invitation to Correct.** If the receiving Office finds one or more defects under [Article 14\(1\)\(a\)](#), it invites (Form [PCT/RO/106](#)) the applicant to correct them ([Article 14\(1\)\(b\)](#), [Rule 26.1](#) and [Section 316](#)). However, the receiving Office does not invite the applicant to provide a missing signature required under [Rule 4.15](#) if there is more than one applicant and at least one applicant has signed the request ([Rule 26.2bis\(a\)](#), [Section 316](#) and [paragraph 122](#)), or where the request is only signed by the agent and the receiving Office has waived the requirement to furnish a separate power of attorney or of a copy of the general power of attorney. If the receiving Office sends an invitation under [Article 14\(1\)\(b\)](#), the receiving Office notifies the International Bureau and, if the title of the invention or if the abstract is missing ([Rules 37.1](#) and [38.1](#)), or if the drawings are defective, also the International Searching Authority, by sending a copy of Form [PCT/RO/106](#). The time limit for correction is two months from the date of the invitation to correct; this time limit may be extended by the receiving Office at any time before a decision is taken ([Rule 26.2](#)).

Question 11

Answer: C

Regulations under the PCT Rule 66.2 *Written Opinion of the International Preliminary Examining Authority*

(e) The time limit for replying to the notification may be extended if the applicant so requests before its expiration.

Question 12

Answer: D

13 December 2023 + 18 months = 13 June 2025

18 May 2025 + 4 months = 18 September 2025

Art. 28.2 ROW

De aanvrager kan de beschrijving, conclusies en tekeningen van zijn reeds ingediende aanvraag wijzigen.

Art. 28.4 ROW

De splitsing of wijziging kan geschieden tot het tijdstip waarop de octrooiaanvraag ingevolge artikel 31, eerste of tweede lid, in het octrooiregister moet worden ingeschreven, met dien verstande dat voor de splitsing of wijziging een termijn van tenminste twee maanden na de verzending van de in artikel 34, vierde lid, bedoelde mededeling openstaat. Op verzoek van de aanvrager kan het bureau laatstgenoemde termijn verlengen tot vier maanden na de verzending van de in artikel 34, vierde lid, bedoelde mededeling.

Art. 31 ROW

1. Het bureau schrijft een octrooiaanvraag in het octrooiregister in zo spoedig mogelijk na verloop van achttien maanden:

a. na de in artikel 29, eerste lid, bedoelde datum van indiening of,

b. indien het een aanvraag betreft waarvoor een beroep is gedaan op een of meer rechten van voorrang, na de eerste datum van voorrang. Artikel 34.4 ROW

Het bureau deelt de aanvrager schriftelijk het resultaat van het onderzoek naar de stand van de techniek mede.

Question 13

Answer: B

16 May 2023 + 3 = 16 May 2026 > end of month = 31 May 2026 (Sunday) > 1 June 2026

Art. 61.1 ROW

Voor de instandhouding van een octrooi moet elk jaar, voor het eerst voor de aanvang van het vierde jaar na de in artikel 29, eerste lid, bedoelde datum van indiening, op de laatste dag van de maand waarin de aanvraag die tot octrooi heeft geleid is ingediend, of ingevolge artikel 28, eerste lid, wordt aangemerkt te zijn ingediend, aan het bureau een bij of krachtens algemene maatregel van rijksbestuur vast te stellen bedrag worden betaald.

Art. 16 ROW

Indien het bureau gedurende de laatste dag van enige ingevolge deze rijkswet door of jegens het bureau in acht te nemen termijn is gesloten, wordt die termijn voor de toepassing van deze rijkswet verlengd tot het einde van de eerstvolgende dag, waarop het bureau weer geopend is.

Question 14

Answer: D

Art. 38.2

Indien de in artikel 24, eerste lid, onder b, bedoelde vermelding van de uitvinder onjuist is, of door een ander dan de uitvinder is verklaard dat op vermelding als uitvinder in het octrooi geen prijs wordt gesteld, kunnen de aanvrager en de uitvinder gezamenlijk, onder betaling van een bij of krachtens algemene maatregel van rijksbestuur vast te stellen bedrag, het bureau schriftelijk verzoeken terzake de nodige verbeteringen aan te brengen. In voorkomend geval dient het verzoek vergezeld te zijn van de schriftelijke toestemming van de ten onrechte als uitvinder aangemerkte persoon.

