

Candidate's answer

Part I:

1. (a) EP-1 filed by Mr B in Jan 2013, it is therefore too late to claim priority to EP-1 when filing a new EP application, as priority must be claimed within 12 months of filing date of EP-1 (art 87(1) EOC) (i.e. by Jan 2013).

Mr M cannot file a new application today as subject matter disclosed in July 2013 means new filing directed to subject matter A not novel or inventive, as disclosure state of art under Art 54(2) EPC. Not matter that disclosure evident abuse - as greater than 6 months ago (art 55(a) EPC) i.e.

July 2013 + 6M

= Jan 2013 latest date to file new EP of disclosure July 2013 to be non prejudicial disclosure.

However, she can start entitlement proceedings against Mr B, and file a new application in respect of the same subject matter - i.e. subject matter (Art 61(1)(a) EPC).

Not matter that EP1 is no longer pending - even if withdrawn 3rd party can still file a new European application in respect of same invention under Art (Art 61(1)(b) EPC) - although cannot request patent refusal (Art 61(1)(c)) or continue prosecution of EP1 - G3/92.

Steps to take:

Start entitlement proceedings at German courts

As Me B the applicant for EP1 and has his residence in Germany (Protocol on Recognition, Art 2) (unless prior agreement on another state in line with Art 5(2) of PoR).

Once she has final decision she must, within 3 months of decision recognising her entitlement, file a new EP application (Art 61(1)(b); R16(1)(a)).

She must pay the filing and search fees within 1 month of filing the new application (R17(2) EPC)

She must pay designation fee within 6 months of publication of Search Report for new application (R17(3))

New application must meet requirements of A76(1) i.e. not extend beyond subject matter of EP-1 (A61(2) EPC; G3/92; A76(1))

- But as describes invention A can direct new application to A.

New application must be filed in paper form at EPO in Hague, Berlin or Munich Offices (A61(2), A76(1), R36(2))

Must be filed in same language as EP-1 (R36(2))

Must meet all other formal requirements

If do so, new application entitled to filing date of EP-1 (A61(2), A76(1))

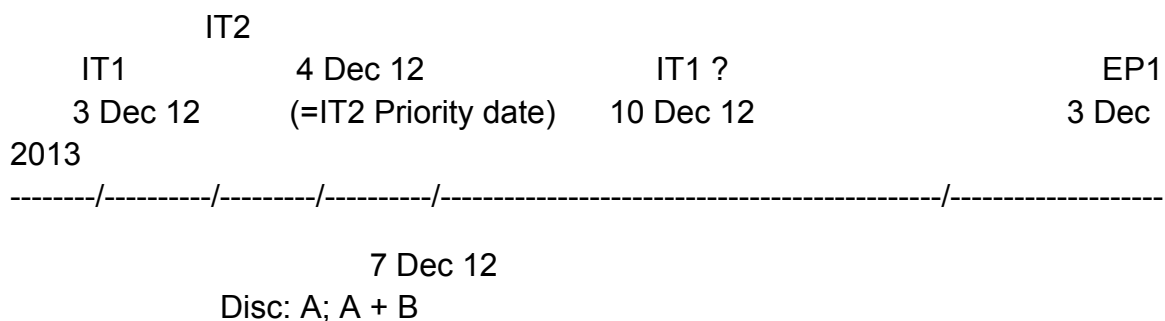
Therefore, effective date of application - Jan 2013 and July 2013 disclosure not prior art under A54(2) EPC → invention novel and inventive.

(b) All states - assuming all states designated for EP1 - as long as she pays designation fee within 6 months of publication of Search Report for new application - R17(3) EPC.

Also - only in states that recognise decision of German court under Protocol on Recognition.

Also - decision by EP court may judge Mrs M only entitled in some states - if that is the case she can only have protection in those states - R17 EPC; GL A IV 2.7.

2.



Yes - but for claim 1 must add priority claim to IT1 to be valid claim

Validity of EP1 priority claim:

EP1 filed with 12 month priority period from date of filing of IT2 (A87(1) EPC)

i.e. 4 Dec 2012 + 12M (A87(1) EPC; R 131(4) EPC)

4 Dec 2013 (Thursday)

EP1 filed 3 Dec 2013, so within 12 months (A87(1)(a))

Italy is state party to Paris Convention and IT2 is patent application which has been accorded a filing date (A87(3)IT2 and EP1 filed by same applicant → same person filed both applications (A87(1) EPC).

