

EUROPEAN QUALIFYING EXAMINATION 2012

Pre-examination

This paper comprises:

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Instructions for answering the paper and marking scheme

1. The pre-examination is in the form of a multiple choice paper. It comprises 20 questions in all, 10 questions relating to legal knowledge (questions 1-10) and 10 questions relating to the analysis of claims (questions 11-20). Questions must be answered by filling in the circles on the answer sheet printed on the reverse side of your personal cover sheet. The duration of this examination is four hours.

(a) Each question X has 4 separate statements, namely X.1, X.2, X.3 and X.4. For each statement X.1, X.2, X.3 and X.4 candidates must unambiguously indicate on the answer sheet whether the statement is true or false. For each statement X.1, X.2, X.3 and X.4 only one answer can be given, either true or false. Each statement within a question is to be considered independently of the other statements.

(b) To indicate that a statement X.1, X.2, X.3 or X.4 is true, the corresponding circle for true should be filled using a black medium soft HB pencil. To indicate that a statement X.1, X.2, X.3 or X.4 is false, the corresponding circle for false should be filled using a black medium soft HB pencil.

(c) If, in reply to a statement X.1, X.2, X.3 or X.4, no indication is given as to whether the statement is true or false, or if both true and false are indicated, then the answer to this statement will be deemed not to be correct. Accordingly, if a candidate fills or partly fills a circle they do not intend to submit as part of their answer, it is essential that any mark in that circle is fully erased.

(d) There is no possibility for submitting notes or remarks to the examiner. Any such submission will be disregarded.

2. Only one answer sheet per candidate will be available.

3. Marking

(a) Marks awarded per question

- If within one question X none or only one of the answers to the statements X.1, X.2, X.3 and X.4 is correct, then 0 marks will be awarded for this question X.
- If within one question X two of the answers to the statements X.1, X.2, X.3 and X.4 are correct, then 1 mark will be awarded for this question X.
- If within one question X three of the answers to the statements X.1, X.2, X.3 and X.4 are correct, then 3 marks will be awarded for this question X.
- If within one question X all four of the answers to the statements X.1, X.2, X.3 and X.4 are correct, then 5 marks will be awarded for this question X.

(b) Total number of marks awarded

The total number of marks awarded for the pre-examination is the sum of the marks achieved for each question, calculated as stated above.

Legal questions

QUESTION 1

Bikeparts AS is a Danish company based in Copenhagen. Bikeparts AS validly filed a Japanese patent application JP-X on 11 March 2011 at the Japanese Patent Office in the Japanese language for invention X. Today, 5 March 2012, it is desired to file a European patent application EP-X at the EPO claiming the priority of JP-X for invention X.

For each of the statements 1.1 – 1.4, indicate on the answer sheet whether the statement is true or false:

- 1.1 EP-X can be filed in Danish.
- 1.2 EP-X can be filed in Korean.
- 1.3 EP-X can be filed in Japanese.
- 1.4 If EP-X is not filed in one of the official languages of the EPO, then a translation into an official language of the EPO must be filed within a time limit of one month.

Legal questions

QUESTION 2

Mr X validly filed a German patent application on 6 April 2011. He intends to claim priority of this first application in a later European patent application.

For each of the statements 2.1 – 2.4, indicate on the answer sheet whether the statement is true or false:

- 2.1 Mr X can validly claim priority if he files the European patent application on 10 April 2012.
- 2.2 The priority declaration must be made at the latest on 10 August 2012.
- 2.3 If Mr X had filed a German utility model application instead of a German patent application, it would have been possible to claim priority from the German utility model application.
- 2.4 Mr X can claim priority from the German patent application even if the German patent application is abandoned before filing of the European patent application.

Legal questions

QUESTION 3

Today, 5 March 2012, applicant Z wishes to file a PCT application with the EPO without claiming priority. Applicant Z has filed no other patent application for this invention.

For each of the statements 3.1 – 3.4, indicate on the answer sheet whether the statement is true or false:

One of the elements that the EPO as receiving Office has to receive today in order to accord today's date as the filing date for the PCT application is...

- 3.1 ... the description.
- 3.2 ... the abstract.
- 3.3 ... one or more claims.
- 3.4 ... the title of the invention.

Legal questions

QUESTION 4

A PCT application was filed with the EPO. As the International Searching Authority, the EPO considered that the application was not unitary. The invention first mentioned in the claims was searched and an invitation to pay two additional international search fees was sent to the applicant last week. The third invention, which has not yet been searched, is the only invention that the applicant would like to pursue in the European phase before the EPO.

For each of the statements 4.1 – 4.4, indicate on the answer sheet whether the statement is true or false:

- 4.1 In the international PCT phase, the applicant can file a protest with the EPO and request that a full search is made. The protest is free of charge, but it has to be supported by arguments.
- 4.2 The applicant can timely pay one additional fee for the third invention to be searched in the international PCT phase. In the European phase, the applicant can limit the application to the third invention.
- 4.3 The applicant can ignore the invitation. In the European phase, the applicant can file a divisional application directed to the third invention.
- 4.4 The applicant can ignore the invitation. In the European phase, the applicant will again receive an invitation to pay additional search fees.

Legal questions

QUESTION 5

On 1 February 2010 Document US1 was published. US1 discloses inventive feature A but not feature B. On 1 June 2010 your client filed European patent application EP1 disclosing inventive feature B but not feature A. On 1 June 2011 your client filed European patent application EP2 claiming priority from EP1. EP2 has the following claims: Claim 1 is directed to feature B; claim 2 is directed to the combination of features B and A. EP1 was published in December 2011. The combination of features B and A would be obvious if the skilled person were aware of the disclosures of EP1 and US1.

For each of the statements 5.1 – 5.4, indicate on the answer sheet whether the statement is true or false:

- 5.1 The subject-matter of claim 2 of EP2 lacks inventive step.
- 5.2 If EP2 had not claimed priority from EP1, the patentability of claim 1 of EP2 would not change.
- 5.3 A valid novelty objection can be made using EP1 against claim 1 of EP2.
- 5.4 The subject-matter of claim 2 of EP2 is novel.

Legal questions

QUESTION 6

A divisional application EP-D was filed on 10 February 2012 with the EPO. The parent application EP-P was filed on 14 December 2010 and was still pending on 10 February 2012. The claims of EP-D contain subject-matter that was not originally disclosed in the parent application.