Leidraad inschrijving octrooiregister

Voor inschrijving van de schrapping respectievelijk verbetering van de uitvinder is vereist:

- *een schriftelijk verzoek om schrapping resp. verbetering van de uitvindergegevens;*
- *het verzoek dient ondertekend te zijn door de aanvrager of octrooihouder resp. diens octrooigemachtigde.*

Bijlage bij het verzoek

Het verzoek gaat vergezeld van de volgende bijlage:

- *een originele akte met daarin een verklaring van de volgende strekking:*
 - *dat de doorgegeven uitvindergegevens onjuist zijn;*
 - *in voorkomend geval, de naam en woonplaats van de uitvinder die dient te worden geschrapt;*
 - *de originele handtekening van de aanvrager of octrooihouder (of diens gemachtigde);*
 - *de originele handtekening van de uitvinder die dient te worden doorgehaald;*

Question 15

Answer: B

Question 16

Answer: B

First phase of EU design package reform in force on May 1, 2025. Prior to that Statement I is correct, and Statement II incorrect.

Question 17

Answer: D

The IR needs to be filed at the office of origin, i.e. BOIP. 6 months is the priority period. However IR's can be filed at any time, as long as the (application for a) basic registration is in force.

Question 18

Answer: B

BOIP only examines on absolute grounds. The opposition itself is intended to determine if a trademark should be refused on relative grounds.

Question 19

Answer: D

An opposition can be filed at the latest 3 months after the publication of the trademark application to be opposed. If the term expires on a closing date, the term is extended to the first day the office is open. Publication date is April 8. July 8 is three months later, July 8, 2025

Question 20

Answer: D

Case 1 (13 pt)

- a. No fees need to be paid to have a date of filing accorded (Rule 40 EPC).
- b.
- On 29 March 2023 EP1 complied with the requirements of Rule 40(1) EPC to accord a filing date. Hence, the filing date of EP1 is 29 March 2023.
 - The priority year then ends on Tuesday 2 April 2024. The priority period starts on 29 March 2023 + 12 months (Art. 87(1) EPC and Rule 131(4) EPC) à 29 March 2024, which was Good Friday on which the EPO was closed. Rule 134(1) EPC applies (see, *inter alia*, Guidelines for Examination, A-III, 6.6), so the priority period is extended until the Tuesday after Easter Monday, which was Tuesday 2 April 2024.
- c.
- The application would have been refused under Article 90(5) EPC. See Rules 57(d) and 58 EPC.
 - No further processing is available (Rules 135(2) and 58 EPC), but re-establishment of rights under Article 122 EPC and Rule 136 EPC is available.
- Visser: "An alternative remedy would be to file an appeal and correct the deficiency when filing grounds (J11/20). In this case, interlocutory revision will be applied (E-XII,7.4.4)." This answer will also be awarded*
- d.
- Communication regarding a loss of rights under Rule 112(1) EPC, because the application will be deemed to be withdrawn (Articles 78(2), 90(3), and 90(5) EPC, and Rules 38(1) and 57(e) EPC). The EPO does not send an invitation to pay the search fee.
 - Actions: (1) Request further processing; (2) pay further processing fee (50% of search fee); (3) pay search fee. If only one correct action is mentioned, do not award any point (question specifically asks "actions"). 1pt voor (2) en 1 pt voor (3).
- e. Rule 56a(1) EPC: time limit is two months. Relevant date is 13 May 2024, so deadline is 13 May 2024 + 2 months = 13 July 2024 (Saturday) à (Rule 134(1) EPC) Monday 15 July 2024 (no holiday).
- f.
1. Request that EP3 is not re-dated (Rule 56a(4) EPC, first sentence).
 2. File an indication as to where the correct drawings are completely contained in EP1 (Rule 56a(4) EPC, first sentence).
- g. EP3 has already been filed, so the transfer of the priority right of EP4 would be too late (T 1201/14, see https://www.epo.org/en/legal/case-law/2022/clr_ii_d_2_2_2.html).

Case 2 (12 pt)

- a. Only IB is competent as RO. Competent RO's for Belgian residents are EPO and IB. However, because the application must be filed in Dutch, EPO is not possible.
Only EP is competent ISA.

BE Annex B Competent receiving Office(s) for international applications filed by nationals or residents of this State: EP IB

Nationals or residents of Belgium or legal persons having a principal place of business in Belgium must file an international application which may be of interest for national defense or security with the Belgian Intellectual Property Office (IPObel)

EP Annex C Language in which international applications may be filed: English, French, German

IB Annex C Competent International Searching Authority:

Any International Searching Authority(ies) which would have been competent if the international application had been filed with any other receiving Office of, or acting for, the PCT Contracting State of which the applicant (or, if there is more than one applicant, at least one of the applicants) is a national or resident (refer to Annexes B for such other competent receiving Offices, Annex C for the corresponding competent International Searching Authorities, and below for the States for which the International Bureau acts instead of their national Offices pursuant to PCT Rules 19.1(b) and 35.3).