EP1 and IT2 are directed to same invention - i.e. to A subject matter and A + B subject matter.

However, IT2 not first application direct to subject matter A it is only first application to subject matter A + B. IT1 is first application to A - it was filed day before IT2. Further a IT2 filed before IT1 withdrawn, IT2 cannot be considered the first application, and cannot serve as basis for claiming priority to matter disclosed in IT1 i.e. subject matter A (A87(4) EPC)

Therefore, priority claim only valid for A + B, not for A.

(A + B different invention - new combination no disclosed in EP1 → priority claim for this invention is valid)

Right now - claim 1 effective date = filing date as priority claim to IT2 not valid (A89EPC) → date = 3 Dec 2013. As such symposium disclosure full prior art under A54(2) EPC and this invention A not novel (A54(1) EPC).

For claim 2 to A + B - is entitled to IT2 priority date = 4 Dec 2012.

Effective date of claim = 4 Dec 2012 (A89EPC)

Therefore 7 Dec 2012 disclosure not prior art under A 54(2) EPC, so invention A+B novel and inventive and therefore patentable.

→ Can have claim 2.

However CAN still add claim to priority of IT1 in EP1, as within 16 months of IT2 (current earliest priority date) and IT1 (new priority date to be added) (A88(1) R52(2))

- i.e. - 3 Dec 2012 + 16 M = 3 April 2014 (Thurs)
- i.e. 4 Dec 2012 + 16 M = 4 April 2014 (Fri)

IT1 - earliest priority date → must add claim to priority by 3 April 2014 (A88(1); A88(2) last sentence EPC)

Add claim to priority for IT1.

Can claim multiple priorities (A88(2)) - OK that EPO 1 claim priority to both IT1 and IT2.

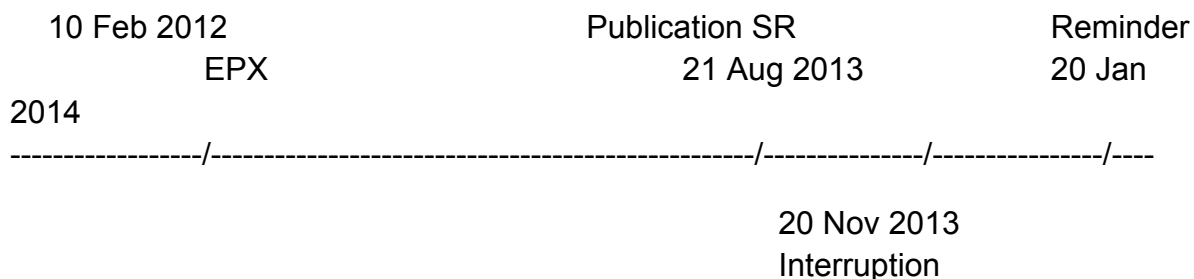
IT1 is first application directed to invention A. As such, if add priority claim -- effective date of claim 1 will be filing date of IT 1 so 3 Dec 2012 (A89 RPC). Therefore 7 December 2012 disclosure will not be A54(2) prior art, as now later than 3 December 2012 effective date of claim 1, and so claim 1 novel and inventive.

(As 'A + B' not in IT 1 - claim 2 effective date remains IT2 filing date = 4 Dec 2012)

To ass claim to priority for IT1 to EP 1

- file declaration of priority to IT1 at EPC giving date, state and number of IT1 (A88(1) EPC, R52(1) EPC).
- Provide certified copy of IT1 (and IT2 if not yet provided) within 16 months of earliest priority date = priority date IT1
= 3 Dec 2012 + 16M (R53(1); R131(4))
= 3 April 2014.

3.



Rep SR ; Not pay examination fee

April 2013 – want to pay.

Publication of Search Report in EP Bulletin on 21 August 2012 triggered 6 months to:

- Reply to deficiencies in Search Opinion accompanying the Search Report (R70a(1), ref to R70(1) EPC)
- Pay examination fee (A94(1), A94(2), R70(1))
 - o As request for examination done on filing as used form 001 - automatically request examination via tick box BUT request no deemed filed until pay fee (A94(2) EPC)

→ Deadline to do actions =

21 August 2013 + 6 months (R70(1), R131(4))

= 21 February 2013 (Friday)

which has passed.