For each of the statements 6.1 – 6.4, indicate on the answer sheet whether the statement is true or false:

- 6.1 The subject-matter that is common to EP-D and EP-P is deemed to have the date of filing of 14 December 2010 and the remaining subject-matter of EP-D is deemed to have 10 February 2012 as its date of filing.
- 6.2 EP-D is deemed to have 10 February 2012 as its date of filing.
- 6.3 It is mandatory for EP-D to have the same set of claims as EP-P.
- 6.4 During examination the applicant can amend EP-D so that it does not extend beyond the content of EP-P as originally filed, provided that the amended EP-D does not extend beyond the content of EP-D as originally filed.

Legal questions

QUESTION 7

A European patent application is filed today, 5 March 2012. It contains 1 abstract page, 28 description pages, 5 drawing pages and 4 claims pages. The application has 19 claims. Three of the 19 claims are independent claims. The applicant wishes to proceed with all claims.

For each of the statements 7.1 – 7.4, indicate on the answer sheet whether the statement is true or false:

- 7.1 Claims fees are due for 3 claims only.
- 7.2 If the application is filed online, no additional fee for pages has to be paid.
- 7.3 If the application is filed by post, the additional fee for 3 pages has to be paid.
- 7.4 If no claims fees are paid, the application will be deemed to be withdrawn.

Legal questions

QUESTION 8

The publication of the mention of the grant of a European patent was made on 22 June 2011. The European patent includes independent claim 1 directed to a product and independent claim 2 directed to a process. The two claims are not linked by a single general inventive concept.

Your client wants the opposition division to revoke the patent in its entirety but so far he has found state of the art that anticipates the subject-matter of product claim 1 only.

For each of the statements 8.1 – 8.4, indicate on the answer sheet whether the statement is true or false:

- 8.1 A notice of opposition must be filed at the latest by 22 March 2012.
- 8.2 If an opposition is filed against claim 1 only, the opposition can be extended by the opponent to claim 2 after the expiry of the opposition period.
- 8.3 The statement setting out the grounds for opposition must be filed at the latest by 22 May 2012.
- 8.4 As claims 1 and 2 are not linked by a single general inventive concept, lack of unity of the invention is a valid ground for opposition.

Legal questions

QUESTION 9

Your British client buys a French company with all its assets including an international application PCT1 directed to a first invention and a French application FR2 directed to a second invention. Both applications are in the French language. PCT1 was filed in December 2009 and FR2 was filed in April 2011. Neither application claims an earlier priority. Your client wants to pursue both inventions as European patent applications, by entering the European phase with PCT1 and by filing a European application EP-FR claiming the priority from FR2. However, he would prefer that the language of the European proceedings of both applications be English.

For each of the statements 9.1 – 9.4, indicate on the answer sheet whether the statement is true or false:

- 9.1 Upon entry of PCT1 into the European phase before the EPO, your client can file a translation of PCT1 into English, and English will become the language of the proceedings.
- 9.2 A European patent application validly claiming priority from FR2 can be filed in English.
- 9.3 Today, on 5 March 2012, it is no longer possible to validly claim priority from FR2 for a European patent application.
- 9.4 The applicant can file EP-FR in French and then validly file a European divisional application of EP-FR in English.

Legal questions

QUESTION 10

The applicant did not respond to a communication issued by the examining division setting a two month time limit for bringing the description into conformity with the amended claims. The EPO issued a notice of loss of rights by registered mail dated 23 November 2011. On Saturday 4 February 2012 the applicant discovered the notice of loss of rights in an unrelated file.

For each of the statements 10.1 – 10.4, indicate on the answer sheet whether the statement is true or false:

- 10.1 The time limit for requesting further processing expired on 3 February 2012.
- 10.2 The time limit for requesting re-establishment of rights expires on 6 April 2012.
- 10.3 For requesting further processing of a European patent application following failure to observe a time limit, the applicant must have taken all due care required by the circumstances to observe the time limit.
- 10.4 To save the application, it is sufficient to timely:
 - file at the EPO a request for re-establishment of rights in respect of the time limit for requesting further processing;
 - pay the fees for re-establishment of rights and for further processing; and
 - demonstrate that all due care required by the circumstances to observe the time limit was taken.

Claim analysis

Questions 11-20 relate to a European patent application filed by your client with the following description and drawings:

Description of Client's Patent Application

[001] The invention relates to closures that are used to seal bottles.

[002] D1 describes a prior art closure connected by thermal welding to a bottle.

A projection is folded back on top of the main part of the closure. The projection forms a pull-tab for removing the closure from the bottle. The pull-tab can break away from the main part of the closure during mounting or removal of a screw cap so that the pull-tab is no longer available for removing the closure from the bottle.

[003] The invention is defined in the claims.

[004] FIGS. 1-3 illustrate a first embodiment of a closure 10 that covers an opening 42 of a bottle 40. The closure 10 includes a tab part 12 and a sealing part 20. A first portion of the tab part 12 is firmly attached to the sealing part 20. A second portion of the tab part is lightly attached to the sealing part (FIG. 2). The second portion of the tab part 12 can be released to form a pull-tab 18 (FIGS. 1 and 3). The pull-tab 18 can be gripped to remove the closure 10 from the bottle 40. FIG. 2 also shows a screw cap 46 that is screwed onto the bottle 40 and covers the closure 10.

[005] In the first embodiment, the sealing part 20 of the closure is formed from a laminated sheet comprising a polyester film 22 and a metal foil 24, for example an aluminium foil. The metal foil 24 seals the product in the bottle 40. The polyester film 22 prevents the metal foil 24 from tearing as the closure 10 is removed from the bottle.

Claim analysis

[006] A thermoweldable material 26 is provided on the lower surface of the polyester film 22. The thermoweldable material 26 is a material that softens on being heated and can be used to weld the closure 10 to the top of the bottle 40. The thermoweldable material 26 can be softened by heating (e. g. by inductively heating) the metal foil 24.

[007] The tab part 12 is formed by a polyester film. The tab part 12 is attached to the metal foil 24 of the sealing part 20 (the upper surface of the sealing part 20) by an adhesive layer 32. The adhesive layer 32 includes a continuous adhesive portion 34, and a discontinuous adhesive portion which is preferably formed by two or more adhesive dots 36.

