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EUROPEAN QUALIFYING EXAMINATION 2025

Paper D1-1

This Paper comprises:

Part I: Legal Questions

Question 1: 8 marks

Question 2: 7 marks

Question 3: 9 marks

QUESTION 1**(8 MARKS)**

On 11 November 2024, German applicants A and B jointly filed an international application PCT-AB with the EPO. PCT-AB validly claims priority from an earlier EP application EP-B, filed on 10 November 2023 by applicant B.

The European search report for EP-B cites only A documents.

Today (11 March 2025), A and B wish to delay the entry of PCT-AB into the regional phase before the EPO for as long as possible for strategic reasons.

What steps should be taken and why?

QUESTION 2

(7 MARKS)

On 16 January 2024, applicant C filed patent application IT-1 in Italian with the Italian patent office. IT-1 claims and describes invention A. IT-1 was withdrawn shortly after filing, without having been published. On 17 April 2024, invention A was published in a journal.

On 16 January 2025, applicant C filed application EP-1 with the EPO, claiming priority from IT-1. The filing and search fees were paid on the same day.

On 17 February 2025, applicant C filed application EP-2 in English with the EPO. EP-2 claims and describes invention B. EP-2 does not claim any priority.

Inventions A and B are unrelated.

Today (11 March 2025), applicant C notices that, by mistake, EP-1 neither claims nor describes invention A but includes the same description and claims as EP-2.

- (a) What should applicant C do to obtain a patent for invention A?
- (b) Applicant C additionally wants to prosecute invention B. What needs to be done to obtain a patent on the basis of EP-2?

QUESTION 3

(9 MARKS)

In appeal proceedings following the refusal of European patent application EP-D filed by company D, the Board remitted the case for grant based on a complete text which had been finally decided by the Board. Within the time limit set by the communication under Rule 71(3) EPC received in November 2024, D requested an amendment, namely the addition of a further dependent claim.

In a communication under Rule 112 EPC dated today (11 March 2025), D was informed that EP-D is deemed to be withdrawn.

- (a) Why was the communication under Rule 112 EPC issued by the EPO?
- (b) Can a patent be obtained with the complete text as decided by the Board and the additional dependent claim?