

## EUROPEAN QUALIFYING EXAMINATION 2022

# Paper D1-1

This Paper comprises:

Part I: Legal Questions

Question 1: 8 marks

Question 2: 10 marks

Question 3: 8 marks

**QUESTION 1****(8 MARKS)**

European patent application EP-F was filed in January 2017 by applicant F. The EPO issued a communication under Article 94(3) EPC dated 1 September 2020 and which sets a time limit of four months. Thereafter no acts, including the payment of fees, were performed with respect to EP-F. Since applicant F did not reply to the communication, the EPO issued a communication dated 4 March 2021 notifying a loss of rights under Rule 112(1) EPC.

Despite exercising all due care required by the circumstances, applicant F only became aware of the notification of loss of rights on 3 February 2022.

Which steps need to be performed to ensure that the prosecution of EP-F continues?

By when do these steps have to be performed?

## QUESTION 2

(10 MARKS)

On 22 February 2019 applicant B filed a European patent application EP-B in English with 15 claims. The European Patent Bulletin mentioned the publication of the European search report in August 2020. In the examination phase, applicant B filed an amended set of 16 claims.

On 12 November 2021 the Examining Division issued a communication informing applicant B that it intended to grant a patent based on EP-B with these 16 claims. Since this communication, no acts have been performed by or on behalf of applicant B.

Today you receive a phone call from applicant B asking you to correct before the EPO a spelling mistake in one of these 16 claims, the correction of which is obvious. Furthermore, applicant B wants the European patent based on EP-B to be granted as soon as possible and to take effect in the Netherlands.

What steps have to be taken and by when?

**QUESTION 3****(8 MARKS)**

Chinese company C filed an international application PCT-C on 26 May 2020 with the Chinese Patent Office (CNIPA) as receiving Office. PCT-C was filed in English without claiming priority. The only claim of PCT-C pertains to subject-matter C1, and its description discloses subject-matter C1 and subject-matter C2. Subject-matter C1 and subject-matter C2 are not linked by a single general inventive concept.

The international search report (ISR) was established by CNIPA on subject-matter C1.

1. Company C would like to have a supplementary international search report (SISR) established by the EPO.
  - (a) What should be done to request the SISR for subject-matter C1?
  - (b) Can the SISR cover subject-matter C2?
  
2. After the SISR is established by the EPO on subject-matter C1, PCT-C enters the European phase as Euro-PCT-C. Company C would like to obtain protection in Europe for subject-matter C2 instead. Can Euro-PCT-C be examined for subject-matter C2?