EUROPEAN QUALIFYING EXAMINATION 2019

Pre-examination

This paper comprises:

* Instructions for answering the paper and marking scheme 2019/P/EN/1
* Legal questions (Questions 1-10) 2019/P/EN/2-11
* Claims analysis (Questions 11-20) 2019/P/EN/12-26
* Annexes: calendars for 2018 and 2019 with indication of days on which at least one of the EPO filing offices is not open for the receipt of documents 2019/P/EN/27-28
Instructions for answering the paper and marking scheme

1. The pre-examination is in the form of a multiple choice paper. It comprises 20 questions in all, 10 questions relating to legal knowledge (questions 1-10) and 10 questions relating to the analysis of claims (questions 11-20). Questions must be answered by filling in the circles on the answer sheet printed on the reverse side of your personal cover sheet. The duration of this examination is four hours.

(a) Each question X has 4 separate statements, namely X.1, X.2, X.3 and X.4. For each statement X.1, X.2, X.3 and X.4 candidates must unambiguously indicate on the answer sheet whether the statement is true or false. For each statement X.1, X.2, X.3 and X.4 only one answer can be given, either true or false. Each statement within a question is to be considered independently of the other statements.

(b) To indicate that a statement X.1, X.2, X.3 or X.4 is true, the corresponding circle for “true” should be filled using a black medium soft HB pencil. To indicate that a statement X.1, X.2, X.3 or X.4 is false, the corresponding circle for “false” should be filled using a black medium soft HB pencil.

(c) If, in reply to a statement X.1, X.2, X.3 or X.4, no indication is given as to whether the statement is true or false, or if both true and false are indicated, then the answer to this statement will be deemed not to be correct. Accordingly, if a candidate fills or partly fills a circle they do not intend to submit as part of their answer, it is essential that any mark in that circle is fully erased.

(d) There is no possibility for submitting notes or remarks to the examiner. Any such submission will be disregarded.

2. Only one answer sheet per candidate will be available.

3. Marking

(a) Marks awarded per question
If within one question X, none or only one of the answers to the statements X.1, X.2, X.3 and X.4 is correct, then 0 marks will be awarded for this question X. If within one question X, two of the answers to the statements X.1, X.2, X.3 and X.4 are correct, then 1 mark will be awarded for this question X. If within one question X, three of the answers to the statements X.1, X.2, X.3 and X.4 are correct, then 3 marks will be awarded for this question X. If within one question X, all four of the answers to the statements X.1, X.2, X.3 and X.4 are correct, then 5 marks will be awarded for this question X.

(b) Total number of marks awarded
The total number of marks awarded for the pre-examination is the sum of the marks achieved for each question, calculated as stated above.

2019/P/EN/1
Legal questions

Question 1

You are a professional representative before the EPO. Today, 25 February 2019, you receive an email from your client, an Italian engineer, Pietro. He wants you to file a European patent application EP-P in his name, claiming priority of IT-P, an Italian patent application. IT-P was jointly filed in the name of Pietro and Gianna on 23 February 2018. A copy of IT-P is attached to the email. No other document or information is sent with the email.

For each of the statements 1.1 – 1.4, indicate on the answer sheet whether the statement is true or false:

1.1 On the basis of the information given above, you can file today a European patent application EP-P, which will be accorded 25 February 2019 as the date of filing, in Pietro’s name at the EPO.

1.2 On the basis of the information given above, you can be sure that EP-P can validly claim priority from IT-P.

1.3 You can validly file EP-P in Italian.

1.4 Pietro as a natural person is not entitled to a reduction of the filing fee.
Legal questions

Question 2

You are a professional representative before the EPO and represent the patent proprietor in opposition proceedings. You are summoned to oral proceedings. The language of the proceedings is English. The patent proprietor has its headquarters in the USA and has a research centre in Portugal. You informed the opposition division in due time that you would attend the oral proceedings accompanied by Sarah, the inventor. You have stated that Sarah would make oral submissions at the oral proceedings and would explain feature X of claim 1. On the day of the oral proceedings you arrive with Sarah, but also with Jane and Pedro, whose intention to attend was not previously made known. Jane is a US patent agent. Pedro is employed at the research centre in Portugal. The opponent's representative is also attending the oral proceedings.