However, proceedings interrupted due to legal incapacity of representative (R142(1)©) on:

20 Nov 2013 (at this point still 3 months and 1day until deadline).

In such a case proceedings resumed when EPO inform of new representative - as is case here (R142(3))

Proceedings resumed on 20 Jan 2014.

Reply to Search Opinion filed - so requirement of R70(1)(a) met.

For examination request - in this case act of paying exam fee as require fee payment for request, which was part of form 1001, to be considered filed (A94(2)EPC):

On 20 Jan 2014, less than 2 months (i.e. 1 month 1 day until 21 February 2014) before end of period in which the request for examination must be filed (= 21 Feb 2014).

As such - have 2 months from date of resumption to pay

examination fee (R142(4) - last sentence & J7/83)

Therefore: 20 Jan 2014 + 2M (R142(4), R131(4))

= 20 March 2014 (Thursday)

is last day to pay examination fee.

For payment of examination fee - further processing is available (A121, R135(1) EPC).

Therefore if not want to pay fee until April 2014, must use further processing: must request further processing within 2 months of notification of loss of rights due to failure to pay examination fee by 20 March 2014 deadline (R135(1)).

Must so omitted act + pay exam fee (R134(1) EPC last sentence, A94(2) EPC) and pay fee for further processing, which is 50% of exam fee (R135(1); RFees 2(1) Item 12).

Therefore further processing will be at least 10 days (R126(2) + 2 months (A121, R135(1) EPC) from deadline, so must request further processing at least until:

20 March 2014 + 1 d

30 March 2014 + 2M

30 May 2014

So after April 2014.

However, will result in significant increase in amount to pay

→ Recommend use 20 March 2013 date is possible, so to avoid payment of further processing fee.

4. No.

a) The request for an international application must be signed (R4.1(d) PCT). The request should be signed by the applicant (R4.15 PCT), however - can be signed by agent, as any act by the agent has the same effect of an act by the applicant (R90.3(a) PCT).

Therefore, agent can sign request on behalf of applicant. Normally appointment of agent for PCT requires the applicant signed request or a separate Power of Attorney (R90.4(a) PCT).

However, as EPO receiving office - no Power of Attorney is required, as EPO have waived this requirement (R90.4(d)).

Therefore agent validly appointed as EPO is receiving office so can sign application and no defect in view of requirement for signatures.

b) The applicant can withdraw the international application by signing the notice of withdrawal himself - R90bis.5.

The agent can sign the withdrawal (R90bis.5 + R90.3(a)) but to do so must first submit a signed Power of Attorney signed by the applicant (R90.4(a)(c)) because the requirement to file a separate Power of Attorney not waived under R90.4(d) where an agent submit a notice of withdrawal (R90.4(e)).

Must submit signed separate Power of Attorney to receiving office of International Bureau (R90.4(b))

Alternatively - could use general power of attorney (R90.5(a) - (d)).

5. a) For appeal to be admissible must:

- File notice of appeal within 2 months of notification of decision to be appealed - A 108 EPC, first sentence
- → must be filed by:
 - 6 August 2013 + 10 dates (R126(2) EPC - 'notification')
 - 16 August 2013 + 2 months (A108, R131(4) EPC)
 - = 16 October 2013 (Thursday)

[notification = 10 days (R126(2) PCT) - as where oral proceedings held decision must be given orally, but shall subsequently be given in writing and notified to parties - R111(1) EPC]

Appeal filed 4 October 2013 - as although notice filed 1 October 2013, as only paid fee on 4 Oct 2013 appeal only deemed filed when appeal fee paid (A108)

- Must submit statement setting out grounds of appeal within 4 months of notification - A 108 EPC - last sentence - so by
 - 6 August 2013 + 10d (R126(2) EPC)
 - 16 August 2013 + 4 M (A108, R131(4) EPC)
 - = 16 December 2013

was last day to submit statement - filed 23 November 2013 - is filed in time. Appears to meet requirements of R99(2) - is reasons to set aside decision and extent to be amended - as filed statement and new, inventive claim 1.

