Europäisches Patentamt
European Patent Office
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EN

EUROPEAN QUALIFYING EXAMINATION 2013

Pre-examination

This paper comprises:

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

On 12 January 2012 an applicant filed a European patent application EP-1 at the EPO. EP-1 discloses subject-matter X but not subject-matter Y. On 6 September 2012 the same applicant filed a US patent application US-1 at the USPTO claiming priority from EP-1. Claim 1 of US-1 is directed to subject-matter X and claim 2 is directed to subject-matter Y. European patent application EP-2 was filed by the same applicant on 20 December 2012. The description and claims of EP-2 are the same as those of US-1.

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

If in EP-2 priority is claimed only from ...

1.1 ... EP-1, the effective date for claim 1 of EP-2 is 12 January 2012.

1.2 ... EP-1, the effective date for claim 2 of EP-2 is 6 September 2012.

1.3 ... US-1, the effective date for claim 1 of EP-2 is 12 January 2012.

1.4 ... US-1, the effective date for claim 2 of EP-2 is 20 December 2012.

QUESTION 2

An applicant validly filed a European patent application EP-Z on 8 April 2011 as a first filing.

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

2.1 The renewal fee for the third year for EP-Z is due on 30 April 2013.

2.2 If the applicant pays the renewal fee for EP-Z with the required additional fee on 9 October 2013, the renewal fee is deemed to be validly paid.

2.3 If the applicant fails to observe the time limit for paying a renewal fee for EP-Z, he may request further processing.

2.4 The renewal fee for the third year for EP-Z could have been validly paid on filing.

QUESTION 3

An applicant receives on 14 February 2013 two communications from the EPO. Both communications are dated 11 February 2013. One communication relates to the European application EP-A. The other communication relates to the international application PCT-B, where the EPO is acting as the International Searching Authority. EP-A and PCT-B relate to different subject-matter. In both communications the applicant is invited to pay one additional search fee because of lack of unity of invention.

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

3.1 Regarding EP-A, the period for paying the additional fee is two months.

3.2 Regarding EP-A, the additional fee must be paid at the latest by 21 April 2013.

3.3 Regarding PCT-B, the period for paying the additional fee is two months.

3.4 Regarding PCT-B, the additional fee must be paid at the latest by 11 March 2013.

QUESTION 4

Company X intends to file in its own name a European patent application EP-II claiming priority from an earlier European patent application EP-I. EP-I was filed on 29 February 2012 and it claims no earlier priority.

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

4.1 The priority period expires on 1 March 2013.

4.2 The priority declaration must be made at the latest by 1 July 2013.

4.3 In order to validly claim priority, EP-II must be in respect of the same invention as EP-I.

4.4 Company X can validly claim priority from EP-I only if it was the applicant of EP-I at the date of filing.

QUESTION 5

European patent application EP-P was a first filing filed in 2009. EP-P itself is not a European divisional application. You received the first communication under Article 94(3) EPC for EP-P in December 2011. EP-P was refused with a decision dated 6 February 2013. Today, 25 February 2013, you intend to file EP-D as a European divisional application of EP-P.

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

5.1 EP-D must be filed with the European Patent Office in Berlin, Munich or The Hague.

5.2 Renewal fees in respect of EP-P already due today shall also be paid for EP-D.

5.3 You must first file an appeal against the decision to refuse EP-P before you can validly file EP-D.

5.4 The language of the proceedings of EP-P and EP-D must be the same.

QUESTION 6

In January 2009, the international application PCT-1 was filed in Japanese at the Japanese Patent Office. A translation of PCT-1 into English was provided upon entry into the European phase. In the examination phase before the EPO, the applicant notes that a term of the description was incorrectly translated into English. The applicant now requests the correction of this translation error.

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

6.1 The correction can only be made if it is immediately evident from the English translation as filed upon entry into the European phase.

6.2 The correction can be made if it has a basis in the Japanese text as originally filed at the Japanese Patent Office.

6.3 A wrongly translated term in a European patent application can always be replaced by the correct term given in the priority document.