For each of the statements 2.1 – 2.4, indicate on the answer sheet whether the statement is true or false:

2.1 You will be allowed to make oral submissions at the oral proceedings.

2.2 As a general rule, Jane will be allowed to make oral submissions at the oral proceedings.

2.3 As a general rule, Pedro will be allowed to make oral submissions at the oral proceedings.

2.4 If the parties and the opposition division agree, Sarah will be allowed to make oral submissions in Portuguese at the oral proceedings.
Question 3

Company Z filed a European patent application EP-Z on 30 January 2018, without claiming any priority. EP-Z has eleven claims. Alina and Elena are designated as the inventors of EP-Z. However, Alina is wrongly designated as an inventor. The EPO drew up a search report and a favourable opinion in August 2018. An international application PCT-Z was filed in December 2018, validly claiming the priority of EP-Z.

For each of the statements 3.1 – 3.4, indicate on the answer sheet whether the statement is true or false:

3.1 The first communication in respect of EP-Z that can be expected from the examining division is a communication under Rule 71(3) EPC.

3.2 If you receive a communication under Rule 71(3) EPC for EP-Z in October 2019 and if you fulfil all the requirements of Rule 71(5) EPC on 31 January 2020, no fees other than the grant and publishing fee are due.

3.3 It is possible to cancel the designation of Alina as an inventor of EP-Z without Alina's consent.

3.4 PCT-Z will be deemed to be withdrawn, once a patent is granted on the basis of EP-Z.
Legal questions

Question 4

Today, 25 February 2019, Didier files a European patent application EP-D with the EPO. Didier is resident in Belgium.

For each of the statements 4.1 – 4.4, indicate on the answer sheet whether the statement is true or false:

4.1 If Didier files the application in Dutch, he must file a translation into one of the EPO's official languages within two months of filing the application.

4.2 Didier can pay the search fee in May 2019 provided he requests further processing.

4.3 If Didier does not submit any claims either on filing or within the time limit set by the EPO in a communication inviting him to correct this deficiency, Didier can validly request further processing and file the claims.

4.4 To validly file a European patent application, Didier can file a reference to a previously filed application, wherein the reference contains (i) the filing date of the previous application, (ii) the file number of the previous application, (iii) the office where the previous application was filed and (iv) an indication that this reference replaces the description and any drawings.
Legal questions

Question 5

Antonia intends to file the following patent applications:
(1) a European patent application EP-A
(2) an international patent application PCT-AW.
PCT-AW will be jointly filed in the name of Antonia and Werner.
Werner lives in Berlin; Antonia lives in Argentina and is of Argentinian nationality. Argentina is not a PCT member state.

For each of the statements 5.1 – 5.4, indicate on the answer sheet whether the statement is true or false:

5.1 Antonia can validly file EP-A with the EPO.

5.2 PCT-AW can be validly filed with the EPO as receiving Office.

5.3 PCT-AW can be validly filed with the International Bureau as receiving office.

5.4 If, two months after validly filing PCT-AW, Antonia moves to Berlin, the EPO will record in relation to PCT-AW the change of residence, upon request.
Legal questions

Question 6

Company A filed a European patent application EP-AB with the EPO. Company A and Company B agreed to transfer European patent application EP-AB to Company B. All Contracting States are designated.

For each of the statements 6.1 – 6.4, indicate on the answer sheet whether the statement is true or false:

6.1 It is possible to register in the European Patent Register Company A as sole applicant for EP-AB for the EPC contracting state Germany and to register Company B as sole applicant for EP-AB for all the other EPC contracting states.

6.2 The only conditions for recording the assignment of EP-AB from Company A to Company B for all contracting states in the European Patent Register are the submission of a written request signed by Company B and the payment of an administrative fee.

6.3 The transfer of a European patent application only becomes effective vis-à-vis the EPO when it is published in the European Patent Register.