[008] The continuous adhesive portion 34 completely covers a first portion of the upper surface of the sealing part 20 (forming up to half of the area), and permanently attaches the first portion of the tab part 12 to the sealing part 20. The discontinuous adhesive portion provides an incomplete layer of adhesive. Preferably the discontinuous adhesive portion is distributed over the remainder of the upper surface of the sealing part 20.

[009] The size of the adhesive dots 36 determines the degree of adhesion of the second portion of the tab part 12 to the sealing part 20. The degree of adhesion is determined so as to prevent separation of the second portion of the tab part 12 from the sealing part 20 during attachment of the screw cap 46, but to enable a user to peel the second portion of the tab part 12 away from the sealing part 20 to form the pull-tab 18.

[010] FIG. 2 is a cross-sectional view illustrating the top of the bottle 40 with the closure 10 covering the opening 42 of the bottle and the screw cap 46 covering the closure 10.

Claim analysis

[011] FIG. 3 is a cross-sectional view illustrating a method of opening the bottle 40. Firstly, the screw cap 46 is removed in the direction of the arrow 44. The pull-tab 18 is then peeled away from the sealing part 20. The pull-tab 18 is then pulled in the direction of the arrow 48 to cause the thermal weld of the sealing part 20 to the bottle 40 to break under the continuous adhesive portion 34. The pull-tab 18 is then pulled further in the direction of the arrow 48 until the closure 10 is removed from the bottle 40.

[012] FIG. 4 illustrates a second embodiment of a closure 50 comprising a sealing part 20 configured to provide evidence of tampering on removing the closure by pulling the pull-tab 18. The sealing part 20 of the second embodiment only comprises the metal foil 24. The thermoweldable material 26 is provided on the lower surface of the metal foil 24 in the second embodiment. The second embodiment is otherwise constructed in the same manner as the first embodiment. The second embodiment of the closure functions and is removed in a manner similar to that of the first embodiment of the closure 10 illustrated in FIGS. 1-3. However, without the polyester film 22, the metal foil 24 tears as the closure 50 is removed from the bottle 40. A tear in the metal foil 24 therefore provides evidence of tampering in the second embodiment.

Claim analysis

Drawings of client's application

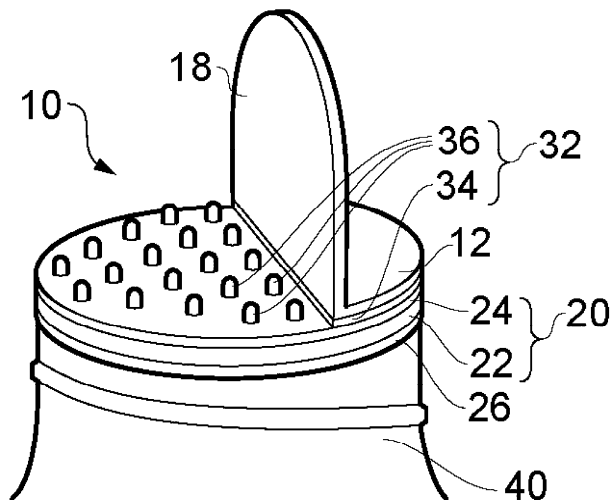


FIG. 1

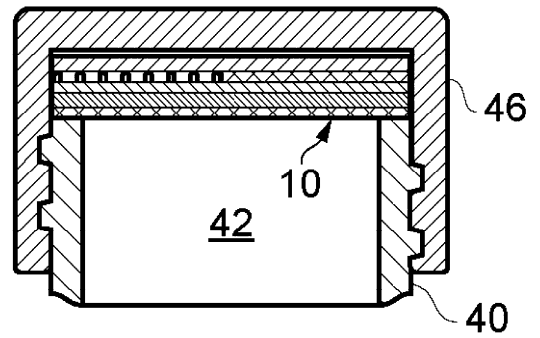


FIG. 2

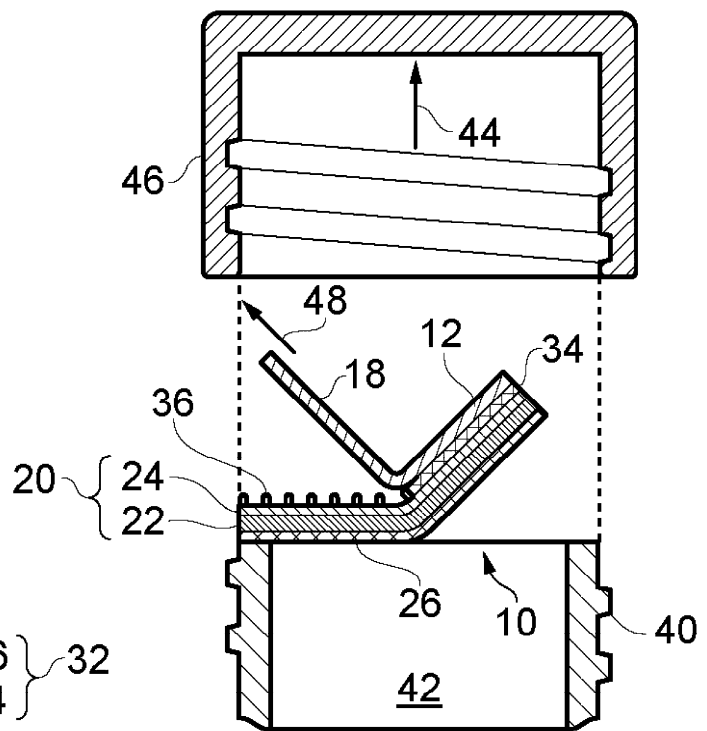


FIG. 3

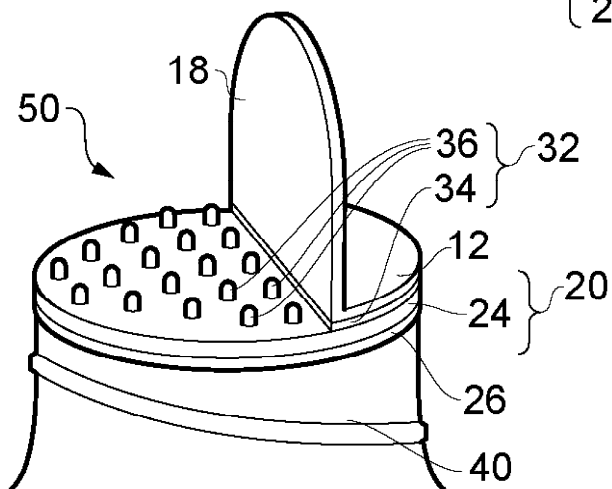


FIG. 4

Claim analysis

Document D1

[001] FIG. 1 is a cross-section through part of a bottle 1 provided with a cap 4 that is screwed to a threaded portion 3 of the neck 2 of the bottle 1. The cap 4 can be unscrewed from the bottle to expose a closure 5. The closure 5 comprises a pull-tab 8 that can be gripped to remove the closure 5 from the bottle 1 by pulling on the pull-tab 8.