6.4 The correction cannot be made because PCT-1 was not filed in an official language of a Contracting State of the European Patent Organisation.

QUESTION 7

The mention of the grant of a European patent EP-X was published on 16 May 2012. A Portuguese citizen resident in Portugal filed a notice of opposition by fax on 15 February 2013 to the EPO, explaining why the subject-matter claimed in EP-X was not inventive in view of two published patents D1 and D2 explicitly identified in the fax. The fax was entirely written in Portuguese. The opposition fee was paid on the same day. Today, 25 February 2013, a letter from the Portuguese citizen that was sent three days ago reaches the EPO. Annexed to the letter is:

(a) a complete translation in English of the fax sent on 15 February 2013,

(b) copies of the two prior art documents D1 and D2.

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

7.1 The opposition is not admissible, as the copies of the two prior art documents were filed after expiry of the opposition period.

7.2 The notice of opposition could have been filed at the latest on 18 February 2013.

7.3 The translation was filed within the prescribed time limit.

7.4 The opposition is not validly filed, as the Portuguese citizen should have appointed a professional representative for filing the opposition.

QUESTION 8

The international application PCT-Q claims priority from an earlier US-application, US-P. Upon entry into the European phase before the EPO, the claims of PCT-Q were replaced by a modified set of claims R. After receiving the supplementary European search report from the EPO, a further modified single independent claim S was filed in January 2013.

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

To fulfil the requirements of Article 123(2) EPC, it is sufficient if the only basis for the single independent claim S is found in ...

8.1 ... the priority document US-P.

8.2 ... the set of modified claims R.

8.3 ... the abstract of PCT-Q.

8.4 ... one claim of PCT-Q having the same wording as claim S.

QUESTION 9

The mention of the grant of European patent EP-G was published in July 2012. The patent proprietor of EP-G is Mr. G. EP-G was filed without claiming priority in January 2009. Your client, Mr. O, wants the patent to be revoked. He thinks that claim 1 of EP-G is unclear. In fact, there are two possible interpretations of claim 1. Product Z, which has been on the market since November 2008, falls under one of the two interpretations.

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

A valid element of my advice to Mr. O is that ...

9.1 ... lack of clarity is not a valid ground for opposition.

9.2 ... if product Z was put on the market by Mr. G, product Z does not form part of the state of the art.

9.3 ... EP-G should be opposed for lack of novelty, explaining in the notice of opposition why product Z anticipates the subject-matter of claim 1 of EP-G.

9.4 ... product Z does not form part of the state of the art, as it is not a pre-published written document.

QUESTION 10

European patent application EP-Y was refused at oral proceedings before the examining division. The oral proceedings took place on 28 January 2013. Today, 25 February 2013, you received the written reasoned decision.

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

10.1 A notice of appeal against the decision to refuse the patent application must be filed at the latest by 28 March 2013.

10.2 The statement setting out the grounds of appeal and possibly amendments must be filed together with the notice of appeal.

10.3 The examining division shall rectify its decision if it finds the appeal to be admissible and well-founded.

10.4 The appeal fee is always reimbursed, if the board of appeal sets aside the decision of the examining division.

Description of Client's Patent Application (Filed on 01.03.2010)

[**001**] The present invention relates to stoppers for wine bottles.

[**002**] Bottle stoppers for wine bottles comprising a body made of cork are known (see for example document D1). Cork is provided from layers of bark of cork oak trees. Cork is a material with a randomly distributed, continuous network of interconnected air channels running through the material. The material itself is impermeable to liquids and to gasses such as air. However, gasses can flow through the interconnected air channels. Thus, cork is impermeable to liquids, but permeable to gasses such as air. When a bottle stopper made of cork closes the neck of a bottle, gasses can flow through the interconnected air channels of the cork between the interior and the exterior of the bottle. An exchange of gasses between the interior of the bottle and the exterior of the bottle is necessary for the wine to mature. The optimal rate of exchange of gasses through the stopper differs from wine to wine.