Assuming other formal requirements met - i.e. name and address of appellant (R99(1)(a) EPC), indication of impugned decision (R99(1)(b) EPC) and defined the subject matter of appeal (R99(1)(c) EPC) → appeal is admissible

(also - adversely effect party as patent refused → cam appeal (A107))

b) As oral proceedings of exam division - on applicant is party → so only 1 party to proceedings. Therefore interlocutory revision is possible (A109(1) EPC). If exam division find appeal admissible, which it is, and well founded it will rectify its decision (A109(1) EPC), likely will find well founded - as have indicated claim 2 of original claims meet requirements of EPC, and groups for appeal have claim 1 +2+ (= same as previous claim 2) as the single claim in submitted grounds.

If amendments clearly overcome grounds for refusal, as is case here, interlocutory revision should be granted even is further, new object will arise - because applicant has right to examination at 2 instances (t219/93, GL E XI 7.4.2).

Therefore - very likely exam division will reverse decision.

As regards appeal for reimbursement, unlikely it will be refunded - as in event of interlocutory revision (as likely to happen here) only reimburse is equitable by reason of substantial procedural violation (R103(1)(a)).

No procedural violation has occurred - as right to be heard met, and right to comment on reasons for refusal = lack of inventive step.

Exam division can order reimbursement if reverse decision and considers it equitable due to substantial procedural violation (R103(2)).

As unlikely exam division will reimburse appeal fee request for reimbursement will go to Board of Appeal which would have been competent to deal with substantive issues if no interlocutory revision had been granted (G3/03, J32/95).

6.a) Filing fee for a Euro-PCT will be the fixed filing fee - R159(1)(c), RFees 2(1) item 1 = 200 Euro (as not filed inline, filed by fax).

plus additional fee for Euro-PCT application comprising more than 35 pages (RFees 2(1) Item 1a, OJ 2009, 338) = 14 Euro per page for 36th and subsequent pages.

As PCT-CN was published in Chinese, additional fees for excess pages is calculated on the Chinese description as published and the new set of claims replacing the claims published by WIPO. Replacement claims must be filed in EPO official language (English, French or German = A14(1) EPC) - OJ 2008, 338.

Total page no = 1 for abstract

40 for CN description

3 for replacement claims

44

→ 9 additional pages fees due

9 x 14 = 126 Euro

Total filing fee = 200 Euro + 126 Euro

= 226 Euro

NB - for fees calculated on this must indicate on national phase entry that amended claims replace the claims as filed.

Also - require translation of claims *as filed* into English from Chinese associates - as these are required for publication of Euro-PCT in official language of EPO - A135(3) EPC - Must supply within 31 month period (A22(1) PCT, R159(1)(a) EPC)

- If not supply - applicant deemed withdrawn (A24(1) PCT, R160(1) EPC).

b) Filing fee due at 31 months from date of filing of PCT-CN (assume no priority claimed) (A153(1), R159(1) 1st sentence + (c))

31 months from filing =

4 October 2011 + 31M (R159)

4 May 2014 (Sunday)

→ can pay until next open date - R 134(1) EPC

= 5 May 2014 is last date to pay filing fee without incurring additional fee (i.e. further processing fee or re-establishment fee).

Part II Legal Opinion

1. EP-FR1 – filed by CLC on 26 March 2011. This is first application directed to a cream comprising a compound of class A and X.

- Validly filed, published in September 2011 and granted in Autumn 2012,
- Priority claim to FR1 made – FR1 filed on 23 April 2010.
- Priority claim valid because:
 - EP-FR1 filed within 12 month priority period for filing of FR1 – i.e. 26 March 2011 before 23 April 2011.
 - EP-FR1 and FR1 filed by same parties – both filed by CLC,,
 - FR1 is first application to subject matter K + X.
 - And both EP-FR1 and FR1 relate to same invention as EP-FR1 filed by reference to FR1 (although R40(1)(2) – same description and claims).
- Effective date of claim of EP-FR1 = 23 April 2010
- No known prior art
- EP-FR1 – claims:

Claim 1: cream composition comprising X and a compound belonging to family K

➔ Therefore covers cream comprising X and any of A, B,C or D – all of type K

Claim novel and inventive = x and K known but only separately

➔ New combination

➔ And inventive as surprising technical effect that X stabilises K.
- Validated in at least FR and CZ
 - Next renewal due end of March 2014 in Fr and CZ
 - (advise we monitor national registers to check those fee are paid.)
- As published Sept 2011 = EP-FR1 is A54(2) prior art for :EP-CZ1; CZ1 and EP-FR-2.