6.4 The transfer of a European patent can be recorded in the European Patent Register during the opposition period.
Legal questions

Question 7

Company X has filed a European patent application EP-X before the EPO. Company Y has filed a European patent application EP-Y before the EPO. Neither EP-X nor EP-Y claim any priority. Company X developed the invention of European patent application EP-X in Canada, and Company Y developed the same invention in Germany independently of Company X's invention. The filing date of EP-X is before the filing date of EP-Y. Both applications claim the same subject-matter and disclose the same invention. No other patent applications have been filed by Company X or Company Y.

For each of the statements 7.1 – 7.4, indicate on the answer sheet whether the statement is true or false:

7.1 The right to a European patent on the invention belongs to Company X even if a European patent based on EP-Y was granted before the grant of a European patent based on EP-X.

7.2 The right to a European patent on the invention belongs to Company X even if EP-X was withdrawn without being published.

7.3 During proceedings before the EPO, Company X and Company Y will inevitably be asked to prove their entitlement to exercise the right to their respective European patents.

7.4 Even if EP-X was published after the filing date of EP-Y, EP-X could be validly cited as prior art in evaluating the inventive step of EP-Y.
Legal questions

Question 8

An applicant receives two notifications from the EPO on 5 February 2019. Both notifications are dated 31 January 2019. The first notification relates to the international application PCT-S and the second notification relates to European patent application EP-S.

For each of the statements 8.1 – 8.4, indicate on the answer sheet whether the statement is true or false:

8.1 If a period of one month is set for replying to the notification relating to PCT-S, that time limit will expire on 11 March 2019.

8.2 If a period of two months is set for replying to the notification relating to PCT-S, that time limit will expire on 9 April 2019.

8.3 The notification relating to EP-S will be deemed to have been delivered on Sunday, 10 February 2019.

8.4 If a period of four months is set for replying to the notification relating to EP-S, that time limit will expire on 10 June 2019.
Legal questions

Question 9

For each of the statements 9.1 – 9.4, indicate on the answer sheet whether the statement is true or false:

In the following case, the EPO will refund at least a part of the respective fee:

9.1 The examination fee for a European patent application is refunded in full if the European patent application is withdrawn before the examining division has assumed responsibility for it.

9.2 The opposition fee is refunded in part if the opposition is withdrawn before the notice of opposition is communicated to the patent proprietor.

9.3 The examination fee for a European patent application is refunded in part if the European patent application is withdrawn today, 25 February 2019, which is two weeks after receipt of the first invitation under Article 94(3) EPC issued by the examining division proper.

9.4 The appeal fee is refunded in full if the appeal is withdrawn before the filing of the statement of grounds of appeal and before the period for filing that statement has expired.
Legal questions

Question 10

Hans filed an admissible notice of opposition against European patent EP-H. EP-H was validated in all EPC contracting states. EP-H validly claims priority from an earlier patent application. In the notice of opposition, Hans raised an objection of lack of inventive step of claim 1 over the combination of two prior art documents, D1 and D2. While the opposition proceedings are pending, Theresa files third-party observations, arguing that claim 1 lacks novelty over D3, a German patent application filed before the priority date of EP-H and published after that date.

For each of the statements 10.1 – 10.4, indicate on the answer sheet whether the statement is true or false:

10.1 Third parties are entitled to file observations during opposition proceedings.

10.2 If oral proceedings are to be held and the opposition division follows Theresa’s objections with regard to novelty, it will also summon Theresa to the oral proceedings.

10.3 If the European patent is maintained in amended form, it could contain different claims for different designated states.

10.4 If Hans does not file a copy of D1 within the opposition period, the opposition will be inadmissible.
The present invention relates to a washing composition in the form of a tablet. The washing composition comprises:

(a) One or more detergents (i.e. surface active agents), preferably in an amount of 10 to 30% of the weight of the tablet.
(b) One or more builders, preferably in an amount of 20 to 60% of the weight of the tablet. Builders help to keep the water soft. Various builders and the properties described herein are known to the skilled person. Builders can be (i) phosphate-based (i.e. they comprise phosphate salts) or (ii) phosphate salt-free (e.g. polycarbonate-based, silicate-based and so on). Phosphate salt-free builders are preferred.
(c) One or more bleaches, preferably in an amount of 10 to 30% of the weight of the tablet. Bleaches destroy coloured dirt components such as chocolate or red wine stains.
(d) Optionally a colourant, preferably in an amount of 1 to 5% of the weight of the tablet.

