

Platform Formalities Officers - Examination 2016

Thursday 26 May 2016

Exam starts: 2.00 pm / Exam ends: 5.00 pm

1. The Examination 2016 comprises 20 multiple choice questions and 5 open cases
2. You should attempt all questions
3. Please write clearly, as it is difficult to award marks to illegible answers
4. The Examination consists of 25 pages (20 multiple choice questions and 5 open cases)
5. In addition you are provided with
 - Answer sheets (6 pages)
 - Calendars 2015, 2016, 2017 and 2018
 - Official Holidays 2016 OCNL, WIPO, BOIP and EPO (2 pages)
6. Please ensure your Examination Number is written on each page of your answer sheets and any forms submitted. **Please do NOT write your name on the answer sheets**
7. When you have finished your exam, we would request you to place all answer sheets including the coloured paper (name, number and signature) in the envelope and to seal the envelop.

Marking

Multiple choice questions:	3 marks per multiple choice question (20 questions)
Case 1:	8 marks
Case 2:	10 marks
Case 3:	9 marks
Case 4:	9 marks
Case 5:	4 marks

Answer sheet - 1

Multiple choice questions:

Mark the correct answer with an X in box **A, B, C** or **D**

	A	B	C	D	
Question 1.					
Question 2.					
Question 3.					
Question 4.					
Question 5.					
Question 6.					
Question 7.					
Question 8.					
Question 9.					
Question 10.					
Question 11.					
Question 12.					
Question 13.					
Question 14.					
Question 15.					
Question 16.					
Question 17.					
Question 18.					
Question 19.					
Question 20.					

Answer sheet - 5

Case 4:

Calendar 2015

JANUARY

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MARCH

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Calendar 2016

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Calendar 2017

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Calendar 2018

JANUARY

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Official Holidays 2016

1 / 2 pages

OCNL

Friday	1 January 2016	New Year's Day
Monday	28 March 2016	Easter Monday
Wednesday	27 April 2016	King's Day
Thursday	5 May 2016	Liberation Day/ Ascension Day
Monday	16 May 2016	Whit Monday
Monday	26 December 2016	Christmas

WIPO

Friday	1 January 2016	New Year
Friday	25 March 2016	Easter
Monday	28 March 2016	Easter
Thursday	5 May 2016	Ascension Day
Monday	16 May 2016	Whitsun
Thursday	8 September 2016	Jeûne Genevois
Monday	26 December 2016	Christmas
Friday	30 December 2016	New Year

BOIP

Friday	1 January 2016	New Year's Day
Monday	28 March 2016	Easter Monday
Thursday	5 May 2016	Ascension Day
Friday	6 May 2016	Office closed
Monday	16 May 2016	Whit Monday
Monday	26 December 2016	Christmas

Days in 2016 on which the Office is *deemed to be closed* in connection with determining compliance with terms and deadlines.

Wednesday	27 April 2016	<i>King's Day in the Netherlands</i>
Thursday	23 June 2016	<i>National Day of Luxemburg</i>
Thursday	21 July 2016	<i>National Day of Belgium</i>
Monday	15 August 2016	<i>Assumption of Mary</i>
Tuesday	1 November 2016	<i>All saints</i>
Wednesday	2 November 2016	<i>All Souls Day</i>
Friday	11 November 2016	<i>Armistice</i>
Tuesday	15 November 2016	<i>King's Day Belgium</i>

Official Holidays 2016

2 / 2 pages

EPO

Munich

Friday	1 January 2016	New Year's Day
Wednesday	6 January 2016	Epiphany
Friday	25 March 2016	Good Friday
Monday	28 March 2016	Easter Monday
Thursday	5 May 2016	Ascension Day
Monday	16 May 2016	Whit Monday
Thursday	26 May 2016	Corpus Christi
Monday	15 August 2016	Assumption Day
Monday	3 October 2016	Day of German Unity
Tuesday	1 November 2016	All Saint's Day
Monday	26 December 2016	Boxing Day

The Hague

Friday	1 January 2016	New Year's Day
Friday	25 March 2016	Good Friday
Monday	28 March 2016	Easter Monday
Wednesday	27 April 2016	National Holiday
Thursday	5 May 2016	Ascension Day
Monday	16 May 2016	Whit Monday
Monday	26 December 2016	Boxing Day