[002] As shown in FIGS. 1-2, the pull-tab 8 is folded back on top of a main part 6 of the closure 5. The main part 6 of the closure 5 is circular. The closure 5 is made from an aluminium foil with a thin layer of thermoweldable material 9 on a lower surface of the main part 6 of the closure 5. The main part 6 of the closure 5 is thermally welded to the top of the neck 2 of the bottle 1 by inductively heating the aluminium foil.

[003] The pull-tab 8 is folded back on top of the main part 6 of the closure 5 as shown in FIG. 1 before the closure 5 is thermally welded to the top of the bottle 1 to avoid the pull-tab 8 being damaged by the threaded portion 3.

[004] FIG 2. is a cross-section of the closure 5 showing the pull-tab 8 folded back on top of the main part 6 of the closure 5.

[005] FIG 3. is a plan view of the closure 5 showing the circular main part 6 of the closure 5 with the pull-tab 8 projecting from the main part 6.

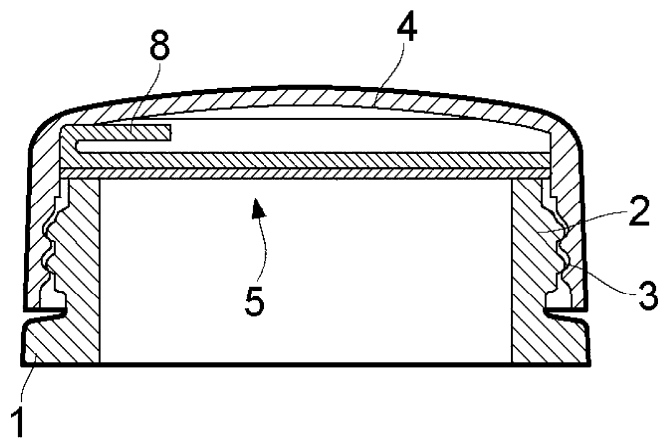


FIG. 1

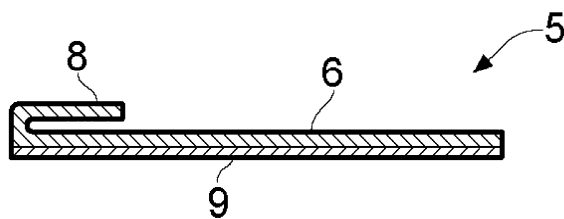


FIG. 2

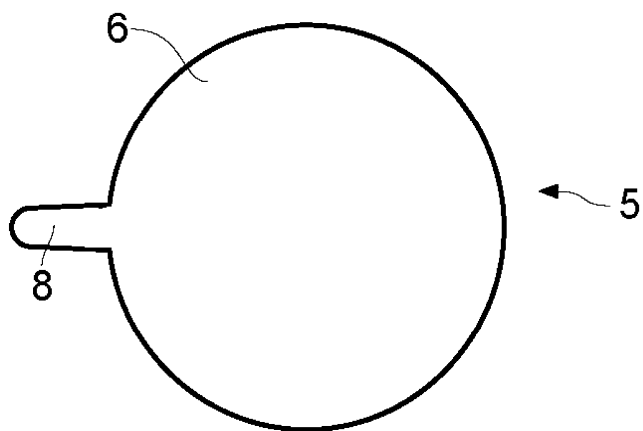


FIG. 3

Claim analysis

QUESTION 11

For Question 11, assume that claim I is a single independent claim filed with the client's patent application.

- I. A closure (10, 50) on a bottle (40), the closure comprising:
 - a sealing part (20) comprising a metal foil (24);
 - a thermoweldable material (26) on a first surface of the sealing part (20) for attaching the closure (10, 50) to an opening (42) of the bottle (40); and
 - a tab part (12);characterised in that
 - the tab part (12) extends over at least a part of a second surface of the sealing part (20) and is arranged to be gripped to remove the closure (10, 50) from the opening (42) of the bottle (40).

For each of the statements 11.1 – 11.4, indicate on the answer sheet whether the statement is true or false:

- 11.1 An embodiment of the closure shown in Figures 1–3 of the application falls within the scope of claim I.
- 11.2 The subject-matter of claim I is novel with respect to D1.
- 11.3 The subject-matter of claim I protects a closure independently of a bottle.
- 11.4 An embodiment of the closure shown in Figure 4 of the application falls within the scope of claim I.

Claim analysis

QUESTION 12

For Question 12, assume that claim II is a single independent claim filed with the client's patent application.

- II. A closure (10, 50) attachable to a bottle (40), the closure comprising:
a sealing part (20) comprising at least a first sheet of material (24);
a thermoweldable material (26) on a first surface of the sealing part for attaching the closure to an opening (42) of the bottle (40); and
a tab part (12);
characterised in that
the tab part (12) comprises at least a second sheet of material, the
tab part (12) being attached to a second surface of the sealing part (20) by a
first portion of the tab part (12), a second portion of the tab part serving as a
pull-tab (18).

For each of the statements 12.1 – 12.4, indicate on the answer sheet whether the statement is true or false:

- 12.1 An embodiment of the closure shown in Figures 1–3 of the application falls within the scope of claim II.
- 12.2 The subject-matter of claim II is novel with respect to D1.
- 12.3 The subject-matter of claim II protects a closure independently of a bottle.
- 12.4 An embodiment of the closure shown in Figure 4 of the application falls within the scope of claim II.

Claim analysis

QUESTION 13

For Question 13, assume that claim III is a single independent claim filed with the client's patent application.

- III. A closure (10, 50) for a bottle (40), the closure comprising:
a sealing part (20) comprising a metal foil (24);
a thermoweldable material (26) on a first surface of the metal foil (24)
for attaching the closure to an opening (42) of the bottle (40); and
a tab part (12);
characterised in that
the tab part (12) comprises a polyester film, a part of the polyester film being
attached to a second surface of the metal foil (24) and the remainder of the
polyester film serving as a pull-tab (18).