CZ1 – filed by Gray Dorian (GD)

- Has been withdrawn – not possible to use for XXX in CZ
- CZ1 is first application directed to invention of compound A + X + Y – as invention disclosed in CZ1.
- Validly filed – accorded filing date

EP-CZ1 – filed by GD on 10 August 2012

As EP application – can obtain protection in all EPC contracting states via EP including CZ and FR

- This is first application for B, X or D + X + Y.
- NOT first application for A + X + Y – this is CZ1
- Validly filed – as search has been carried out.
- Application published on or shortly after 16 October 2013.
- Priority claim to CZ1 made
- As regards validity of priority claim:
 - EP-CZ1 filed within 12 month priority period for CZ1 i.e.:
 - 16 April 2012 + 12M
 - 16 April 2013
 - Filed 10 August 2013 so within period
- Filed by same party – both CZ1 and EP-CZ1 filed by GD
- Some of subject matter same
 - Same matter = A + X + Y
 - (matter not same = B/C/D + X + Y)
- ➔ Partly same invention – i.e. for A + X + Y only
- CZ1 is first application for A + X + Y
 - (not for B/C/D + X + Y – both class K + X + Y not directly and unambiguously derivable for CZ1 as filed – only 'A', which is member of class K → species not give right to priority for genus).

OK that CZ1 subsequently withdrawn – A87(3) – not matter outcome of application!

Therefore – priority is valid but only for A + X + Y invention.

➔ Effective date of subject matter A + X + Y

= 16 April 2012 (A89 EPC)

➔ Effective date of subject matter B, C, D + X + Y –

= Filing date of EP-CZ1 = 10 August 2012.

➔ Effective date claims:

Claim 1 has two effective dates

= 16 April 2012 for A + X + Y

10 August 2012 for B/C/D + X + Y (OK – A 88(2) multiple priority 1 claim ok)

Claim 2 – effective date = 16 April 2012.

Prior art for EP-CZ1:

= EP-FR1 as A542) – a published before priority date and filing date,

BUT – EP-FR1 not effect patentability – as combination of A + X + Y new over A + Y, and surprising advantage of improving stability to a higher extent so therefore also inventive.

EP-FR2 – is A54(3) (- i.e. novelty only) prior art for subject matter: B/C/D +X + Y

(As EP-FR2 filed 5 May 2012 so before effective of that subject matter in EP-CZ1, but published Nov 2013 – so later publication date.)

EP-FR2 disclose cream however, EP-FR2 only discloses cream comprising A + X + Y + W

➔ Subject matter of B/C/D + X + Y is novel over disclosure in EP-FR2.

(NOT A54(3) prior art for A + X + Y of EPCZ3 – as earlier effective date)

Therefore – claims of EP-CZ1 – novel and inventive over all known prior art

Claims 1 and 2 patentable.

Actions to take for EP-CZ3:

Essential that retain priority date for EP-CZ3 so that EP-FRZ not become A54(3) prior art for subject matter entitled to CZ1 priority date (as A + X + Y not novel over A + X + Y + W).

Therefore must file translation of priority document CZ1 into English, French or German by:

6 months from publication of Search Report (if not lose priority claim R53(3) EPC) – so by

18 December 2013 + 6 M (R53(3) + OJ 2013 150, R70(1), R131(4))

18 June 2013 (Tuesday)

It is 6 month from Search Report publication date because when invitation to file translation of priority document at the stage of completion of Search Report – invitation to file translation (R53(3)) notified and period for filing requested translation is aligned with period for filing request for examination (OJ 3/2013 150 + R71(1)).

Also – as only paid filing and search fee: in same 6 month period (i.e by 18 June 2014):

Reply search opinion

Pay examination fee

(+ and request examination if not yet done on filing)

Pay designation fee

EP-FR2 - filed by CLC on 5 May 2012.