EP Annex C Competent International Searching Authority: EP

- b. Conditions:

- BE application must have been searched by EPO
- EPO must be chosen as ISA
- priority of the BE application must be claimed
- A response to the SR and WO must be provided

Formal Requirements:

- Separate document accompanying the international application
- Should be titled PCT Direct / Informal comments
- Letter must be self-contained (earlier opinion annexed to PCT Direct Letter if direct reference made)
- Must be indicated in form PCT/RO/101

- c. Transmittal fee (R.14 PCT), filing fee (R.15 PCT), 18 x page fee (R.15 PCT), search fee (R.16 PCT)

Page fee > from page 31 onwards: Count: description, claims, drawings, 1 page for abstract (all in the language of filing), request form including any declarations. So 25+4+14+1+4 = 48 pages. Minus 30 = 18 times page fees.

- d. The translation can be English, French or German, as those languages are accepted by ISA EP for the international search. The time limit is within one month from filing, because it is needed for the purposes of International Search. If the translation was needed only for the purposes of publication, the time limit would have been 14 months from priority date.

EP Annex D Languages accepted for international search: **English, French, German,** (Dutch, where the international application is filed with the Netherlands Patent Office)

R48.3 PCT Languages of publication: Arabic, Chinese, English, French, German, Japanese, Korean, Portuguese, Russian or Spanish

R.12.3 PCT 12.3 Translation for the Purposes of International Search

(a) Where the language in which the international application is filed is not accepted by the International Searching Authority that is to carry out the international search, the applicant shall, **within one month from the date of receipt of the international application by the receiving Office**, furnish to that Office a translation of the international application into a language which is all of the following:

- (i) a language accepted by that Authority, and
- (ii) a language of publication, and
- (iii) a language accepted by the receiving Office under Rule 12.1(a), unless the international application is filed in a language of publication.

12.4 Translation for the Purposes of International Publication

(a) Where the language in which the international application is filed is not a language of publication and no translation is required under Rule 12.3(a), the applicant shall, within 14 months from the priority date, furnish to the receiving Office a translation of the international application into any language of publication which the receiving Office accepts for the purposes of this paragraph.

- e. The RO sends an invitation to file the translation and pay 'late furnishing fee'.

R.12.3(c)(ii) PCT: in the event that the required translation is not furnished within the time limit under paragraph (a), to furnish it and to pay, where applicable, the late furnishing fee referred to in paragraph (e), within one month from the date of the invitation or two months from the date of receipt of the international application by the receiving Office, whichever expires later.

- f. The RO sends an invitation to correct the defect. As this is a minor defect and no filing date requirement, the missing signature has no consequences for the filing date.

Art. 14 PCT

(1)(a) The receiving Office shall check whether the international application contains any of the following defects, that is to say:

- (i) it is not signed as provided in the Regulations;
- (ii) it does not contain the prescribed indications concerning the applicant;
- (iii) it does not contain a title;
- (iv) it does not contain an abstract;
- (v) it does not comply to the extent provided in the Regulations with the prescribed physical requirements.

(b) If the receiving Office finds any of the said defects, it shall invite the applicant to correct the international application within the prescribed time limit, failing which that application shall be considered withdrawn and the receiving Office shall so declare.

R.26.2 PCT The time limit referred to in Rule 26.1 shall be two months from the date of the invitation to correct. It may be extended by the receiving Office at any time before a decision is taken.

Case 3 (3 pt)

- Filing of the certified priority document (A)
 - Entry into the national phase in Japan (B)
 - Entry into the national phase in India (C)
-
- Max. 22 months (1)
 - Max. 16 days (2)
 - Max. 26 months (3)

Case 4 (12 pt)

- a. No, you have 6 months to claim priority. This means the priority deadline expired on 13 May 2024.

Art. 2.6 BCIP

- b. Yes, the first extension of time will be granted with 2 months

Guidelines, Part A, General rules, Section 1, Time limits specified by the Office, extension of time limits

Guidelines, Part C, Opposition, Section 1, Opposition Proceedings, and the Guidelines for Examination of Design Invalidity Applications

- c. You have 3 months from publication to file an opposition, Art. 46 EUTMR. Therefore, the deadline is 25 October 2024.
- d. No, an applicant from the US cannot file an international trademark application based on a Benelux or European trademark registration. For an international trademark application via the Madrid System, the basic registration must originate from the country where the applicant has their domicile, nationality, or a genuine and effective establishment. In this case, a U.S. applicant would typically need to use a U.S. trademark registration (with the USPTO) as the basis.

Yes, if the Benelux or European trademark registration is first transferred to the European company.

Art. 2 Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks

Art. 2 Madrid Agreement Concerning the International Registration of Marks

- e. Yes it is possible to extend the international trademark registration at any moment during the registration by adding countries.

Art. 3ter Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks

Art. 3ter Madrid Agreement Concerning the International Registration of Marks

- f. A trademark registration is valid for 10 years calculated from the international registration date. You can pay 6m ahead.

Art. 6 and art. 7 Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks

Art. 6 and 7 Madrid Agreement Concerning the International Registration of Marks