For each of the statements 13.1 – 13.4, indicate on the answer sheet whether the statement is true or false:

- 13.1 An embodiment of the closure shown in Figures 1–3 of the application falls within the scope of claim III.
- 13.2 The subject-matter of claim III is novel with respect to D1.
- 13.3 The subject-matter of claim III protects a closure independently of a bottle.
- 13.4 An embodiment of the closure shown in Figure 4 of the application falls within the scope of claim III.

Claim analysis

QUESTIONS 14-20

For Questions 14-20, assume that a set of claims including the single independent claim IV was filed with the client's patent application and assume that a European search report cites documents D1 and D2 as documents published prior to the priority date of the client's patent application.

- IV. A closure (10, 50) for a bottle (40), the closure comprising:
- a sealing part (20) comprising an aluminium foil (24);
 - a thermoweldable material (26) on a first surface of the sealing part (20) for attaching the closure (10, 50) to an opening (42) of the bottle (40) by heating the aluminium foil (24); and
 - a tab part (12);
- characterised in that
- the tab part (12) comprises a polyester film, a first portion of the polyester film being attached to a second surface of the sealing part (20) and a second portion of the polyester film serving as a pull-tab (18).

Claim analysis

Document D2

[001] A closure 1 is adapted for securing to and closing an opening of a bottle.

[002] FIGS. 1-3 illustrate a first embodiment of the closure 1 mounted on the neck of a bottle 11. FIG. 1 is a perspective view of the closure 1 on the bottle 11. FIG. 2 is a cross-sectional view of the closure on the neck of the bottle. A screw cap 10 covers the closure 1. FIG. 3 is a cross-sectional view illustrating a method of opening the bottle.

[003] The closure 1 includes a laminated sealing part 2 comprising a metal foil 3, for example an aluminium foil, and a plastics foil 4. A lower surface of the plastics foil 4 is coated with a thermoweldable material 5, which melts on heating, for example as a result of induction heating of the metal foil, to enable the closure to be attached to the neck of the bottle 11.

[004] The closure 1 further includes a polyester film 6. Between the polyester film 6 and the metal foil 3 is a layer of adhesive 7. The layer of adhesive 7 extends over up to half of the closure 1 and firmly attaches that portion of the polyester film 6 to the sealing part 2. The remainder of the polyester film 6 is not attached to the sealing part 2 and forms a pull-tab 9. The closure 1 thus includes a joined portion 8 where the polyester film 6 is attached to the sealing part 2, and a separated portion, forming the pull-tab 9, where the polyester film 6 is not attached to the sealing part 2.

[005] As shown in FIG. 3, in order to open the bottle 11, the screw cap 10 is removed in the direction of the arrow 12. This reveals the closure 1 attached to the bottle 11. The closure 1 can then be removed by grasping the free-standing pull-tab 9 and pulling in the direction of the arrow 13. The joined portion 8 of the closure 1 can be pulled from the neck of the bottle 11, followed by detachment of the separated portion of the closure 1. The relative bond strength of the layer of adhesive 7 and that of the thermoweldable material 5 are such that the closure 1 is removable as a unit.

Claim analysis

[006] FIG. 4 illustrates an alternative embodiment of a closure 21. The closure 21 is the same as the closure 1 except that an additional thin strip of adhesive 27 is provided to lightly attach the pull-tab 9 to the sealing part 2 to avoid damage to the pull-tab before it is used. The pull-tab 9 can be released by breaking the light attachment provided by the thin strip of adhesive 27. However, care is needed during manufacture to ensure that the attachment provided by the strip of adhesive 27 is not so strong that it prevents release of the pull-tab 9.

