Europäisches Patentamt
European Patent Office
Office européen des brevets

Munich, 1 October 2025

MOCK paper M2

A MOCK paper M2 is now available for testing and preparation purposes (see annex 1).
For each question the achievable marks are indicated.

A model solution addressing the expected answers for all questions is included in annex 2.

For the Examination Board
The Chairman

Jakob Kofoed

Annex 1

Mock exam

All questions are based on the legal texts in force on 31 October 2024.

For all questions, consider that today is 10 March 2027.

Part 1:

- Question 1 (10 marks)
- Question 2 (10 marks)
- Question 3 (10 marks)

Part 2:

- Question 4 (9 marks)
- Question 5 (7 marks)
- Question 6 (11 marks)

Part 1

Question 1 **10 marks**

This question comprises five parts. A subsequent part is only shown once the previous part has been answered. Once a subsequent part is shown, it is not possible to change the answer for a previous part.

Today is 10 March 2027.

Consider the legal texts in force on 31 October 2024.

(a) You are a European patent attorney. Your client X asks you to file an opposition against European patent EP1 granted to company Y, without X being mentioned as opponent. X also asks you whether it would be possible to be mentioned as opponent after the opposition has been filed and the opposition period has expired. From a file inspection, you note that the mention of the grant for EP1 was published on 10 June 2026.

Discuss what you could do for X and by when.

[text box for the answer]

[the following text should appear only after the above answer has been given, with no possibility of returning to the previous question]

(b) After the opposition was filed in your name as a straw man on behalf of X, another client T informs you that company Y has instituted national proceedings in Germany against T directed at the preservation of evidence to enable the proprietor to determine whether T infringes EP1.

T asks you whether they can become party to the opposition proceedings after the expiry of the opposition period. What would you reply?

[text box for the answer]

[the following text should appear only after the above answer has been given, with no possibility of returning to the previous question]

(c) The opposition against EP1 was filed based on the sole ground of lack of novelty. The only evidence filed within the opposition period was Polish national prior right NPR1. NPR1 discloses the subject-matter of claim 1 of EP1.

Is the opposition likely to succeed and why?

[text box for the answer]

[the following text should appear only after the above answer has been given, with no possibility of returning to the previous question]

(d) Your client X is a legal person having two company divisions, a chemistry division and a cosmetics division. The subject of another European patent EP2 granted to company Y is related to both the chemistry division and the cosmetics division. A first opposition O1 against EP2 was filed in the name of X by the chemistry division. One day later, a second opposition O2 against EP2 was filed in the name of X by the cosmetics division. Both O1 and O2 were filed based on the same grounds for opposition, and both O1 and O2 individually comply with the requirements of Article 99(1) and Rule 76 EPC.

What is the status of O1 and O2? Select from the following list (multiple selections are possible).

- O1 is admissible.

- O1 is not admissible.

- O2 is admissible.

- O2 is not admissible.

Provide reasons for your selections.

[text box for the answer]

[the following text should appear only after the above answer has been given, with no possibility of returning to the previous question]

(e) After the opposition period for EP2 had expired, the chemistry division along with its assets has been transferred to company Z. Can Z acquire the status of opponent?

[text box for the answer]

Question 2 **10 marks**

Consider the legal texts in force on 31 October 2024.

(a) The receiving section issued a communication under Rule 112 EPC noting a loss of right to priority. The applicant requests a decision under Rule 112(2) EPC and also requests oral proceedings.

Indicate the legal basis for the loss of right to priority:

[text box for the legal basis]

Will the receiving section issue a summons to oral proceedings?

- Yes
- No
- Only if it considers oral proceedings to be expedient.

Provide reasoning:

[text box for the answer]

(b) One day after a communication under Rule 71(3) EPC was issued by the examining division, a third party files submissions with regard to lack of novelty and requests oral proceedings.

Indicate whether the following statements are true or false.

	True	False
The third-party observations will be considered by the examining division.		
Provide reasoning: *[text box for the reasoning]*		
The examining division will issue a summons to oral proceedings, if it considers the observations to be unconvincing.		
Provide reasoning: *[text box for the reasoning]*		

(c) In their notice of opposition, the opponent requested that the patent be revoked, provided a substantiated reasoning and made an unconditional request for oral proceedings. The patent proprietor did not react to the communication under Rule 79(1) EPC. The opposition division agrees with the opponent's arguments.