Berlin

Friday	1 January 2016	New Year's Day
Friday	25 March 2016	Good Friday
Monday	28 March 2016	Easter Monday
Thursday	5 May 2016	Ascension Day
Monday	16 May 2016	Whit Monday
Monday	3 October 2016	Day of German Unity
Monday	26 December 2016	Boxing Day

Vienna

Friday	1 January 2016	New Year's Day
Wednesday	6 January 2016	Epiphany
Monday	28 March 2016	Easter Monday
Thursday	5 May 2016	Ascension Day
Monday	16 May 2016	Whit Monday
Thursday	26 May 2016	Corpus Christi
Monday	15 August 2016	Assumption Day
Wednesday	26 October 2016	National Holiday
Tuesday	1 November 2016	All Saint's Day
Thursday	8 December 2016	Immaculate Conception
Monday	26 December 2016	Boxing Day

Examination 2016 (25 pages)

Examination - 1

Question 1

A professional representative acts as agent for the following actions:

- I Withdrawing an International patent application at the European Patent Office as receiving Office.
- II. Filing a demand for international preliminary examination for an International patent application at the European Patent Office as the International Preliminary Examination Authority.

Which of the following statements is correct?

- a. For both I and II a power of attorney for each applicant is always required.
- b. For I a power of attorney for each applicant is always required.
- c. For II a power of attorney for each applicant is always required.
- d. For both I and II the power of attorney may be waived for each applicant.

Examination - 2

Question 2

PACE offers applicants the opportunity to accelerate search or examination for their European patent applications.

Which of the following statements is NOT correct?

- a. Requests to accelerate search or examination for a European patent application will only be accepted if the request is filed online using the prescribed EPO Form.
- b. Requests to accelerate search or examination can only be made for one European patent application at a time.
- c. If a request for accelerated examination for a European patent application is withdrawn, a second request for accelerated examination for the same European patent application can be validly made.
- d. A European patent application will be removed from the PACE program if the European patent application is deemed to be withdrawn.

Examination - 3

Question 3

A European patent application, filed on 20 June 2011, was granted on 18 May 2016.

After timely validating this European patent in The Netherlands, what will be the deadline for payment of the first renewal fee in The Netherlands without paying any additional fee?

- a. 31 May 2016
- b. 30 June 2016
- c. 31 July 2016
- d. 1 August 2016

Examination - 4

Question 4

Mr. Young, who is working in your office, is a professional representative before the European Patent Office. An inventor resident of San Marino validly filed a European patent application last week. He is considering to appoint Mr. Young as professional representative to help him prosecute the application.

Which of the following statements is correct?

- a. The inventor is obliged to be represented by a professional representative before the European Patent Office.
- b. In order to be validly represented by Mr. Young a signed authorization must be filed with the European Patent Office.
- c. A new representative need not file a signed authorization, if the European Patent Office is notified by your office that Mr. Young's authorization has terminated.
- d. For a change of representative to be validly registered with the European Patent Office, an official fee has to be paid to the European Patent Office.

Examination - 5

Question 5

On 2 June 2014 you filed an International patent application claiming priority of a European patent application filed on 31 May 2013. The following national entries were filed:

- India on 14 December 2015
- China on 30 November 2015
- Japan on 27 November 2015

What are the respective dates of filing a request for examination in these countries?

- a. India, China and Japan: 31 May 2016
- b. India: 31 May 2017; China: 31 May 2017; Japan: 2 June 2017
- c. India: 31 May 2016; China: 31 May 2016; Japan: 27 November 2018
- d. India: 31 May 2017; China: 31 May 2016; Japan: 2 June 2017

Examination - 6

Question 6

An applicant validly filed a European patent application on 8 May 2014 as a first filing.

Which of the following statements is NOT correct?

- a. The renewal fee for the third year is due on 31 May 2016.
- b. If the applicant pays the renewal fee for the third year with the required additional fee on 30 November 2016, the renewal fee is deemed to be validly paid.
- c. If the applicant fails to observe the time limit for paying the renewal fee for the third year with the required additional fee, the remedy of re-establishment of rights is in principle available.
- d. The renewal fee for the third year could have been validly paid on filing.