With regard to the tablet, preferably all detergents are contained in a first layer of the tablet and all bleaches are contained in a second layer of the tablet. We have now discovered that the pressure typically used to prepare the tablet by way of compression leads to the degradation of one or more bleaches, whenever the detergents and one or more bleaches are mixed together. The advantage of having all detergents and all bleaches in separate layers is to preserve the bleaches, both during compression and during storage. Preferably a third layer is placed between the first and the second layer. The third layer preferably comprises only a builder.
Claims analysis

For questions 11 to 14, consider that the following claims are the ones originally filed:

I.1 A tablet comprising one or more detergents, one or more builders, and one or more bleaches.
I.2 A tablet according to claim I.1, wherein the tablet comprises a first layer and a second layer.
I.3 A tablet according to claims I.1 or I.2, wherein the first layer comprises a detergent.
I.4 A tablet according to any one of claims I.1 to I.3, wherein the second layer comprises a bleach.
I.5 A tablet according to claim I.2, wherein all detergents are contained in the first layer of the tablet and all bleaches are contained in the second layer of the tablet.
I.6 A tablet according to claim I.2, wherein the first layer and the second layer are separated by a third layer placed between the first and the second layer.
I.7 A tablet according to claim I.2, wherein the tablet comprises a third layer.
I.8 A tablet according to claim I.6, wherein the third layer comprises one or more builders.
I.9 A tablet according to claim I.7, wherein the tablet consists of the first layer, the second layer and the third layer.
Claims analysis

Document D1

D1 discloses tablets usable in washing machines and dishwashers. The tablets include, as usual, a detergent, a builder, and a bleach. In a first embodiment, all ingredients are mixed together and compressed to form a tablet. In a second embodiment, the tablet is rendered optically more attractive to the consumer. According to the second embodiment, all ingredients are mixed together and then the mixture is divided into two separate parts. To a first part of the blend, a colourant is added. The first part of the mixture forms the first layer of the tablet and the second part of the mixture (which does not comprise the colourant) forms the second layer of the tablet.

Document D2

D2 discloses washing tablets comprising two or more layers. Bleaches, detergents, and colourants are usually produced by different manufacturers. It is suggested to produce a tablet comprising three layers: a first layer comprising a builder and a bleach, a second layer comprising a builder and a detergent and a third layer comprising a builder and a colourant.
Claims analysis

Question 11

For each of the statements 11.1 – 11.4, indicate on the answer sheet whether the statement is true or false:

11.1 Claim I.5 lacks clarity because of its dependency.

11.2 Claim I.4 clearly defines that the tablet has a first layer comprising a detergent and a second layer comprising a bleach.

11.3 Claim I.8 clearly defines that no builder is contained in the first and second layer.

11.4 A tablet comprising one or more detergents, one or more builders and one or more bleaches, wherein the tablet comprises four layers, falls under the scope of claim I.9.

Question 12

For each of the statements 12.1 – 12.4, indicate on the answer sheet whether the statement is true or false:

12.1 The first embodiment of D1 destroys the novelty of the subject-matter of claim I.2.

12.2 The second embodiment of D1 destroys the novelty of the subject-matter of claim I.2.

12.3 The first embodiment of D1 destroys the novelty of the subject-matter of claim I.3, when claim I.3 is dependent on claim I.2.

12.4 D1 destroys the novelty of the subject-matter of claim I.7.
Claims analysis

Question 13

For each of the statements 13.1 – 13.4, indicate on the answer sheet whether the statement is true or false:

13.1 The subject-matter of claim I.8 is novel over D2.
13.2 The subject-matter of claim I.7 is novel over D2.
13.3 The subject-matter of claim I.3 is novel over D2.
13.4 The subject-matter of claim I.4 is novel over D2.