[**003**] A drawback with these known stoppers is that the gas permeability of the cork varies greatly depending on the tree from which it was sourced. It is therefore difficult to predict how quickly wine will mature in bottles closed with these stoppers.

[**004**] It is an object of the present invention to provide bottle stoppers which overcome this drawback. This object is achieved by the subject-matter of the attached claims.

[**005**] Brief description of the drawings:
FIG. 1 shows a bottle stopper 10 according to a first embodiment of the invention, with one half cut away.
FIG. 2 shows a bottle stopper 20 according to a second embodiment of the invention, with one half cut away.
FIG. 3 shows a bottle stopper 30 according to a third embodiment of the invention, with one half cut away.

[**006**] The bottle stopper 10 of FIG. 1 comprises a body 2. The body 2 is made of synthetic rubber. The synthetic rubber is impermeable to liquid and gas. The bottle stopper 10 further comprises a narrow air channel 3, which extends through the body 2. When the stopper closes the neck of a bottle, gasses can flow through the air channel between the interior and the exterior of the bottle. Because the air channel 3 is very narrow, liquid cannot flow through it. The optimal rate of exchange of gasses for maturing a specific wine can be achieved by selecting a stopper 10 having an air channel 3 of an appropriate diameter.

[**007**] The second embodiment of our invention enables the rate of exchange of gasses through a stopper to be more precisely determined. The bottle stopper 20 of FIG. 2 comprises all the components of the bottle stopper 10 shown in FIG. 1. The bottle stopper 20 additionally comprises a filter plate 4. The filter plate 4 is attached to the body 2 with glue.

[**008**] The filter plate 4 can for example be made of an aluminium foil with perforations forming micro air channels. The filter plate 4 has a predetermined permeability to gasses such as air but is impermeable to liquids. The filter plate 4 therefore prevents liquids from coming into contact with the air channel 3. The diameter of the air channel 3 and the gas permeability of the filter plate 4 determine the gas permeability of the stopper 20.

[**009**] The filter plate may fall into the wine if it is pushed away from the body of the stopper by a corkscrew when opening the wine bottle. For this reason bottle stoppers of the second embodiment should be made longer than conventional bottle stoppers.

[**010**] The bottle stopper 30 of FIG. 3 comprises a body 2. The body 2 is made of synthetic rubber. The synthetic rubber is impermeable to all fluids, whereby the term fluids includes both liquids and gasses. The bottle stopper 30 further comprises a first air channel 3a, a second air channel 3b and a filter plate 34. The first air channel 3a extends from a first planar surface of the stopper 30 through the body 2. The second air channel 3b continues from the first air channel 3a and extends through the body 2 up to a second planar surface opposite to the first planar surface. The filter plate 34 is fixed within the body 2 so that gasses can flow between the first air channel 3a and the second air channel 3b through a part of the filter plate 34. Fixing the filter plate 34 within the body prevents the filter plate 34 from falling into the wine by the action of a corkscrew.

[**011**] The filter plate 34 can be made of any metal foil with perforations forming micro air channels, thereby providing a predictable permeability to gasses such as air but being impermeable to liquids. Hence, the gas permeability of the stopper 30 is determined by selecting the diameter of the air channels 3a and 3b and by selecting a filter plate 34 with a predetermined gas permeability.