Examination - 7

Question 7

The international filing fee must be paid to the receiving Office within one month from the date of receipt of the International patent application. Can the international filing fee still be validly paid after expiry of that time limit?

- a. The international filing fee can be validly paid within one month from the date of an invitation from the receiving Office to pay the required amount.
- b. The international filing fee can be validly paid within two months from the date of an invitation from the receiving Office to pay the required amount.
- c. The international filing fee can be validly paid within 18 months from the priority date, or the international filing date if no priority is claimed.
- d. The international filing fee cannot be validly paid after the one month time limit anymore.

Examination - 8

Question 8

Your office filed a European patent application claiming priority from a Chinese patent application and a Danish patent application. Upon filing you did not file a copy of the search results of the priority applications.

Which of the following statements is correct?

- a. Your office will receive an invitation under Rule 70b EPC to file copies of the search results of the Chinese and the Danish priority application within 2 months.
- b. Your office will receive an invitation under Rule 70b EPC to file a copy of the search results of the Chinese priority application within 2 months.
- c. Your office will receive an invitation under Rule 70b EPC to file a copy of the search results of the Danish priority application within 2 months.
- d. You will not receive an invitation under Rule 70b EPC because copies of the search results of both priority applications are available to the European Patent Office and are automatically included in the file of the European patent application.

Examination - 9

Question 9

Your office filed a Dutch patent application on 25 January 2016 claiming priority of a German patent application filed on 23 January 2015. Upon filing the Dutch patent application, no choice about the type of search was indicated and no search fee was paid. By letter dated 4 February 2016 The Netherlands Patent Office invited your office to indicate the type of search and to pay the prescribed fee.

What was/is the ultimate date for filing the completed request for novelty search?

- a. 4 April 2016
- b. 23 February 2016
- c. 25 May 2016
- d. 27 February 2017

Examination - 10

Question 10

Your client filed an International patent application on 5 February 2014 and entered the national phase for the United States of America within the prescribed time limit. An application data sheet identifying each inventor and providing each inventor's residence and mailing address was included on filing. The Declaration of inventor was not filed in the international phase.

Please indicate at which time in the procedure of this US national phase the Declaration of inventor has to be filed at the USPTO.

- a. After filing the US national phase the USPTO will issue the Notice to File Missing Parts wherein a time limit of two months from the date of the Notice to File Missing Parts is indicated. Within these two months the Declaration of inventor has to be filed. This first due date can be extended up till six months by paying an additional fee.
- b. The Declaration of inventor has to be filed before the Issue Fee payment date. As a reminder the Notice of Acceptance will include a Notice requiring the Declaration of inventor.
- c. The Declaration of inventor has to be filed before the Notice of Allowance is issued. As a reminder the Notice of Acceptance will include a Notice requiring the Declaration of inventor.
- d. The Declaration of inventor has to be filed before the Notice of Acceptance is issued.

Examination - 11

Question 11

You filed an International patent application at the European Patent Office as receiving Office. The claims of this 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 PCT; these amendments under Art. 19 PCT can be filed with the International Bureau and the European Patent Office.
- b. The applicant is entitled to amend the claims under Art. 34 PCT; these amendments under Art. 34 PCT 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 PCT; these amendments under Art. 19 PCT must be in the language in which the International patent application is published.
- d. The applicant is entitled to amend the claims under Art. 34 PCT; these amendments under Art. 34 PCT can only be filed with the International Bureau.

Examination - 12

Question 12

Your office received an invitation from the Examining Division to correct deficiencies in a European patent application within a period of two months. The communication is dated 16 March 2016, but was already available in your electronic Mailbox via EPO Online Services on 14 March 2016.

What is/was the last date to respond to the communication of the Examining Division?

- a. 27 May 2016
- b. 26 May 2016
- c. 24 May 2016
- d. 17 May 2016

Examination - 13

Question 13

One of your clients requests your office to enter the national phase for the United States of America based on their International patent application. On the last day of the prescribed time limit you send the order letter to your US agent. The next day you have not received any confirmation of receipt or filing from your US agent and later in the afternoon you decide to phone your US agent in order to have him confirm the filing of the US national phase. It turns out that your US agent did not file the US national phase because your order letter was overlooked.

Can the US national phase still be entered?