Question 14

For each of the statements 14.1 – 14.4, indicate on the answer sheet whether the statement is true or false:

Under Article 123(2) EPC, there is a basis for amending claim I.1 of the originally filed application as follows:

14.1 A tablet comprising one or more detergents, one or more builders, and one or more bleaches, wherein the builder comprises phosphate salts.
14.2 A tablet comprising one or more detergents, one or more builders, and one or more bleaches, wherein the builder is phosphate salt-free.
14.3 A tablet comprising one or more detergents, one or more builders, and one or more bleaches, and a colourant in an amount of 5% of the weight of the tablet.
14.4 A tablet comprising one or more detergents, one or more bleaches, and a colourant in an amount of 1 to 5% of the weight of the tablet, wherein the colourant is in the same layer as the detergent.
Claims analysis

Question 15

For this question, consider that the following claim is one that was originally filed and that documents D1 and D2 are cited as prior art.

II.1 A tablet comprising one or more bleaches, one or more detergents, and one or more builders, wherein all the detergents are contained in the first layer of the tablet and all the bleaches are contained in the second layer of the tablet and a third layer is placed between the first and the second layer.

For each of the statements 15.1 – 15.4, indicate on the answer sheet whether the statement is true or false:

15.1 The closest prior art can only be a document that deals with the technical problem of preserving the bleach.

15.2 D2 does not teach to provide a tablet which contains one or more bleaches in one layer and one or more detergents in a different layer.

15.3 D2 does not teach that a bleach can be stabilized by separating it from a detergent.

15.4 D2 does not teach that the layer containing all the detergents must be separated from the layer containing all the bleaches with the aid of a third layer.
Claims analysis

For questions 16 to 20, consider that the following description and Fig. 1 are the ones originally filed.

Description of the invention

[001] The present patent application relates to a composite structure such as an aircraft wing cover. Usually, such composite structures are mechanically fastened, for instance by bolts, to other workpieces. The bolts pass through holes in the composite structure.

[002] The problem is to strengthen the holes.

[003] The solution is to employ reinforcing inserts for the holes in the composite structure. An embodiment provides a composite structure comprising a stack of plies of fibre-reinforced composite material, one or more reinforcing inserts and one or more holes. The holes pass through the reinforcing inserts.

[004] Preferably, a support layer is joined to each reinforcing insert. The support layer is formed from a different material to the plies of composite material. The support layer carries the reinforcing inserts during the assembly of the composite structure, and improves the fastening strength.

[005] The composite fibres are preferably carbon fibres, while the support layer is made of metal such as aluminium.

[006] Fig. 1 shows a composite structure 1 comprising a stack 2 which has 10 to 100 plies of fibre-reinforced composite material and a support layer such as a support grid 3. Cylindrical reinforcing inserts 4 are embedded in the stack 2 and bonded to the support grid 3. A hole 5 passes through each reinforcing insert 4.
Claims analysis

[007] The mesh size is measured according to standard XYZ. The mesh size of the support grid 3 is between 0.5 and 1500, preferably between 100 and 150. It was discovered by chance that using a support grid 3 having a mesh size between 100 and 150 improves the fastening strength considerably. This further improves the strengthening effect of the reinforcing inserts 4.

Fig. 1

Question 16

For each of the statements 16.1 - 16.4, indicate on the answer sheet whether the statement is true or false:

The following features are described as essential in the description:

16.1 The mesh size is between 0.5 and 1500.
16.2 The presence of at least one hole in the composite structure.
16.3 The composite fibres are carbon fibres.
16.4 The presence of at least one reinforcing insert.
Claims analysis

For questions 17 to 20, consider that the following claims are the ones originally filed:

Claims

III.1 A composite structure comprising a stack of plies of fibre-reinforced composite material.

III.2 The composite structure according to claim III.1, further comprising one or more reinforcing inserts and one or more holes.

III.3 The composite structure according to claim III.1 or III.2, further comprising a support layer joined to the reinforcing inserts.

III.4 The composite structure according to any one of claims III.1 to III.3, wherein the support layer is a support grid.

III.5 The composite structure according to any one of claims III.1 to III.4, comprising a support grid with a mesh size between 0.5 and 1500, measured according to standard XYZ.

III.6 The composite structure according to claim III.5, wherein the support grid has a mesh size between 100 and 150, measured according to standard XYZ.