- Can use to obtain protection in CZ and FR.
- Validly filed – has been published
- Published 6 November 2013
- No priority claim made
- Effective date of all subject matter of EP-FR2 is 5 May 2012.
- Prior art =

EP-FR1 is A54(2) prior art for EP-FR2 – as was published in Sept 2011 before filing date of EP-FR2.

However – EP-FR2 novel over EP-FR1 - as discloses a new combination: A + X + Y + W (EP-FR1 disc A + Y only)

Part of EP-CZ1 is A54(3) prior art for EP-FR2 (that is subject matter = A + X + Y, which is entitled to CZ1 priority claim, as earlier effective date, later pub date)

(rest of subject matter EP-CZ1 not A54(3) prior art)

As only A54(3) prior art – only relevant to novelty of EP-FR2. EP-FR2 discloses combination of A + X + Y + W – this is new combination so novel (likely not inventive – as result not better – but inventive step in view of EP-CZ1 not relevant).]Claim of EP-FR1 directed to: cream composition comprising A, X, Y and W. This appears to be new and inventive in light of relevant prior art.

Summary of patents/application protecting creams:

- EP-FR1 covers any cream with composition comprising X + and K i.e. X + A or B or C or D.
- Valid an in force in FR and CZ.

ACTIONS – check renewals fee due end of March 2014 paid for those countered.

EP-CZ – pending EP application cream comprising

- Claims to cream comprising A, B, C or D + X + Y, and A + X + Y
Claims appear novel and inventive – likely patent will be granted.

ACTIONS – by 18 June 2014 file:

- translation of CZ1 into English, French or (R53(3))
- pay exam fee (+ request examination if necessary)
(R70(1), A94(1)(2))
- pay designation fee (R39(1))
- reply to deficiencies in Search Opinion (R70a(1))

EP-FR3

- pending application
- if claims grant – can protection for cream comp: A + X + Y + W.
- claim appear patentable – new and inventive
- advice monitor – published Nov 2013 so check all future acts go forward
- if known relevant prior art – could file 3rd party observations anonymously.

2.

- CLC do not have a patent covering 'A' in Europe
 - CLC have patent EP-FR3: claim directed to process for making compound Z.
 - A European patent to a process protects the use of the process, per se, and products directly obtained from the process (A64(2) EPC).
- EP-FR3 protects: process to make Z

Z made by process of EP-FR3

BC use process – but do so in India – so not infringe the EP-FR3 patent, therefore if correct no Indian equivalent BC are free to use process and product obtained from it outside Europe.

- We import A (not Z) from BC. Furthermore – NO trace of Z in compound A that get from BC – so no infringement as not import any Z when import A.
- A is not covered by process of EP-FR3; A is not the direct product of EP-FR3, Z is.

However A GD use was made using Z as a starting material – but properties significantly changed – i.e. Z not anti-ageing but A is. As A not direct product of process of EP-FR3 likely not infringed by importing A from India. However, infringement is matter for national courts – should get opinion from CZ agent whether importing A into CZ infringes EP-FR3.

However, in view of rights only being to direct product of process = Z – we should continue to obtain A from the Indian supplier.

3. Yes

- GD have a PCD – PCTCZ2 directed to new process to make A, B, C, and D.

Process can be new, even if product per se known – also appear advantageous as more efficient than process of EP-FR3.

PCTCZ2 published on or shortly after =

7 March 2011 + 18M

= 7 September 2012

As published - too late to file new application directed to new process.

PCTCZ2 filed on 12 September 2011

PCT not first invention to subject matter of PCTCZ2

-CZ2 is.