- a. Yes, the US national phase can be revived if it is shown to the satisfaction of the USPTO that the delay was unintentional. A written request and a statement of unintentional delay have to be filed accompanied by a petition fee.
- b. No, the time limit for filing a national phase in the United States of America is 30 months from the filing date of the International patent application or if priority is claimed 30 months from the priority date. If the prescribed 30 month time limit for filing the US national phase is missed the US national phase can no longer be filed.
- c. Yes, the US national phase can be revived if it is shown to the satisfaction of the USPTO that the delay was caused in spite of all due care. A written request has to be filed accompanied by a petition fee.
- d. Yes, the US national phase can still be filed. It is possible to make use of the one year grace period for the United States of America.

Examination - 14

Question 14

Your client received a Communication under Rule 71(3) EPC from the Examining Division, wherein the Examining Division informs the client of its intention to grant the European patent application. The communication provides a period of 4 months from notification for the required acts. This period ends on 27 May 2016. Your office is made aware of this action today and it is impossible to comply with the requirements in time.

Which of the following statements is correct?

- a. You can request an extension of two months, which request will be granted.
- b. You can request further processing. Such further processing shall comprise the payment of the fee for grant and publishing and filing of the translation of the claims, as well as the payment of a further processing fee at the level of 50% of the fee for grant and publishing.
- c. You can request further processing. Such further processing shall comprise the payment of the fee for grant and publishing and filing of the translation of the claims, as well as the payment of a further processing fee at the level of 50% of the fee for grant and publishing, and the payment of a flat fee for further processing for the late filing of the translations of the claims.
- d. You can request further processing. Such further processing shall comprise the payment of the fee for grant and publishing and filing of the translation of the claims, as well as the payment of a flat fee for further processing for grant, publishing and for the late filing of the translation of the claims.

Examination - 15

Question 15

Your office is representing a US applicant. On 2 May 2016, you faxed a description and an empty Request Form (Form 1001) to the European Patent Office. The fax header indicates your fax number. On 17 May 2016, you faxed a set of claims. On 18 May 2016, you faxed a fully completed Request Form, including the complete name and address of the applicant.

Which date will be accorded as filing date?

- a. 2 May 2016
- b. 18 May 2016
- c. 17 May 2016
- d. None of the above

Examination - 16

Question 16

Your client wishes to record a change of ownership in the patent register of The Netherlands Patent Office with regard to their Dutch patent. In addition, the client also wishes to record a change of ownership in the trademark register of the Benelux Office for Intellectual Property (BOIP) with regard to their Benelux trademark registration.

Does the relevant Authority require an original deed of assignment (or a certified copy of a notary) or does a simple copy of the deed of assignment suffice?

- a. The Netherlands Patent Office requires an original deed of assignment (or a certified copy of a notary). The BOIP is satisfied with a simple copy of the deed of assignment.
- b. The Netherlands Patent Office is satisfied with a simple copy of the deed of assignment but the BOIP requires an original deed of assignment (or a certified copy of a notary).
- c. The Netherlands Patent Office and the BOIP both require an original deed of assignment (or a certified copy of a notary).
- d. The Netherlands Patent Office and the BOIP are both satisfied with a simple copy of the deed of assignment.

Examination - 17

Question 17

Please review the following statements regarding claiming priority according to the Paris Convention:

- I. With regard to patents and industrial designs, priority can be claimed within 12 months.
- II. With regard to trademarks and utility models priority can be claimed within 6 months.

Which of the above statements is/are correct?

- a. Statements I and II are both correct.
- b. Only statement I is correct.
- c. Only statement II is correct.
- d. Both statements are wrong.

Examination - 18

Question 18

Please review the following statements regarding the amended EU Trademark Regulation.

- I. As of the date of entering into force of the amended EU Trademark Regulation it is no longer possible to request for renewal and pay the renewal fee until the last day of the month in which protection ends. This applies however only for European Union Trademark Registrations that expire on or after 22 September 2016.
- II. Renewal fees paid before the amended EU Trademark Regulation entered into force are subject to the "old" fee schedule (one fee to cover the renewal of the first three classes, additional fee for each class over three classes) regardless of the date of expiry of the European Union Trademark Registration.

Which of the above statements is/are correct?