Indicate whether the following statements are true or false.

	True	False
The opposition division will issue a summons to oral proceedings.		
The opposition division will issue a decision in writing without holding oral proceedings.		
Provide reasoning: *[text box for the reasoning]*		

(d) The opposition division intends to reject the opposition as inadmissible because it does not comply with Rule 76(2)(c) EPC. The opponent requested oral proceedings.

	Yes	No
Will the opposition division issue a summons to oral proceedings?		
Provide reasoning: *[text box for the reasoning]*		

(e) An opposition against a European patent was filed on the grounds under Article 100(b) and (c) EPC. The proprietor requested rejection of the opposition as a main request and oral proceedings as an auxiliary measure. At the end of oral proceedings, the opposition division revoked the patent on the ground of Article 100(b) EPC. In the subsequent appeal proceedings, the board of appeal set aside the decision and remitted the case to the opposition division for examination of the ground under Article 100(c) EPC. The opposition division then arrived at the opinion that the patent should be revoked on the ground of Article 100(c) EPC. After the remittal, the proprietor neither restated nor withdrew the request for oral proceedings.

	Yes	No
Will the opposition division issue a summons to oral proceedings?		
Provide reasoning: *[text box for the reasoning]*		

Question 3 **10 marks**

[Comment: All sub-questions are displayed from the beginning]

Today is 10 March 2027.
Consider the legal texts, including the fee table, in force on 31 October 2024.

Spanish university A has filed a total of four EP applications EP1-EP4 and one international application PCT1 with the EPO. EP1-EP4 were filed in March 2024 and PCT1 in September 2024. PCT1 has not yet entered the regional phase.

(a) Today, A files EP5 online, in Spanish, with the EPO while declaring their status as a university. What total fee amount (in EUR) is due for EP5 today?

[text box for the amount]

Provide reasons.

[text box for the reasons]

(b) What total fee amount would have been due for EP5 on the day of its filing, if A had delayed the filing until after PCT1 entered the European phase?

[text box for the amount]

(c) The search report for PCT1 was published in March 2026. EP5 is filed today. Consider that A will request entry of PCT1 into the European phase by filing EPO Form 1200 online, declaring their status as a university and requesting examination in Spanish. What total fee amount (in EUR) will be due for PCT1 on entry into the European phase?

Select the correct amount from the following list:

- €2 955.00
- €2 314.50
- *€3 004.50*
- *€4 350.00*
- *€3 834.50*

Provide reasons.

[text box for the reasons]

(d) What would your answer to (c) be if EP5 had not been filed before entry of PCT1 into the European phase? Consider that the international search fee for PCT1 paid to the EPO acting as ISA was €1 845.

Indicate the total amount of fees:

(text box for the amount)

Provide reasons.

(text box for the reasons)

(e) Would your answers to (a)-(d) change if A was not a Spanish university but instead a German national living in Spain?

- yes
- no

Part 2

Question 4 **9 marks**

Today is 10 March 2027.

Consider the legal texts in force on 31 October 2024.

On 17 February 2027, the last day of the priority period, applicant A filed European patent applications EP1 and EP2, together with copies of the earlier national (Dutch) patent applications NL1 and NL2. NL1 and NL2 relate to different inventions.

EP1 claims the priority of the earlier national patent application NL1. The description and claims of EP1 and NL1 are identical.

EP2 claims the priority of the earlier national patent application NL2. The description and claims of EP2 and NL2 are identical. NL2 and EP2 do not contain any drawings.

On 18 February 2027, the contents of NL1 and NL2 were made publicly available.

Later the applicant noticed that they had forgotten to file the drawings for EP1. On 23 February 2027, A filed drawings for EP1 and also filed drawings for EP2. The drawings for EP1 are identical to the drawings of NL1. The drawings for EP2 are newly drafted. The invention of NL2 and EP2 is only sufficiently disclosed in conjunction with the newly drafted drawings.

Today, the applicant asks you what can be done to optimise the situation with regard to EP1 and EP2.

Question 5 **7 marks**

Today is 10 March 2027.

