

## Question 1

You have received Form PCT/RO/107 (“Invitation relating to missing parts or erroneously filed elements or parts”) from the Receiving Office stating that the drawings appear to have been erroneously filed.

The form stated: The description and claims referred to figures do not correspond with the drawings submitted with the application.

It was at this point that you realized that you submitted the wrong set of drawings.

You filed an International patent application with the European Patent Office as Receiving Office, claiming priority of two earlier patent applications.

To remedy this situation, you would like to submit the correct drawings and confirm incorporation by reference under PCT Rule 4.18 to maintain your international filing date.

However, not all the drawings were included in the same earlier application, some are included in the first priority application and the others are included in the second priority application.

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

- I. It is possible to incorporate the correct set of drawings by reference based on multiple priority applications.
  - II. It is possible to remove the originally filed drawings from the file of the international application so that they will not be available to the public.
- a. Only statement I is correct.
  - b. Only statement II is correct.
  - c. Statement I and II are both correct.
  - d. Both statements I and II are incorrect.

## Question 2

Your firm is the agent for an International patent application that became due for national entry.

The International patent application was filed on 13 October 2020.

Priority was claimed dated 16 November 2019.

Your client instructed you earlier to enter the regional phase in Europe and the national phase in the United States of America.

Today, the client calls and informs you that he additionally would like to enter the national phases in Canada and Indonesia.

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

- I. You can request to enter the national phase in Canada for the national entry, but not in Indonesia as a 30 month time limit is applicable.
  - II. You can still enter the national phase in both countries, by withdrawing the priority claim and entering the national phase within 30 months from the international filing date.
- a. Both statements I and II are incorrect.
  - b. Only statement I is correct.
  - c. Only statement II is correct.
  - d. Both statements I and II are correct.

### Question 3

You filed an International patent application on 10 March 2021 claiming priority of a European patent application filed on 11 March 2020. Early publication has been requested under Article 21(1) and (2) and as a result the International patent application was published on 22 April 2021.

The responsible patent attorney in your firm asks you today (31 May 2022) to withdraw the priority claim since it was not validly claimed.

Which of the following statements is correct?

- a. You cannot withdraw the priority claim because the International patent application has been published already. The 30-month due date for national entry is 11 September 2022.
- b. You cannot withdraw the priority claim because the International patent application has been published already. The 30-month due date for national entry is 12 September 2022.
- c. You still can withdraw the priority claim. The 30-month due date for national entry will be 10 September 2023.
- d. You still can withdraw the priority claim. The 30-month due date for national entry will be 11 September 2023.

## Question 4

As from 1 December 2020, the China National Intellectual Property Administration (CNIPA) will enable nationals and residents of China to select the EPO as their International Searching Authority (ISA).

A company with its headquarters in Shanghai (CN) has filed an International patent application at the CNIPA using a Chinese patent attorney as its agent.

The applicant selected the EPO as the International Search Authority and considers appointing an agent before the EPO.

Which of the following statements is correct?

- a. The applicant must use the same agent before the EPO as used before the CNIPA.
- b. The applicant may appoint a new agent for the EPO but this agent must also be entitled to represent the applicant before the CNIPA.
- c. The applicant may appoint a new agent for the EPO who must be a European patent attorney.
- d. The applicant must use the same agent as used before the CNIPA and should have filed his International patent application at the EPO.

## Question 5

A client has a portfolio comprising 4 International patent applications (IA1, IA2, IA3 and IA4) for which he wants to enter the national phase in Jamaica.

All 4 International patent applications are still in the international phase for all contracting states.

- IA1 was filed on 9 February 2022 and claims no priority.
- IA2 was filed on 9 February 2022 and claims priority of a Dutch patent application filed on 19 January 2021.
- IA3 was filed on 11 February 2022 and claims no priority.
- IA4 was filed on 30 May 2022 and claims priority of a Dutch patent application filed on 17 February 2022.

Which of these International patent applications can enter the national phase for Jamaica?

- a. IA1 and IA2.
- b. IA2.
- c. IA2 and IA3.
- d. IA3 and IA4.

## Question 6

The claim set of an International patent application may be amended in the international phase.