- a. Statements I and II are both correct.
- b. Only statement I is correct.
- c. Only statement II is correct.
- d. Both statements are wrong.

Examination - 19

Question 19

Your client, the Dutch company Hollandse Frieten BV requested your office, IP4Everyone in The Hague to file a Benelux trademark application "A LA CARTE". Your office filed this Benelux trademark application. The Benelux Office for Intellectual Property (BOIP) refused your client's trademark on absolute grounds. Although you filed a written objection to this refusal within the prescribed time limit the BOIP upholds the refusal and your office received a definitive refusal decision.

Meanwhile your client assigned his trademark application to the Belgian company Vlaamse Frieten bvba and this assignment was registered at the BOIP one week after receiving the definitive refusal decision. The Belgian company Vlaamse Frieten bvba is of course not pleased with this definitive refusal decision and would like to file an appeal.

What is the deadline for the Belgian company Vlaamse Frieten bvba to file the appeal and where does the appeal have to be filed?

- a. Vlaamse Frieten bvba has to file the appeal before the Court of Appeal in Brussels (Hof van Beroep) within 3 months from the date of the decision.
- b. Vlaamse Frieten bvba has to file the appeal before the Court of Appeal in The Hague (Gerechtshof) within 3 months from the date of the decision.
- c. Vlaamse Frieten bvba has to file the appeal before the Court of Appeal in Brussels (Hof van Beroep) within 2 months from the date of the decision.
- d. Vlaamse Frieten bvba has to file the appeal before the Court of Appeal in The Hague (Gerechtshof) within 2 months from the date of the decision.

Examination - 20

Question 20

For one of your clients your office recently filed a Community Design application. Your client indicated that all the designs will have to be kept secret for some time. Thus you requested deferment for all the designs upon filing. The Community Design application contains 4 different designs in the same Locarno class.

Please review the following statements:

- I. Upon filing of this Community Design application you immediately had to pay the registration fee, the publication fee and the deferment fee for all 4 designs.
- II. The maximum period for deferment is always 30 months from the date of filing.

Which of the above statements is/are correct?

- a. Statements I and II are both correct.
- b. Only statement I is correct.
- c. Only statement II is correct.
- d. Both statements are wrong.

Examination - 21

Case 1

On 19 May 2016 you filed an International patent application. This International patent application claims priority of a European patent application filed on 15 June 2015.

Assuming that you will not request any extension of time or apply for any remedy, what is the last day for performing the following actions? Motivate your answer.

- a. Submitting the priority document
- b. Entry into the national phase for India
- c. Requesting supplemental international search

You validly withdraw the priority claim on 3 July 2016. Assuming that you will not request any extension of time or apply for any remedy, what is the last day for performing the following actions? Motivate your answer.

- d. Submitting the priority document
- e. Entry into the national phase for India
- f. Requesting supplemental international search

Examination - 22

Case 2

Your client CoffeeBreak filed a European patent application on 20 May 2015 claiming a new type of coffee maker. CoffeeBreak asks you to file an International patent application claiming priority of the European patent application without amendments compared to the European patent application. The priority application contains drawings that are essential for understanding the invention.

On 17 May 2016 you filed an International patent application claiming priority of the European patent application at the International Bureau using Form PCT/RO/101. Your colleague handling a patent application on shoe soles left a set of drawings on the printer. By mistake you filed this set of drawings with the International patent application on the coffee maker instead of the correct set of drawings.

- a. You discover your mistake today, 26 May 2016. Assuming that the International Bureau does not detect the wrong drawings, what actions can you take on your own motion to maintain the filing date and what is the applicable time limit for performing these actions? Motivate your answer.
- b. You do not discover your mistake until receiving a RO/107 notification from the International Bureau dated 20 June 2016. What actions do you take to maintain the filing date and what is the applicable time limit for performing these actions? Motivate your answer.
- c. What would be your answer to questions a and b, if you forgot to claim priority of the European patent application on filing? Motivate your answer.

You did not discover your mistake yourself and completely missed the communication from the International Bureau of 20 June 2016. You only find out about the mistake on 27 October 2016 after receiving the Written Opinion. The invention has not been and will not be made public by any other means than publication by the International Bureau. You intend to withdraw your International patent application before publication and file a new International patent application with the correct drawings.