(CZ2 filed 7 March 2011 – priority period expired in 2012 → too late file new application to claim priority CZ2)

- Priority claim for PCTCZ2 to CZ2 appears valid
 - PCTCZ2 filed 12 September 2011 within 12 month priority period for CZ2.
 - Same parties filed CZ2 and PCTCZ2 = GD.
 - CZ2 first application to new process; and both CZ2 and PCTCZ2 directed to same invention.
 - Not matter CZ2 withdrawn subsequently before PCT filed (A4A(3) Paris convention; A8 PCT)
- Effective date of PCT subject matter = 7 March 2011.
- No new prior art – nothing cited in Search Opinion and positive IPRP
 - ➔ Patentable invention

National phase entry deadline = 31M from priority date (A153, R159(1) EPC)

7 March 2012 + 31M

7 October 2013 (Monday)

Therefore 31M for EP phase entry has expired

(cannot re-establish as chose not to enter by 7 October 2013)

However, no communication has been received by GD from EPO noting loss of rights for not entering EP phase within 31 months; and stating application deemed withdrawn (R160(2))

(Advise check EP Register that this is case)

Assuming no communication noting loss of rights application deemed withdrawn has been issued, can enter EP phase from PCTCZ2 late using further processing (A121, R135 EPC).

To do so, must:

- Within 2 months of notification under R10(2) of withdrawal (A121, R135(1) EPC): request further processing for all acts and fulfil acts of R159(1) EPC
 1. = specify documents on which European grant procedure to be based (R159(1)(b))
 2. = pay filing fee(R159(1)(c))
 3. = pay designation fee (R159 (1)(d))
 4. = request examination (R159 (1)(f))
 5. – pay examination fee (R159 (1)(g))

And – pay further processing fees:

For 2, 3, 5 – pay further processing fee for each = 50% of each fee due

For 4 –pay fixed further processing fee

Must also pay renewal fee for 3rd year – due September 2014.

It should have been paid at 31M deadline

- So on 7 October 2013.

Can pay 6M later using R51(2) grace period

→ Must pay renewal by 7 April 2014 (Monday).

(even if further processing later)

→ Do all acts before 7 April 2014

(all R159(1) acts, all further processing fees and requesting and pay renewal fee)

ADVISE GD – do as soon as possible AND before meet CLC next month.

As PCT filed English – no translation required as official language of EPO.

As EPO = Int Search Authority not have to pay search fee on regional phase entry

Can request processing before get A60(2) Communication.

Once have granted patent (or now - depending on provisional protection and translation required)

GD can stop GLC selling cream comprising A, B, C or D + X + Y

So stop them selling

A + X + Y + W – as within scope of claims 1 and 2 of EP-CZ1, or any of A/B/C/D +X + Y + W.

(but not A + X only (without Y), or B/C/D + X only)

As 'A' is best antiaging cream – we are in good position to negotiate:

We should propose a cross license, offering license of our patent application EP-CZ1 – to claim 2 at least (i.e. A + X + Y) – so that CLC can sell A + X + Y + W (or A + X + Y – as better), for us to have license of at A + X under claim 1 of EP-FR1 (but preferable of any K + X).

This will allow us to sell A = X + Y the best product, as most stable and best antiaging ingredient. However, as we are cross licensing – CLC will also be able to sell this. Likely will have to cross license as CLC in strong position as can stop us selling A + X completely.

As entering EP phase with PCT-CZ2, and as we do not manufacture chemicals ourselves, we could offer license of EP-PCT-CZ2 as CLC make compound A. They would likely be interested in this – as they make A and our process is more efficient.

Or we could offer exclusive license – so even if they do not want to use new process – it will stop other parties using it in Europe. (Alternatively could just sell EP-PCT-CZ2 to CLC if not interested in it at all).

We should show CLC at meeting evidence that have entered EP phase with PCT-CZ1. By offering sale or license of process patent, may get more favourable term for license from CLC to E-PFR1, i.e. reduced royalty, or let us have sole license.

Or alternatively, in exchange for license to process patent EP-PCT-CZ2 could get supply of A cheaper – make business more cost effective,

Examination Committee III: Paper D 2014 - Marking Details

Category		Maximum possible	Candidate No	
			Marks awarded	
			Marker	Marker
Part I	Question 1	6	5	5,5
Part I	Question 2	7	7	6,5
Part I	Question 3	8	4,5	5
Part I	Question 4	7	5	5,5
Part I	Question 5	6	6	6
Part I	Question 6	6	5,5	5,5
Part II	Question 1	33	31	30
Part II	Question 2	9	9	9
Part II	Question 3	9	6,5	7
Part II	Question 4	9	8	8
Total			87,5	88

Examination Committee III agrees on 88 marks and proposes the grade PASS