Which of the following statements is correct?

- a. The applicant is entitled to amend the claims under Art. 19; these amendments under Art. 19 can be filed with the International Bureau or with the Receiving Office.
- b. The applicant is entitled to amend the claims under Art. 34; these amendments under Art. 34 can be filed with or without filing a demand for international preliminary examination.
- c. The applicant is entitled to amend the claims under Art. 19; these amendments must be filed in the language in which the International patent application is published.
- d. The applicant is entitled to amend the claims under Art. 34; these amendments under Art. 34 can only be filed with the International Bureau.

## Question 7

Your client wishes to include an earlier Benelux trademark registration in their existing identical later EU trademark registration by claiming seniority.

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

- I. Seniority can still be claimed for the relevant Benelux trademark registration when the trademark registration has not been renewed before the renewal deadline, but is still within the 6-month grace period for renewal.
  - II. Seniority can only be claimed in case the earlier Benelux trademark registration meets the triple-identity requirement (same owner, same mark, same goods/services). The description of goods/services in the Benelux trademark registration needs to be exactly identical.
- a. Only statement I is correct.
  - b. Only statement II is correct.
  - c. Statement I and II are both correct.
  - d. Both statements are incorrect.

## Question 8

International classification systems facilitate searches with regard to patents, trademarks and designs by organizing huge amounts of information into classes. Please find below different classification systems, different IP rights, different class descriptions. Which ones relate to each other? Please select the correct answers:

Classification systems:

1. The Nice Classification (NCL)
2. The Locarno Classification (LOC)
3. The Vienna Classification (VCL)

IP rights:

- A. Copyright
- B. Trademarks
- C. Designs

Class numbers and descriptions:

- I. *Class 24: Textiles and substitutes for textiles; household linen; curtains of textile or plastic*
- II. *Class 5: Textile piece goods, artificial and natural sheet material*
- III. *Category 9: Textiles, clothing, sewing accessories, headwear, footwear*

- a. 1 + B + I ; 2 + C + II; 3 + B + III
- b. 1 + A + III; 2 + B + I; 3 + C + II
- c. 1 + C + I; 2 + A + III; 3 + B + II
- d. 1 + B + III; 2 + C + I; 3 + A + II



## Question 9

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

- I. The renewal of an International design registration may be effected for any or all of the designated Contracting Parties and for any or all of the industrial designs that are the subject of the International registration.
  
  - II. The renewal of an International trademark registration may be effected for any or all of the designated Contracting Parties and for any or all of the goods/services the International trademark registration is registered for.
- a. Only statement I is correct.
  - b. Only statement II is correct.
  - c. Statement I and II are both correct.
  - d. Both statements are incorrect.

## Question 10

An International trademark registration designating the EU was filed on 5 December 2021. The date of first republication was on 28 April 2022. Until when was/is it possible to validly file an opposition against the EU designation?

- a. Until 28 August 2022.
- b. Until 5 April 2022.
- c. Until 28 July 2022.
- d. Until 29 August 2022.

## Question 11

PACE offers applicants the opportunity to accelerate search and/or examination of their European patent applications.

Which of the following statements is correct?

- a. Requests to accelerate search or examination can be filed at the same time.
- b. Requests to accelerate search or examination can be made for multiple applications at a time.
- c. Requests to accelerate search or examination can be made on paper.
- d. Requests to accelerate search or examination may be filed only once during each stage of the procedure.

## Question 12

A European patent application, filed on 19 August 2020, was granted on 26 May 2022.

After timely validating this European patent in Germany, France, The United Kingdom, Italy and The Netherlands, what will be the due date for payment of the first renewal fee without paying any additional fee?

- a. **DE:** 31 August 2022; **FR:** 31 August 2022; **GB:** 31 August 2022; **IT:** 31 August 2022; **NL:** 31 August 2022.
- b. **DE:** 31 August 2023; **FR:** 31 August 2023; **GB:** 31 August 2023; **IT:** 31 August 2023; **NL:** 31 August 2023.
- c. **DE:** 31 August 2022; **FR:** 31 August 2022; **GB:** 31 August 2024; **IT:** 31 August 2024; **NL:** 31 August 2023.
- d. **DE:** 31 August 2023; **FR:** 31 August 2023; **GB:** 31 August 2024; **IT:** 31 August 2024; **NL:** 31 August 2024.