Drawings of Client's Application

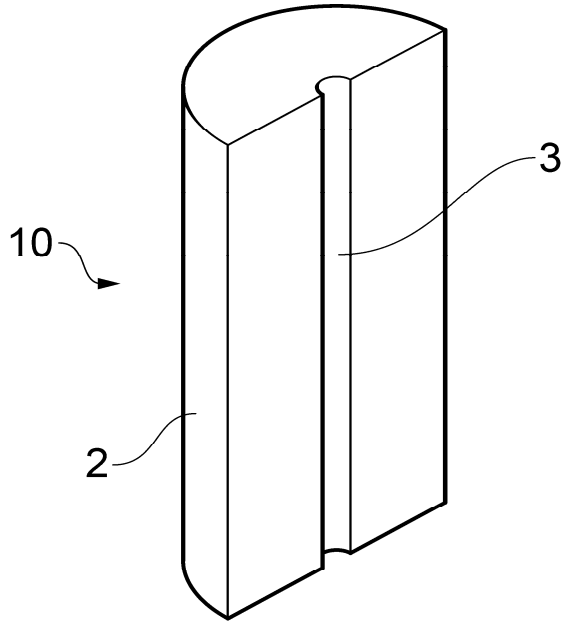

FIG. 1

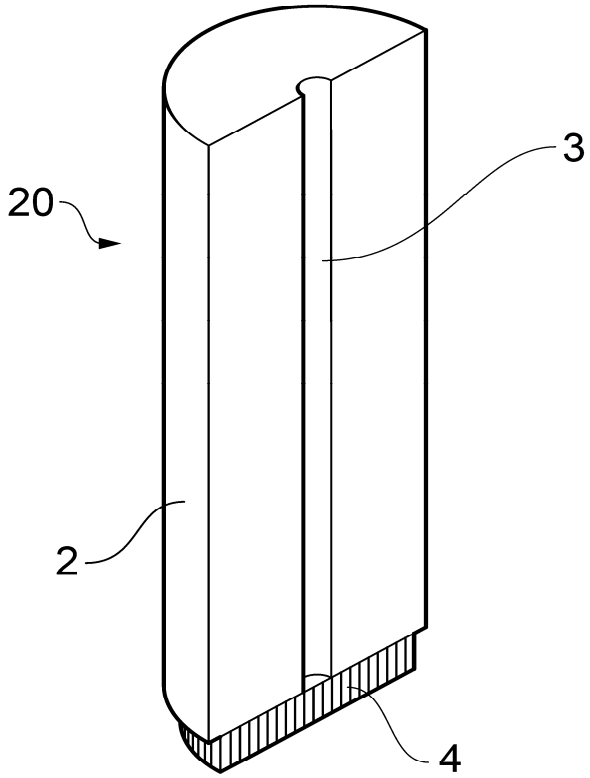

FIG. 2

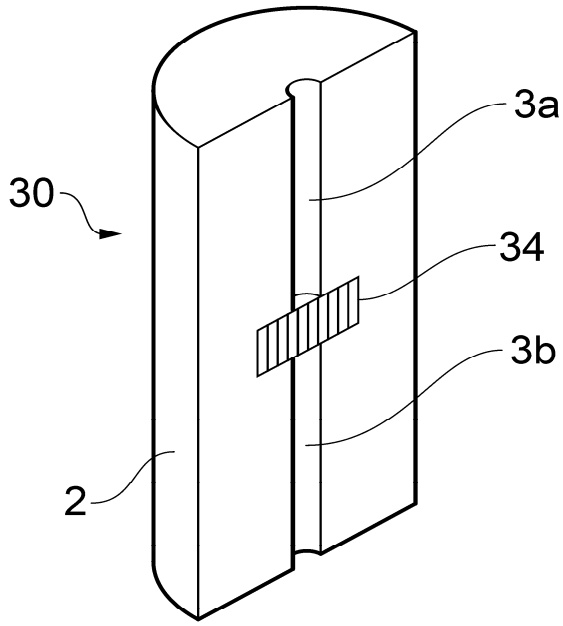

FIG. 3

Document D1 (Published June 2000)

[**001**] FIG. 1 shows a stopper 100 for closing a bottle, with one half cut away. The stopper 100 is made of cork. Cork is provided from layers of bark of cork oak trees. Cork is a material with a randomly distributed, continuous network of interconnected air channels running through the material. The material itself is impermeable to liquids and to gasses such as air. However, gasses can flow through the interconnected air channels. Thus, a stopper made of cork is impermeable to liquids, but permeable to gasses such as air.

[**002**] An exchange of gasses between the interior of the bottle and the exterior of the bottle is necessary for the wine to mature. When the bottle stopper 100 closes the neck of a bottle, gasses can flow between the interior and the exterior of the bottle via the air channels 103. The optimal rate of exchange of gasses through the cork differs from wine to wine.