Drawings Document D2

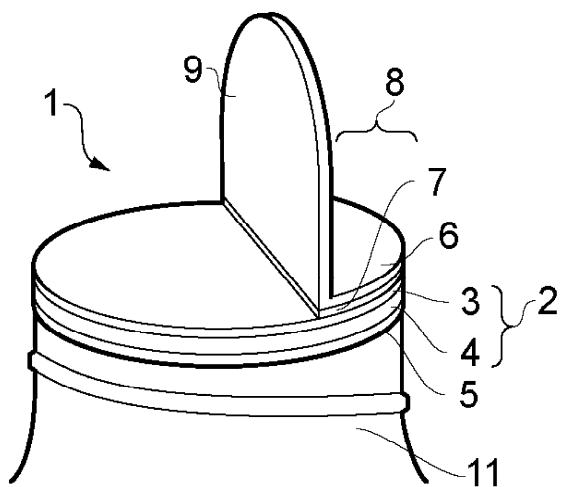


FIG. 1

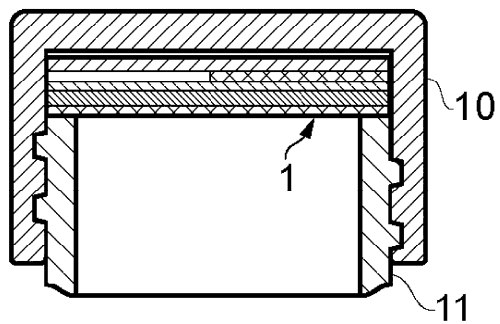


FIG. 2

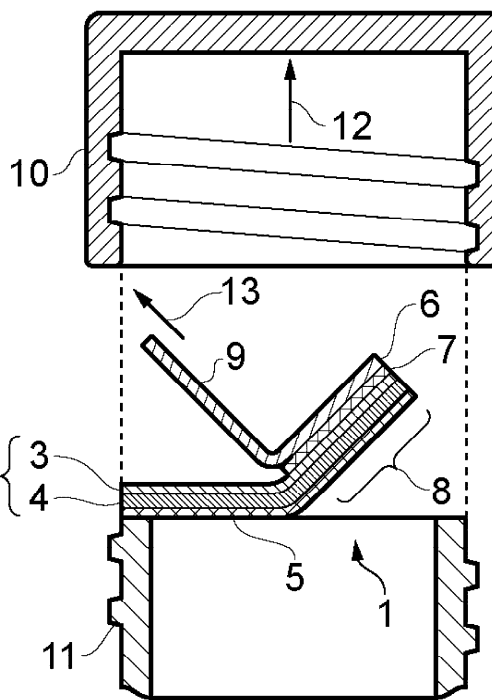


FIG. 3

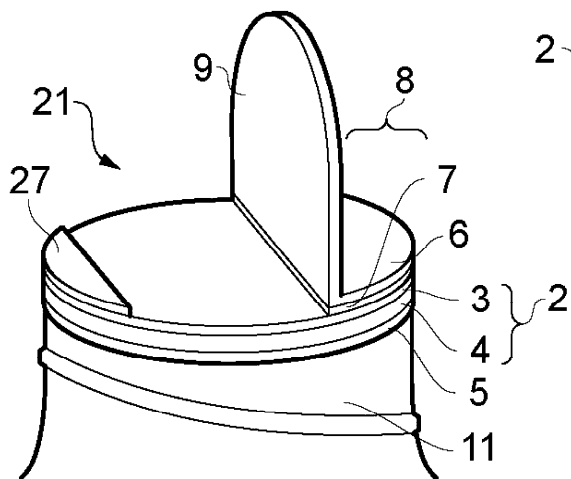


FIG. 4

Claim analysis

QUESTION 14

For each of the statements 14.1 – 14.4, indicate on the answer sheet whether the statement is true or false:

- 14.1 An embodiment of the closure shown in Figures 1–3 of the application falls within the scope of claim IV.
- 14.2 The subject-matter of claim IV is novel with respect to D1.
- 14.3 The subject-matter of claim IV is novel with respect to D2.
- 14.4 An embodiment of the closure shown in Figure 4 of the application falls within the scope of claim IV.

Claim analysis

QUESTION 15

Claim V forms a first proposal from your client for amending independent claim IV in response to the European search report. Additions are shown underlined and deletions crossed through.

- V. A closure (10, 50) for a bottle (40), the closure comprising:
- a sealing part (20) comprising ~~an aluminium~~ a metal foil (24);
 - a thermoweldable material (26) on a first surface of the sealing part (20) for attaching the closure (10, 50) to an opening (42) of the bottle (40) by heating the ~~aluminium~~ metal foil (24); and
 - ~~a tab part (12); characterised in that the tab part (12) comprises~~ a polyester film, a first portion of the polyester film being attached to a second surface of the sealing part (20) and a second portion of the polyester film serving as a pull-tab (18);
characterised in that
the second portion of the polyester film is attached to the second surface of the sealing part (20) by adhesive dots (36).

In claim V, the wording “aluminium foil” has been changed to “metal foil”. For each of the statements 15.1 – 15.4, indicate by marking true or false on the answer sheet whether the statement forms at least part of an argument in support of this change being allowable under Article 123(2) EPC:

Relevant to Article 123(2) EPC is that ...

- 15.1 ... the application as filed did not present the use of aluminium for the metal foil as being essential.
- 15.2 ... an aluminium foil is not, as such, indispensable as the invention will work using a metal foil, as is also confirmed by D2.
- 15.3 ... replacement of an aluminium foil by a metal foil does not require modification of any other feature of the closure.
- 15.4 ... the amended claim relates to searched subject-matter.

Claim analysis

QUESTION 16

Claim VI forms a second proposal from your client for amending independent claim IV in response to the European search report. Additions are shown underlined and deletions crossed through.

- VI. A closure (10, 50) for a bottle (40), the closure comprising:
- a sealing part (20) comprising an aluminium foil (24);
 - a thermoweldable material (26) on a first surface of the sealing part (20) for attaching the closure (10, 50) to an opening (42) of the bottle (40) by heating the aluminium foil (24); and
 - a tab part (12); ~~characterised in that the tab part (12) comprises~~ comprising a polyester film, a first portion of the polyester film being attached to a second surface of the sealing part (20) by a complete layer (34) of adhesive covering up to half of the area of the sealing part and a second portion of the polyester film serving as a pull-tab (18);
- characterised in that
the second portion of the polyester film is attached to the second surface of the sealing part (20) by an incomplete layer of adhesive.

For each of the statements 16.1 – 16.4, indicate on the answer sheet whether the statement is true or false:

- 16.1 The subject-matter of claim VI extends beyond the content of the application as filed.
- 16.2 An embodiment of the closure shown in Figures 1–3 of the application falls within the scope of claim VI.
- 16.3 The two-part form (Rule 43(1) EPC) of claim VI is correctly set with respect to D1.
- 16.4 The subject-matter of claim VI is novel with respect to D2.

Claim analysis

QUESTION 17

Claim VII forms a third proposal from your client for amending independent claim IV in response to the European search report. Additions are shown underlined and deletions crossed through.

- VII. A closure (10, 50) for a bottle (40), the closure comprising:
- a sealing part (20) comprising an aluminium foil (24);
 - a thermoweldable material (26) on a first surface of the sealing part (20) for attaching the closure (10, 50) to an opening (42) of the bottle (40) by heating the aluminium foil (24); and
 - a tab part (12); ~~characterised in that the tab part (12) comprises~~ comprising a polyester film, a first portion of the polyester film being attached to a second surface of the sealing part (20) and a second portion of the polyester film serving as a pull-tab (18);
- characterised in that
the sealing part (20) is configured to provide evidence of tampering on removing the closure (10, 50) by pulling the pull-tab (18).

For each of the statements 17.1 – 17.4, indicate on the answer sheet whether the statement is true or false:

- 17.1 The subject-matter of claim VII extends beyond the content of the application as filed.
- 17.2 An embodiment of the closure shown in Figures 1–3 of the application falls within the scope of claim VII.
- 17.3 Claim VII lacks clarity as the characterising portion of the claim is defined in terms of a result to be achieved.
- 17.4 Claim VII lacks clarity as the characterising portion of the claim is defined in terms of a method step.

Claim analysis

QUESTION 18

Claim VIII forms a fourth proposal from your client for amending independent claim IV in response to the European search report. Additions are shown underlined and deletions crossed through.

VIII. A closure (10, 50) for a bottle (40), the closure comprising:
a sealing part (20) comprising an aluminium foil (24);
a thermoweldable material (26) on a first surface of the sealing part (20) for attaching the closure (10, 50) to an opening (42) of the bottle (40) by heating the aluminium foil (24); and
a tab part (12); ~~characterised in that the tab part (12) comprises~~ comprising a polyester film, a first portion of the polyester film being attached to a second surface of the sealing part (20) and a second portion of the polyester film serving as a pull-tab (18);
characterised in that
the sealing part (20) consists solely of the aluminium foil (24), whereby the aluminium foil (24) is configured to tear on removing the closure (10, 50) by pulling the pull-tab (18).