### Question 13

European patent application EP2 was filed in the name of Appel B.V., claiming priority of an earlier European patent application, EP1. EP1 was also filed in the name of Appel B.V.

Shortly before the filing of EP2 all Intellectual Property rights (including the right to claim priority) were assigned from Appel B.V. to a daughter company, Peer B.V. A Deed of Assignment was signed but it was not filed at the EPO yet.

Which of the following statements is/are correct?

- I. The right to claim priority of EP2 is valid, because Peer B.V. is a daughter company of Appel B.V.
  - II. Appel B.V. has the right to claim priority for EP2 because it is the applicant of record of EP1.
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- a. Statements I and II are both correct.
  - b. Only statement I is correct.
  - c. Statement I and II are both incorrect.
  - d. Only statement II is correct.

## Question 14

During examination of a European patent application a communication pursuant to Art. 94(3) was issued on 5 May 2022 indicating a period for reply of two months from the date of notification of the communication.

Your client wishes to extend the time limit to reply, as long as possible, but without incurring costs and without the need to prove exceptional circumstances are applicable.

What will be the new time limit to respond to this communication?

- a. 16 July 2022.
- b. 15 September 2022.
- c. 15 November 2022.
- d. 16 November 2022.

## Question 15

A European patent application was filed at the European Patent Office without paying any fee. Shortly after filing, the filing fee was paid. Six weeks after filing, a communication notifying a loss of rights was received by the applicant because the search fee was not paid. Is it still possible to pay the search fee and, if so, what amount must be paid?

- a. No, it is no longer possible to pay the search fee and the patent application shall be deemed to be withdrawn.
- b. Yes, it is still possible to pay the search fee within one month after notification of the communication without using further processing. The amount that must be paid is € 1390,00.
- c. Yes, it is still possible to pay the fee using further processing. The amount that must be paid is € 1665,00.
- d. Yes, it is still possible to pay the fee using further processing. The amount that must be paid is € 2085,00.

## Question 16

Which of the following statements regarding the designation of the inventor of a European patent application is/are correct?

- I. The designation must state the family name, given names and full address of the inventor.
  - II. The European Patent Office does not verify the accuracy of the designation of the inventor.
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- a. Only statement I is correct.
  - b. Statement I and I are both correct.
  - c. Only statement II is correct.
  - d. Statement I and II are both incorrect.



## Question 17

A Dutch applicant filed an International patent application with the European Patent Office as Receiving Office on 12 May 2021. The European Patent Office acted as International Searching Authority and has drawn up an International Search Report. Recently, the applicant decided that he wishes to enter the regional phase before the European Patent Office.

Which of the following statements regarding the procedure for entry of the Euro-PCT application into the European phase is not correct?

- a. It is possible to request early entry into the European phase. The European Patent Office will then start the processing of this Euro-PCT application before expiry of the 31 month period from the priority date.
- b. The International publication takes the place of the publication of this Euro-PCT application.
- c. The International Search Report drawn up by the European Patent Office takes the place of the European Search Report of this Euro-PCT application.
- d. The European Patent Office will draw up a supplementary search report and a search opinion for this Euro-PCT application after entry into the European phase.

## Question 18

You have been asked by your patent attorney to draft a suitable Deed of Assignment for recording a transfer of rights of a Dutch patent at the Dutch Patent Office.

Please indicate which of the below elements do not have to be included in the Deed of Assignment.

- I. Name and address of assignor and assignee
- II. Signature of a witness
- III. Apostille
- IV. Statement of acceptance by the assignee

- a. Elements I and II
- b. Elements II, III and IV
- c. Elements II and III
- d. Elements III and IV

## Question 19

Applicant Y filed a Dutch patent application on 25 April 2022, claiming priority of a Chinese patent application, filed by applicant X on 26 April 2021. The priority application was filed in the Chinese language.

Which of the following statements is incorrect?