Consider the legal texts in force on 31 October 2024.

Your client's competitor X filed international application PCT-X with the EPO as receiving Office on 11 April 2025. The application was filed in English without claiming priority. PCT-X comprises independent claim 1 relating to product A and dependent claim 2 relating to product A combined with feature B. Your client is of the opinion that claim 2 lacks clarity.

Your client also found a YouTube video showing all the features of product A available to the public before the filing date of PCT-X.

Which procedural actions can you take while the competitor's application is pending:

(a) during the international phase?

(b) after PCT-X has entered the regional phase before the EPO?

Question 6 **11 marks**

Today is 10 March 2027.

Consider the legal texts in force on 31 October 2024.

Your client, applicant H, is a natural person, and a national and resident of the Netherlands. They filed European patent application EP with the EPO in Dutch in March 2023, followed by a translation in English filed in due time. The patent was granted as filed. The mention of the grant was published on 24 February 2027.

What steps have to be taken and by when to:

(a) have patent protection in the United Kingdom for the coming year; and

(b) obtain Unitary Patent protection for the coming year, incurring the lowest translation costs?

Answers

Question 1 **10 marks**

(a)

An opposition against a European patent may be filed by anyone, Article 99 EPC.

It may be filed by you as a straw man because

(a) X is not the proprietor, and

(b) you are a European patent attorney,

G 3/97.

Hence, X does not need to be mentioned as opponent.

However, the status of the opponent cannot be transferred freely, see G 2/04. So, after the opposition has been filed and the opposition period has expired, X can no longer be mentioned as being an opponent.

(b)

Proceedings directed at the preservation of evidence to enable a party to initiate separate infringement proceedings are not "proceedings for infringement" within the meaning of Article 105(1)(a) EPC, so they do not provide sufficient grounds for filing notice of intervention.

Guidelines D-VII, 6 or T 439/17.

(c)

National rights dating back earlier do not belong to state of the art under Article 54(3) EPC.

An opposition may only be filed on the ground that the subject-matter of the patent is not patentable under Article 100(a) EPC in conjunction with Articles 52 to 57 EPC.

Thus, NPR1 is not a ground for opposition under Article 100(a) EPC.

The opposition filed on the sole ground of lack of novelty in view of NPR1 is not admissible,

T550/88.

(d)

- <u>O1 is admissible.</u>
- O1 is not admissible.
- O2 is admissible.
- <u>O2 is not admissible.</u>

Even though both notices O1 and O2 individually comply with the requirements for admissibility of the EPC, a legal person who files two different notices of opposition in relation to the same granted patent acquires party status as opponent only once.

Because the later opposition O2 is based on the same grounds and evidence and hence does not entail any change in the legal situation in the opposition proceedings compared to the earlier opposition O1, O2 is inadmissible for lack of a general legitimate interest.

O1 is the only admissible opposition, T 9/00.

(e)

Because the subject of the patent is related to both the chemistry division and the cosmetics division, the status of opponent can be transferred to a third party only if both divisions or the entire company are transferred to it.

Thus, Z cannot acquire the status of opponent, T 9/00.

Question 2 **10 marks**

(a)

Article 90(5) EPC

Will the receiving section issue a summons to oral proceedings?

Yes

No

Only if it considers oral proceedings to be expedient.

Provide reasoning:

According to Article 116(2) EPC, oral proceedings take place before receiving section only in case the receiving section envisages refusing the application or where it considers this to be expedient.
The decision confirming a loss of a right (Rule 112(2) EPC) is not a case in which the receiving section "intends to refuse the European patent application" (within the meaning of Article 116(2) EPC), J 900/85.
Thus, the receiving section will only issue a summons if it considers oral proceedings to be expedient.

(b)

	True	False
The third-party observations will be considered by the examining division.	X	
Provide reasoning: The third-party observations have been filed in time because no final decision has been taken yet, Guidelines E-VI, 3.		
The examining division will issue a summons to oral proceedings, if it considers the observations to be unconvincing.		X
Provide reasoning: A third party is not a party to proceedings, Article 115 EPC. The right to oral proceedings is restricted to “any party to the proceedings“, Article 116(1) EPC. Thus, the examining division will not summon the third party to oral proceedings.		