Assume for this question that claim VIII is formulated in the two-part form with respect to D2 as the closest prior art and that the technical effect of the characterising portion is that the aluminium foil tears on removing the closure. For each of the statements 18.1 – 18.4, indicate by marking true or false on the answer sheet whether the statement is a valid definition of the objective technical problem with respect to D2 based on this technical effect.

The objective technical problem with respect to D2 is to ...

- 18.1 ... provide a closure that can tear more easily.
- 18.2 ... provide an improved manufacturing process.
- 18.3 ... enable the detection of tampering with the closure.
- 18.4 ... reduce the number of layers used to form the closure.

Claim analysis

QUESTION 19

Claim IX forms a fifth proposal from your client for amending independent claim IV in response to the European search report. Additions are shown underlined and deletions crossed through.

- IX. A closure (10, 50) for a bottle (40), the closure comprising:
- a sealing part (20) comprising ~~an aluminium~~ a metal foil (24);
 - a thermoweldable material (26) on a first surface of the sealing part (20) for attaching the closure (10, 50) to an opening (42) of the bottle (40) by heating the ~~aluminium~~ metal foil (24); and
 - a tab part (12); ~~characterised in that the tab part (12) comprises~~ comprising a polyester film, a first portion of the polyester film being attached to a second surface of the sealing part (20) by a continuous layer (34) of adhesive extending over a first portion of the second surface of the sealing part (20) and a second portion of the polyester film serving as a pull-tab (18);
- characterised in that
- the second portion of the polyester film is attached to the second surface of the sealing part (20) by a discontinuous adhesive portion distributed over the remainder of the second surface of the sealing part (20).

Claim analysis

For the purposes of question 19, assume that:

- D2 is the closest prior art, it being acknowledged that D2 discloses a closure comprising features corresponding to those of the precharacterising part of claim IX;
- the objective technical problem is defined as being to improve the resistance to separation of the pull tab from the sealing part during application of a screw cap.

For each of the statements 19.1 – 19.4, indicate by marking true or false on the answer sheet whether the statement is a valid argument why it is not obvious to solve the stated objective technical problem by the features of claim IX.

The subject matter of claim IX involves an inventive step because ...

- 19.1 ... D2 discloses a closure with a joined portion where a polyester film is attached to an aluminium foil, and a separated portion, forming a pull-tab, where the polyester film is separate and free from the aluminium foil.
- 19.2 ... D2 discloses that where a pull-tab is to be lightly attached to the sealing part, this should be achieved by a strip of adhesive.
- 19.3 ... the cited art does not disclose or suggest using a discontinuous adhesive portion distributed over the portion of the sealing part to which a pull-tab is attached, for lightly attaching the pull-tab to the sealing part.
- 19.4 ... the cited art does not disclose or suggest using dots of adhesive to lightly attach a pull-tab to a sealing part.

Claim analysis

QUESTION 20

Claim X forms a sixth proposal from your client for amending independent claim IV in response to the European search report. Additions are shown underlined and deletions crossed through.

- X. A closure (10, 50) for a bottle (40), the closure comprising:
- a sealing part (20) comprising ~~an aluminium~~ a metal foil (24);
 - a thermoweldable material (26) on a first surface of the sealing part (20) for attaching the closure (10, 50) to an opening (42) of the bottle (40) by heating the ~~aluminium~~ metal foil (24); and
 - a tab part (12); ~~characterised in that the tab part (12) comprises~~ comprising a polyester film, a first portion of the polyester film being attached to a second surface of the sealing part (20) by a continuous layer (34) of adhesive extending over a first portion of the second surface of the sealing part (20) and a second portion of the polyester film serving as a pull-tab (18);
- characterised in that
the second portion of the polyester film is attached to the second surface of the sealing part (20) by at least two adhesive dots (36).

Claim analysis

For the purposes of question 20, assume that:

- D2 is the closest prior art, it being acknowledged that D2 discloses a closure comprising features corresponding to those of the precharacterising portion of claim X;
- the objective technical problem is defined as being to improve the resistance to separation of the pull tab from the sealing part during application of a screw cap.

For each of the statements 20.1 – 20.4, indicate by marking true or false on the answer sheet whether the statement is a valid argument why it is not obvious to solve the stated objective technical problem by the features of claim X.

The subject matter of claim X involves an inventive step because ...

- 20.1 ... D2 discloses a closure with a joined portion where a polyester film is attached to an aluminium foil, and a separated portion, forming a pull-tab, where the polyester film is separate and free from the aluminium foil.
- 20.2 ... D2 discloses that where a pull-tab is to be lightly attached to the sealing part, this should be achieved by a strip of adhesive.
- 20.3 ... the cited art does not disclose or suggest using a discontinuous adhesive portion distributed over the portion of the sealing part to which a pull-tab is attached, for lightly attaching the pull-tab to the sealing part.
- 20.4 ... the cited art does not disclose or suggest using dots of adhesive to lightly attach a pull-tab to a sealing part.

Annex 1

2010

Jan		Feb		Mar		Apr		May		Jun		Jul		Aug		Sep		Oct		Nov		Dec	
Fri	01	Mon	01	Mon	01	Thu	01	Sat	01	Tue	01	Thu	01	Sun	01	Wed	01	Fri	01	Mon	01	Wed	01
Sat	02	Tue	02	Tue	02	Fri	02	Sun	02	Wed	02	Fri	02	Mon	02	Thu	02	Sat	02	Tue	02	Thu	02
Sun	03	Wed	03	Wed	03	Sat	03	Mon	03	Thu	03	Sat	03	Tue	03	Fri	03	Sun	03	Wed	03	Fri	03
Mon	04	Thu	04	Thu	04	Sun	04	Tue	04	Fri	04	Sun	04	Wed	04	Sat	04	Mon	04	Thu	04	Sat	04
Tue	05	Fri	05	Fri	05	Mon	05	Wed	05	Sat	05	Mon	05	Thu	05	Sun	05	Tue	05	Fri	05	Sun	05
Wed	06	Sat	06	Sat	06	Tue	06	Thu	06	Sun	06	Tue	06	Fri	06	Mon	06	Wed	06	Sat	06	Mon	06
Thu	07	Sun	07	Sun	07	Wed	07	Fri	07	Mon	07	Wed	07	Sat	07	Tue	07	Thu	07	Sun	07	Tue	07
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Sat	09	Tue	09	Tue	09	Fri	09	Sun	09	Wed	09	Fri	09	Mon	09	Thu	09	Sat	09	Tue	09	Thu	09
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Thu	14	Sun	14	Sun	14	Wed	14	Fri	14	Mon	14	Wed	14	Sat	14	Tue	14	Thu	14	Sun	14	Tue	14
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Sun	31			Wed	31			Mon	31			Sat	31	Tue	31			Sun	31			Fri	31

