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EUROPEAN QUALIFYING EXAMINATION 2026

Paper M2-1

This Paper comprises:
Part I: Legal Questions

Question 1:	10 marks
Question 2:	6 marks
Question 3:	9 marks

Candidates are requested to indicate whether they are using the Guidelines as applicable on the date of the exam or the Guidelines according to the syllabus.

Question 1

(10 points)

Applicant A filed international application PCT-A in Japanese on 6 February 2024. PCT-A validly claims priority from and is identical to Japanese application JP-A filed on 6 February 2023.

On 9 October 2024, A completed the acts required under Rule 159(1) EPC in order for PCT-A to enter the European regional phase as Euro-PCT-A. In the translation into English filed under Rule 159(1)(a) EPC, the wording “product made of metal” was erroneously translated as “product made of iron” throughout the application. Iron was not disclosed in PCT-A.

On 10 October 2024, A filed divisional application DIV1 based on Euro-PCT-A.

1) Was DIV1 validly filed?

Euro-PCT-A was granted with the wording “product made of iron” in the only independent claim. The mention of the grant was published on 14 January 2026. Competitor B filed an opposition against the patent, asserting that its subject-matter extends beyond the content of the application as filed, due to the error in translation.

2) Will the patent be revoked in opposition?

On 12 January 2026, A filed divisional application DIV2 in English on the basis of Euro-PCT-A. However, instead of filing the English translation of the description and claims of PCT-A as intended, A filed the description and claims of an unrelated application by mistake.

3) Can the intended claims and description still be included in DIV2?

Question 2

(6 points)

Applicant C filed a European application EP1 in March 2024. EP1 was published in October 2025.

In January 2026, C filed a European application EP-C, claiming priority from their earlier application EP0, filed in February 2025.

EP-C discloses and claims only rubber A. EP1 discloses rubber A1, which is a specific embodiment of rubber A.

Can a valid patent be obtained from EP-C by disclaiming rubber A1?

Question 3

(9 points)

You are contacted by your client D, who recently started commercialising in the UK tiles comprising substances B+C, the tiles being heat-resistant up to a temperature of 1300 °C. D has received a letter from competitor E, who claims that D's tiles infringe E's patent EP-E, which is currently in force in the UK.

Patent EP-E was granted with a single claim directed to a tile comprising substance B and defining the tile as being heat-resistant up to a temperature of 1300 °C. EP-E further discloses a heat-resistant tile comprising substance B, the tile being heat-resistant up to a temperature of 400 °C. The mention of the grant of EP-E was published in the European Patent Bulletin on 11 June 2025.

Your client D provides you with document D1 as evidence that the tile as claimed in EP-E is not heat-resistant above 700 °C without substance C. D1 is a document that was made publicly available last month.

Advise your client D on what to do before the EPO regarding EP-E.