(c)

	True	False

The opposition division will issue a summons to oral proceedings.		X
The opposition division will issue a decision in writing without holding oral proceedings.	X	
Provide reasoning: With an unconditional request for oral proceedings, if the competent department considers that a decision on the matter may be reached on the basis of the written evidence on file and intends to take a decision which concurs with the case put forward by the party having requested the oral proceedings, the decision is issued in writing without oral proceedings being held, Guidelines E-III, 2.		

(d)

	Yes	No
Will the opposition division issue a summons to oral proceedings?	X	
Provide reasoning: The opponent still remains a party to the proceedings (Article 99(3) EPC), until such time as their opposition is rejected as inadmissible, Guidelines E-III, 2.1 Hence, the opponent's request is valid, Article 116(1) EPC The opposition division must issue a summons to oral proceedings.		

(e)

	Yes	No
Will the opposition division issue a summons to oral proceedings?	X	
Provide reasoning: "Further prosecution" proceedings on remittal are to be regarded as a continuation of the original opposition proceedings (particularly where the original interlocutory decision had been set aside by the board and is therefore no longer legally effective). Thus, with remittal, parties' requests valid in the opposition proceedings, including any request for oral proceedings, become effective again unless they have been withdrawn, T 892/92. Hence, the opposition division must issue a summons to oral proceedings.		

Question 3 **10 marks**

(a)

€1 130.15

Provide reasons.

The fees due on filing are the filing and search fees, A-X, 5.2.1

Filing fee for online filing, Article 2(1)1(i) RFees: €135

Search fee, Article 2(1)2: €1 520

The Spanish university is a legal person under Article 14(4) EPC.

Since the application is filed in Spanish, the filing fee is reduced by 30% in accordance with Article 14(1) RFees, Rule 7a(1) and (2)(d) EPC.

Moreover, since the Spanish university is an entity under Rule 7a(3) EPC, the filing and search fees are further reduced by 30%, Article 14(3) RFees.

Since EP5 is the fifth application filed within five years, the cap defined in Rule 7a(4) EPC is not exceeded.

Hence, the fees to be paid are (OJ EPO 2024, A8):

- *filing fee: €135 x 0.7 x 0.7 = €66.15*
- *search fee: €1 520 x 0.7 = €1 064*

(b)

€1 614.50

{Reasons: In that case, EP5 would be the sixth application filed within five years. Hence, the cap under Rule 7a(4) EPC is exceeded. Therefore, the fees to be paid are:

- *filing fee: €135 x 0.7 = €94.50*
- *search fee: €1 520}*

(c) The search report for PCT1 was published in March 2026. EP5 is filed today. Consider that A will request entry of PCT1 into the European phase by filing EPO Form 1200 online, declaring their status as a university and requesting examination in Spanish. What total fee amount (in EUR) will be due for PCT1 on entry into the European phase?

Select the correct amount from the following list:

€2 955.00

€2 314.50

€3 004.50

€4 350.00

€3 834.50

Provide reasons.

PCT1 will enter into the European phase in:

September 2024 + 31 months = April 2027, Rule 159(1) EPC.

This makes PCT1 the sixth application filed within five years, so the cap under Rule 7a(4) EPC is exceeded and none of the fees is reduced under Rule 7a(3) EPC.

However, the examination fee is reduced under Rule 7a(1) EPC, since the request for examination is filed in Spanish:

- *filing fee €135*
- *examination fee €2 135 x 0.7 = €1 494.50 (Article 2(1)6 RFees)*
- *designation fee €685*
- *renewal fee for the third year: €690*

- *PCT1 was searched by the EPO, so the supplementary search report is dispensed with.*

(d)

€1 549.65

Provide reasons.

As before, the examination fee is reduced under Rule 7a(1) EPC, since the request for examination has been filed in Spanish.