- a. The deadline for claiming priority of the Chinese patent application is 26 August 2022.
- b. Since the applicant of the Dutch patent application is not the same as the applicant who filed the priority application, a document establishing the rights of applicant Y must be filed.
- c. Since the priority application was filed in the Chinese language, a translation in Dutch, French, German or English of that application must be filed together with the priority document.
- d. The Dutch patent application can be filed in any language, provided that a translation in an accepted language is filed at the latest two months after invitation from the Dutch Patent Office.

## Question 20

A European patent application, filed on 3 May 2017 was granted on 5 January 2022. On 2 May 2022 you noticed an instruction in the file to validate this patent in The Netherlands. After consulting the Dutch patent register on the same day you became aware no action was taken and the patent has lapsed.

Which of the following statements is correct?

- a. It is possible to validly file a request for restoration of rights, the deadline for filing such request is 5 April 2023.
- b. It is possible to validly file a request for restoration of rights, the deadline for filing such request is 4 July 2022.
- c. It is no longer possible to validate this patent in the Netherlands since the deadline for validation expired on 5 April 2022.
- d. It is possible to validly file a request for restoration of rights, the deadline for filing such request is 5 January 2023.

## Case 1

Recently your IP law firm started working with a new client: Hatsekidee B.V. (HBV), a Dutch company. Previously HBV worked with another IP law firm.

The previous IP law firm filed an International patent application (HBV22-PCTNL) with Hatsekidee B.V. as sole applicant on 3 January 2022 at the Netherlands Patent Office in its capacity as Receiving Office. The specification, claims, and abstract of HBV22-PCTNL as filed are written in the Dutch language. The application does not claim priority of an earlier filed patent application.

An informal handwritten note of the patent attorney of the previous IP law firm on this application mentions that a translation needs to be filed ultimately on 3 March 2023.

- a) Considering the Netherlands Patent Office accepts PCT applications in Dutch.
  - i. Is it required to file a translation? Motivate your answer.
  - ii. Is 3 March 2023 indeed the correct due date? Motivate your answer.

After studying the case you find there is an earlier filed German patent application (HBV21-DE) filed on 5 July 2021 at the German Patent Office in the German language. The Dutch text of HBV22-PCTNL appears to be a certified translation of HBV21-DE. Apparently it was the intention to have HBV22-PCTNL claim priority of HBV21-DE, but as mentioned above, HBV22-PCTNL was actually filed without claiming priority.

You conclude it should still be possible to add the priority claim to HBV22-PCTNL. You mention this to the patent attorney in your firm handling HBV-22PCTNL. She agrees, and upon her request you prepare a letter requesting to add the priority claim.

- b) To which office(s) can the letter be submitted?
- c) What is the due date for submitting the request for adding the priority claim? Motivate your answer.
- d) What will be the new due date for filing a translation of HBV22-PCTNL after the request for adding the priority claim has been granted?

A colleague with whom you discuss this case mentions that even in the theoretical situation that the translation is filed after the due date, it would still be possible to validly file a translation.

- e) Do you agree that there are remedies available if the translation would not be filed by the due date? Motivate your answer.

After studying the application the patent attorney handling HBV22-PCTNL wants to file an amended set of claims.

- f) Consider the below
  - i. How many opportunities are there during the International Phase to submit amended claims in case no Demand is filed?

- ii. Where should these be filed?
- iii. What would be the applicable time limit?

Further investigation shows that for the earlier filed German patent application HBV21-DE, Mr. Bor de Wolf is mentioned as sole inventor and sole applicant.

Furthermore your firm's patent attorney finds an assignment dated 7 December 2021 by which Mr. Bor de Wolf assigns his rights to the German patent application HBV21-DE – including the right to claim priority therefrom – to HBV.

Mr. Lowieke de Vos, director of HBV, has signed the assignment on behalf of HBV.

- g) In hindsight, as the original applicant of HBV22-PCTNL is not the same as for HBV21-DE, does this block the possibility to validly claim priority? Motivate your answer.