- d. Are you still in time to prevent publication of the International patent application? Motivate your answer.

Examination - 23

Case 3

On 27 October 2013 an International patent application was filed as a first filing. The application was published on 30 April 2015 together with the search report. The European Patent Office has acted as International Searching Authority. The search report and the written opinion are favorable in all respects. No Demand was filed.

- a. What is the due date for entering the European regional phase? Motivate your answer.

The applicant wishes to enter the European regional phase by online filing. He does not wish to designate any extension state. It is noted that the application has less than 15 claims and less than 36 pages.

- b. Which official fee(s) is/are due by the due date calculated in question a? You don't have to provide the fee amount(s).

Applicant seems to temporarily have a financial problem and asks whether it is possible to enter the European regional phase without paying the official fee(s) mentioned in question b.

- c. Suppose you would perform all acts for entering the European regional phase by the due date calculated in question a, except for paying the official fee(s) mentioned in question b. What can you do to remedy this omission? Please mention any additional fee(s) involved and how this/these fee(s) is/are calculated. You don't have to provide the fee amount(s).

Fortunately applicant has timely resolved his financial problem. Accordingly, applicant today instructs you to enter the European regional phase by the due date calculated in question a, as well as to immediately pay the official fee(s) mentioned in question b upon entering the European regional phase. The European regional entry is based on the application as published, which had received the favorable search report and written opinion. Applicant asks you to accelerate the grant procedure as much as possible.

- d. What will you do to achieve the requested acceleration of the grant procedure?

Now suppose that, indeed, you will shortly receive a Communication under Rule 71(3) EPC from the European Patent Office based on the application as published. Furthermore suppose that you will discover some spelling mistakes in the application text as intended for grant.

- e. What can you do to correct these spelling mistakes, without causing substantial delay of the grant?

Examination - 24

Case 4

Ten years ago your office filed an International trademark registration for one of your clients in which two countries, Germany and China were designated.

The expiration date is coming up this year. The client contacts you to discuss the formalities with regard to renewal and subsequent designation.

The client informed you that he has not used his International trademark registration in one of the designated countries. The client also informed you that he wishes to add another country to the existing International trademark registration by means of subsequent designation.

- a. The client wishes to know if it is possible to renew the International trademark registration with regard to one designated country only, instead of two. Is this indeed possible and if so, how?
- b. The client instructs you to add Japan to the International trademark registration by means of subsequent designation. Please motivate why Japan can be designated in an International trademark registration.

The office of origin, with regard to the involved International trademark registration, is the Benelux Office for Intellectual Property (BOIP).

- c. Please indicate if the request for subsequent designation should be filed at the World Intellectual Property Organization (WIPO) or at BOIP or if it is possible to file the request at either one of the offices.
- d. What are the consequences for the original filing date of the International trademark registration when Japan is added to the registration later, by means of subsequent designation?

The International trademark registration expires on Monday 6 June 2016, according to WIPO's notification, but can already be renewed as you may know, since renewal is possible 6 months prior to the actual expiration date. Today the client has instructed you to renew the International trademark registration and to add Japan by means of subsequent designation to the International trademark registration.

- e. To minimize the costs, should the request for renewal be filed first or should the subsequent designation be filed first? Motivate your answer.

As mentioned before, the expiration date of this International trademark registration has been set by WIPO on Monday 6 June 2016.

- f. Until when can the International trademark registration be renewed at the latest by means of paying additional fees?
- g. Besides paying the basic fee for renewal, what percentage of the basic fee for renewal needs to be paid for renewing in the grace period?

Examination - 25

Case 5

Unfortunately an opposition has been filed against your client's Benelux trademark application. Your office received the notification that the opposition is admissible and that the proceedings will commence on Tuesday 6 September 2016, in other words after expiry of the two-month "cooling-off" period. Your client and the counterparty enter into negotiations and wish to mutually extend the cooling-off period (negotiation period).

- a. What is the last day for filing the request for extension (also called suspension) of the cooling-off period?
- b. By how many months can the cooling-off period be extended per request?
- c. How many times can the cooling-off period be extended without having to pay official fees for extension?
- d. In case the client wishes to cancel the cooling-off period and wishes to have the adversarial phase of the opposition commence as soon as possible, what kind of request should the client make?