Tage / Days / Jours		München Munich	Den Haag The Hague La Haye	Berlin
Neujahr - New Year's Day - Nouvel An	01.01.2010	x	x	x
Heilige Drei Könige - Epiphany - Epiphanie	06.01.2010	x		
Karfreitag - Good Friday - Vendredi Saint	02.04.2010	x	x	x
Ostermontag - Easter Monday - Lundi de Pâques	05.04.2010	x	x	x
Nationalfeiertag - National Holiday - Fête nationale	30.04.2010		x	
Tag der Befreiung - Liberation Day - Journée de la Libération	05.05.2010		x	
Christi Himmelfahrt - Ascension Day - Ascension	13.05.2010	x	x	x
Brückentag - Bridging Day - Pont	14.05.2010	x	x	x
Pfingstmontag - Whit Monday - Lundi de Pentecôte	24.05.2010	x	x	x
Fronleichnam - Corpus Christi - Fête-Dieu	03.06.2010	x		
Allerheiligen - All Saints' Day - Toussaint	01.11.2010	x		
Heiliger Abend - Christmas Eve - Veille de Noël	24.12.2010	x	x	x
Silvester - New Year's Eve - Saint-Sylvestre	31.12.2010	x	x	x

Annex 2

2011

Jan		Feb		Mar		Apr		May		Jun		Jul		Aug		Sep		Oct		Nov		Dec	
Sat	01	Tue	01	Tue	01	Fri	01	Sun	01	Wed	01	Fri	01	Mon	01	Thu	01	Sat	01	Tue	01	Thu	01
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Mon	31			Thu	31			Tue	31			Sun	31	Wed	31			Mon	31			Sat	31

Tage / Days / Jours		München Munich	Den Haag The Hague La Haye	Berlin
Heilige Drei Könige - Epiphany - Epiphanie	06.01.2011	x		
Karfreitag - Good Friday - Vendredi Saint	22.04.2011	x	x	x
Ostermontag - Easter Monday - Lundi de Pâques	25.04.2011	x	x	x
Tag der Befreiung - Liberation Day - Journée de la Libération	05.05.2011		x	
Christi Himmelfahrt - Ascension Day - Ascension	02.06.2011	x	x	x
Brückentag - Bridging Day - Pont	03.06.2011	x	x	x
Pfingstmontag - Whit Monday - Lundi de Pentecôte	13.06.2011	x	x	x
Fronleichnam - Corpus Christi - Fête-Dieu	23.06.2011	x		
Mariä Himmelfahrt - Assumption Day - Assomption	15.08.2011	x		
Tag der Deutschen Einheit - Day of German Unity - Fête Nationale	03.10.2011	x		x
Allerheiligen - All Saints' Day - Toussaint	01.11.2011	x		
2. Weihnachtstag - Boxing Day - Lendemain de Noël	26.12.2011	x	x	x

Annex 3

2012

Jan		Feb		Mar		Apr		May		Jun		Jul		Aug		Sep		Oct		Nov		Dec	
Sun	01	Wed	01	Thu	01	Sun	01	Tue	01	Fri	01	Sun	01	Wed	01	Sat	01	Mon	01	Thu	01	Sat	01
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Thu	12	Sun	12	Mon	12	Thu	12	Sat	12	Tue	12	Thu	12	Sun	12	Wed	12	Fri	12	Mon	12	Wed	12
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Tue	17	Fri	17	Sat	17	Tue	17	Thu	17	Sun	17	Tue	17	Fri	17	Mon	17	Wed	17	Sat	17	Mon	17
Wed	18	Sat	18	Sun	18	Wed	18	Fri	18	Mon	18	Wed	18	Sat	18	Tue	18	Thu	18	Sun	18	Tue	18
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Sun	29	Wed	29	Thu	29	Sun	29	Tue	29	Fri	29	Sun	29	Wed	29	Sat	29	Mon	29	Thu	29	Sat	29
Mon	30			Fri	30	Mon	30	Wed	30	Sat	30	Mon	30	Thu	30	Sun	30	Tue	30	Fri	30	Sun	30
Tue	31			Sat	31			Thu	31			Tue	31	Fri	31			Wed	31			Mon	31

Tage / Days / Jours		München Munich	Den Haag The Hague La Haye	Berlin
Heilige Drei Könige - Epiphany - Epiphanie	06.01.2012	x		
Karfreitag - Good Friday - Vendredi Saint	06.04.2012	x	x	x
Ostermontag - Easter Monday - Lundi de Pâques	09.04.2012	x	x	x
Nationalfeiertag - National Holiday - Fête Nationale	30.04.2012		x	
Maifeiertag - Labour Day - Fête du Travail	01.05.2012	x	x	x
Christi Himmelfahrt - Ascension Day - Ascension	17.05.2012	x	x	x
Pfingstmontag - Whit Monday - Lundi de Pentecôte	28.05.2012	x	x	x
Fronleichnam - Corpus Christi - Fête-Dieu	07.06.2012	x		
Mariä Himmelfahrt - Assumption Day - Assomption	15.08.2012	x		
Tag der Deutschen Einheit - Day of German Unity - Fête Nationale	03.10.2012	x		x
Allerheiligen - All Saints' Day - Toussaint	01.11.2012	x		
Heiliger Abend - Christmas Eve - Veille de Noël	24.12.2012	x	x	x
1. Weihnachtstag - Christmas Day - Jour de Noël	25.12.2012	x	x	x
2. Weihnachtstag - Boxing Day - Lendemain de Noël	26.12.2012	x	x	x
Silvester - New Year's Eve - Saint-Sylvestre	31.12.2012	x	x	x