Moreover, in this case, PCT1 is the fifth application filed within five years, so the cap under Rule 7a(4) EPC has not been reached. Therefore, the fees are reduced under Rule 7a(3) EPC and Article 14(1) RFees as follows:

- *filing fee €135 x 0.7 = €94.50*
- *examination fee €2 135 x 0.7 x 0.7 = €1 046.15 (Article 2(1)6 RFees and Rule 7a(3)(c) EPC)*
  additional refund: the reduction of the international search fee is also deducted, Article 7a(3)(c) EPC, by: €1 845 x 0.3 = €553.50
  So, the examination fee to be paid is: €492.65
- *designation fee €685 x 0.7 = €479.50*
- *renewal fee for the third year: €690 x 0.7 = €483*
- *PCT1 was searched by the EPO, so the supplementary search report is dispensed with.*

(e)

- yes
- no

Question 4 **9 marks**

According to Rule 56(2) EPC, the applicant can file the missing drawings within two months of the date of filing, i.e. until 17 April 2027 (Good Friday), so extended until 21 April 2027 (Rule 134(1) EPC).

Submitting the drawings results in EP1 and EP2 being re-dated to the date on which said drawings were filed, Rule 56(2) EPC.

Thus, the new date of filing for EP1 and EP2 is 23 February 2027, which is later than the expiry of the priority period.

As a consequence, the claimed priorities are not valid and the publication of NL1 and NL2 on 18 February 2027 is prior art according to Article 54(2) EPC.

The subject-matter of the claims of EP1 lacks novelty with respect to the disclosure of NL1.

Hence, it is important to avoid the re-dating of EP1 to ensure that the claimed priority is valid.

Because the drawings filed for EP1 are completely contained in NL1, the applicant should, within two months of the date of filing, request that the date of filing remains 17 February 2027 and indicate where the missing drawings are completely contained in NL1, Rule 56(3) EPC.

Because the relevant content of NL2 is not sufficiently disclosed, its content does not belong to the prior art with regard to the invention of EP2, Guidelines G-IV, 2. Hence, the claims of NL2 are new. For EP2, it is important to have the drawings included to meet the requirements of Article 83 EPC. The re-dating of the date of filing of EP2 has to be accepted.

Question 5 **7 marks**

(a) In the international phase, third-party observations may only be filed electronically at the IB, GL/PCT-EPO E-II, within 28 months of the international filing date. The 28 months expire on 11 August 2027. The third-party observations may only relate to novelty and inventive step. Therefore, claim 2 cannot be objected to under clarity in a third-party observation because observations relating to clarity, Article 6 PCT, will not be communicated to any international authority and will not be open to public inspection.

The client should file a third-party observation relating to lack of novelty (Article 33.2 PCT) of claim 1 in view of the video, as videos are also part of the state of the art according to amended Rule 64.1(a) PCT, which entered into force on 1 January 2026. See the proposed amendments of the PCT regulations of the 56th session, Geneva, 9-17 July 2024.

(b) Third-party observations can be filed according to Article 115 EPC once the application has entered the European regional phase and may also relate to Article 84 EPC according to GL E-VI, 3.

The client should file a third-party observation under Article 115 EPC, raising lack of novelty in view of the video against claim 1 and a lack-of-clarity objection against claim 2.

Question 6 **11 marks**

(a) The UK is a contracting state to the London Agreement – Article 65(1) EPC. Therefore, no acts of validation are required. However, to have protection in the coming year, the renewal fee for the fifth year is payable to the national office, Article 86(2) EPC. The UK allows for payment up to the last day of the third month after the publication of the mention of the grant, 24 February 2027, + three months → 24 May 2027 → 31 May 2027 (Mon), National Law Table VI.

(b) A request should be filed with the EPO, Rule 6(2) UPR (Rules relating to Unitary Patent Protection), in English, within one month, Rule 6(1) UPR, 24 February 2027 + one month → 24 March 2027 (Wed). It should contain the particulars of the proprietor, the number of the European patent, and a full translation of the specification into any other official language of the European Union (Rule 6(2)(d) UPR).

For lowest cost of translation, the originally filed specification (description + claims) in Dutch should be used, as this is the same as the granted version. Moreover, compensation for translation costs under Rule 8(2)(b) UPR and Rule 9 UPR should be requested together with the request for unitary effect. The request for compensation should contain a declaration that H is a natural person (Rule 9(2) UPR).

The renewal fee for the fifth year is due within three months of the date of notification of the communication of registration of the unitary effect, Rule 13(4) or Rule 13(5) UPR, depending on the date of notification of the Rule 7(1) UPR communication, and is payable to the EPO, Rule 13(1) UPR.