Finally, HBV22-PCTNL and HBV21-DE mention different inventors:

- HBV22-PCTNL: Mr. Lowieke de Vos
- HBV21-DE: Mr. Bor de Wolf

Your firm's patent attorney discusses with Mr. Lowieke de Vos and Mr. Bor de Wolf which of them is the actual inventor. They agree that Mr. Bor de Wolf is the inventor, and that the inventor named for HBV22-PCTNL should be corrected. Your firm's patent attorney asks you to file a request to get the inventor on HBV22-PCTNL corrected to ensure HBV22-PCTNL has the same inventor named as HBV21-DE, namely Mr. Bor de Wolf.

- h) Should the request include a confirmation signed by Mr. Bor de Wolf that he agrees to be mentioned as inventor?
- i) Should the request include a confirmation signed by Mr. Lowieke de Vos that he agrees his name is deleted as inventor?

## Case 2

A Benelux trademark application (not being a collective or certification mark) for the trademark PERFECT CHEMICALS was filed for goods in class 1 by Hydrogen B.V.

a) Mention five filing requirements to obtain a filing date for a Benelux trademark application.

The Benelux Office for Intellectual Property (BOIP) sends you a regularisation letter, informing you that the description of goods as mentioned in class 1 is unclear or imprecise, and asks you to provide alternative acceptable wording.

b) What is the minimum period BOIP grants for responding to the regularisation letter?

c) You wish to extend the deadline for responding to the regularisation letter. What is the maximum period BOIP may grant and from which date do you calculate this maximum period?

d) What happens to the Benelux trademark application if no response to the regularisation letter is filed?

Your client does decide to file a response to the regularisation letter within the set period. The response contains alternative wording for the description of goods and this is accepted by BOIP.

Although you have overcome the objection regarding the description of goods, BOIP sends you a provisional refusal on absolute grounds informing you that the applied for sign is descriptive and devoid of any distinctive character.

e) Mention the three options that are available after receipt of this provisional refusal.

f) You did not file objections at BOIP against the provisional refusal decision. Is it possible to file an appeal against the final refusal decision?

g) Which court(s) is/are competent?

### Case 3

On 20 March 2020 the Dutch company Lion B.V. received a communication from the European Patent Office informing it of the text in which it intends to grant a European patent.

- a. The communication invites Lion B.V. to take two actions within a specified time limit. Mention the two actions to be taken.
- b. What would have been the effect if Lion B.V. failed to perform these actions in due time?

The necessary actions were performed within the prescribed time limit and on 14 October 2020 the mention of the grant of the European patent was published. The patent was granted in the English language and Lion B.V. validated the patent in The United Kingdom, Germany and The Netherlands.

The company Tiger B.V. contacted their patent attorney in November 2020 because they became aware of the grant of this European patent application in the name of Lion B.V., being one of their competitors.

The claims of the granted European patent were relevant for a new product that Tiger B.V. was developing at that time in The Netherlands. Tiger B.V. asked their patent attorney whether it would be possible to object to the grant of Lion B.V.'s patent. She suggested that Tiger B.V. could oppose the patent.

- c. What was the last date to validly file a notice of opposition?
- d. What requirement, in addition to filing the notice of opposition, had to be met by that date in order to have the opposition deemed filed?
- e. Mention 4 aspects that the notice of opposition should contain.

On 8 June 2021 the notice of opposition was filed. A week later Tiger B.V.'s patent attorney received a notification from the EPO indicating that the opponent was not identified.

- f. Was it possible to correct this deficiency? If possible, indicate the last date to correct the deficiency.

The European Patent Office informed Lion B.V. in August 2021 that a notice of opposition was filed by Tiger B.V.

Lion B.V. further received a communication from the European Patent Office inviting them to file a response to the opposition.

- g. Was Lion B.V. obliged to file a response?

Oral proceedings before the Opposition Division took place on 15 April 2022.

- h. Mention the possible decisions of the Opposition Division.

The Opposition Division decided to maintain the patent in amended form, the claims are amended as compared to the claims of the granted patent.



- i. Which actions needed to be performed by Lion B.V. after the decision of the Opposition Division became final, if no appeal against the decision was filed, to maintain a valid patent in the countries it was originally validated?