

Paper C

Thursday, 5 March 2009

6 hours, third day, morning

Instructions to candidates for preparing their answers

I. General provisions

1. Candidates are expected to be sufficiently familiar with
 - the Guidelines for Examination in the EPO and
 - the content of the Official Journal of the EPOas published up to the end of the year preceding their examination.
2. It will be assumed that candidates have read the examination paper in the language in which they give their answer. Where this is not the case, candidates should indicate on the front page of their answer the language in which they read the paper. The same applies to candidates who, having filed a corresponding request when enrolling for the examination, give their answer in a language other than English, French or German.
3. Candidates are to accept the facts given in the paper and to limit themselves to these facts. Whether and to what extent these facts are used is the responsibility of the candidate. Candidates are not to use any special knowledge they may have of the field of the invention.

IV. Paper C**

14. The paper will be presented in the form of a letter from a client to a professional representative accompanied by the European patent to be opposed and prior art documents. The annexed prior art will comprise at least three documents, including one in English and German only, one in English and French only, and one in German and French only.

The paper will contain a glossary of the specialist terminology used in the documents in the three official languages of the EPO as well as in any official language of a contracting state requested for that particular examination under Article 15(3), second sentence, REE.

15. Candidates are expected to put themselves in the position of the representative and, using only the information provided by the client, to prepare a notice of opposition which when typed would be ready for filing. The pre-printed opposition form provided may be used, but it is not obligatory and marks will not be lost if it is not used.
16. The notice of opposition prepared by candidates should comply with Article 100 and Rule 55 of the European Patent Convention (EPC), bearing in mind the relevant recommendations in the Guidelines for Examination in the EPO, Part D. However, in order to maintain anonymity, candidates must not give their real name, but should instead use the name of the representative to whom the client's letter is addressed.
17. The notice of opposition should contain all those (and no other) grounds – where possible against all the claims – which candidates consider in this particular case to be prejudicial to the maintenance of the patent. The omission of a good ground for opposition will lead to a loss of marks commensurate with the importance of the ground in the case concerned. The grounds of Article 100(b) will not be used.

Candidates must also briefly set out on a separate sheet reasons why they adopted or did not adopt the suggestions of the client. In addition any questions the client may have posed should be answered.

18. All claims should be treated separately taking due note of their dependencies.
19. Documents should be referred to by their annex number only, indicating the language used.
20. It is to be assumed that for all annexes which claim a priority, the disclosures of the annexes are identical with those of the corresponding priority documents unless there is evidence to suggest otherwise.

If, however, any facts presented need to be confirmed, eg in the case of an alleged prior public disclosure, candidates would be expected to state that such confirmation would be filed later.

Regardless of the date of the client's letter, candidates are to assume there is no possibility to confer with him.

21. Candidates should be aware that Annex 1 is fictitious and is not necessarily in a form that would have led to a patent granted by the European Patent Office.