III.7 The composite structure according to any one of claims III.1 to III.6, wherein the support grid is made of aluminium.

III.8 The composite structure according to any one of claims III.1 to III.7, wherein the stack has 10 to 100 plies of fibre-reinforced composite material.
Claims analysis

Question 17

For each of the statements 17.1 - 17.4, indicate on the answer sheet whether the statement is true or false:

17.1 Claim III.2 clearly solves the technical problem of the invention as stated in paragraph [002].

17.2 A composite structure comprising a stack of plies of fibre-reinforced composite material and a support grid of copper falls under the scope of claim III.1.

17.3 A composite structure comprising a stack of 50 plies of fibre-reinforced composite material falls under the scope of claim III.8.

17.4 There is a direct and unambiguous basis in the application to amend claim III.8 to read as follows: “The composite structure according to any one of claims III.1 to III.6, wherein the stack has 50 plies of fibre-reinforced composite material”.

2019/P/EN/21
Claims analysis

For questions 18 to 20, consider that D11 and D12 have been cited as prior art documents.

Document D11

[001] The invention is directed to a composite structure comprising a stack of plies of fibre-reinforced composite material. The invention provides a strong structure for aircraft components such as aircraft wing covers.

[002] Fig. 2 shows a composite structure 10 comprising a stack 13 of plies of fibre-reinforced composite material and a support grid 12. This composite structure 10 is stronger than a structure without a support grid.

[003] The mesh size is measured according to standard XYZ. The mesh size of the support grid 12 is between 0.7 and 2000.
The invention is directed to a structure for bicycle components. Bicycle components are often mechanically fastened using fastening elements such as screws or the like. The problem to be solved is to strengthen holes for receiving the fastening elements.

Fig. 3 shows a composite structure 20 comprising a stack 23 which has 5 to 90 plies of fibre-reinforced composite material. Very big elliptical reinforcing inserts 21 are embedded in the stack 23. A hole 22 passes through each reinforcing insert 21.
Claims analysis

Question 18

For each of the statements 18.1 - 18.4, indicate on the answer sheet whether the statement is true or false:

18.1 The subject-matter of claim III.2 is novel over D12.
18.2 The subject-matter of claim III.5 is novel over D11.
18.3 The subject-matter of claim III.6 is novel over D11.
18.4 The subject-matter of claim III.8 is novel over D12.
Claims analysis

For questions 19 and 20, consider that the following new set of claims (A.1 and A.2) has been filed by the applicant during the examination proceedings:

A.1 A composite structure comprising:
   - a stack of plies of fibre-reinforced composite material,
   - one or more reinforcing inserts, and
   - one or more holes extending through the reinforcing inserts,
     characterised in that it further comprises a support grid joined to the reinforcing inserts.

A.2 The composite structure according to claim A.1, wherein the support grid has a mesh size between 100 and 150, measured according to standard XYZ.

Question 19

For each of the statements 19.1 - 19.4, indicate on the answer sheet whether the statement is true or false:

19.1 Claim A.1 is allowable under Article 123(2) EPC.
19.2 Claim A.2 is allowable under Article 123(2) EPC.
19.3 Claim A.1 is in a correct two-part form with respect to D12 as the closest prior art.
19.4 D12 can be considered to be the closest prior art because it addresses the strengthening of holes in a composite structure.
Claims analysis

Question 20

For each of the statements 20.1 - 20.4, indicate on the answer sheet whether the statement is true or false:

20.1 D11 does not teach the strengthening of plies of fibre-reinforced composite material using a support grid.

20.2 A valid argument as to why the skilled person would not arrive at claim A.1 if he combined D11 and D12 is that neither of the documents teaches a support grid joined to a reinforcing insert.

20.3 In view of the fact that the range as claimed in A.2 falls within the range as disclosed in D11, the features of A.2 do not contribute to patentability over a combination of D11 and D12.

20.4 The features of claims A.1 and A.2 taken together are only a juxtaposition of features and do not have a combined technical effect.
### Annexes

#### 2018

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2019/P/DE/27
### Annexes

#### 2019

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### Tage / Days / Jours

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2019/P/DE/28