

Munich, 21 July 2025

## **MOCK paper M2**

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

A model solution addressing the expected answers for all questions will be published later.

For the Examination Board  
The Chairman

Jakob Kofoed

# Mock exam M2

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: <i>[text box for the reasoning]</i>		
The examining division will issue a summons to oral proceedings, if it considers the observations to be unconvincing.		
Provide reasoning: <i>[text box for the reasoning]</i>		

- (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.		
<p>Provide reasoning:</p> <p><i>[text box for the reasoning]</i></p>		



- (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?		
<p>Provide reasoning:</p> <p><i>[text box for the reasoning]</i></p>		

(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?		
<p>Provide reasoning:</p> <p><i>[text box for the reasoning]</i></p>		

### 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?