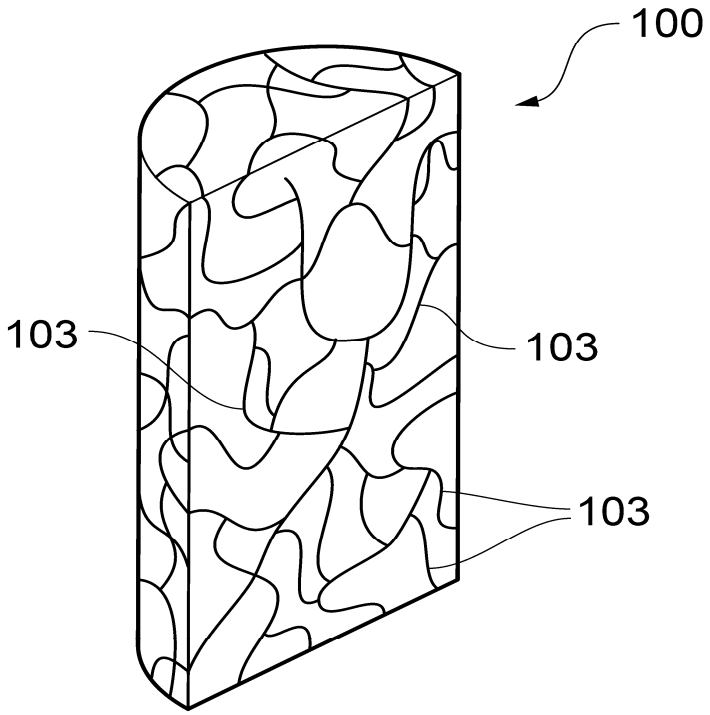

FIG. 1

QUESTION 11

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

I. Stopper (10, 20, 30) for inserting into the neck of a bottle to close the bottle whereby:
   - the stopper (10, 20, 30) comprises a body (2) made of liquid-impermeable and gas-impermeable material, for example synthetic rubber,
   - the body (2) comprises an air channel,
   - the air channel extends through the whole body (2) and is arranged so that when the stopper (10, 20, 30) closes the bottle, air inside the bottle can pass to the outside of the bottle via the air channel.

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

11.1 The subject-matter of claim I covers a stopper when it is not in the neck of a bottle.

11.2 D1 discloses a stopper comprising a body and an air channel extending through the whole body.

11.3 The third embodiment of the stopper of the application is covered by the scope of claim I.

11.4 The subject-matter of claim I is limited to a stopper comprising a body made of synthetic rubber.

QUESTION 12

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

II. Stopper (10, 20, 30) which is at least partly inserted into the neck of a bottle so that the bottle is closed by the stopper (10, 20, 30) whereby:
- the stopper (10, 20, 30) comprises a body (2) which is preferably made of rubber, more particularly synthetic rubber,
- the body (2) comprises a straight air channel extending through the whole body (2) and ending at two opposing openings,
- the air channel is arranged in the body (2) so that when the stopper (10, 20, 30) closes the bottle, one opening of the air channel opens to the inside of the bottle and the other opposing opening of the same air channel opens to the outside of the bottle.

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

12.1 The subject-matter of claim II covers a stopper when it is not in the neck of a bottle.

12.2 D1 discloses a stopper comprising a body and a straight air channel extending through the whole body.

12.3 The third embodiment of the stopper of the application is covered by the scope of claim II.

12.4 The subject-matter of claim II is limited to a stopper comprising a body made of synthetic rubber.

QUESTION 13

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

III. Stopper (10, 20, 30) for closing a bottle whereby:
- the stopper (10, 20, 30) consists of a liquid-impermeable and air-impermeable rubber body (2),
- the stopper (10, 20, 30) is shaped such that an air channel extends continuously through the whole body (2) so that air inside the bottle can pass to the outside of the bottle via the air channel,
- the stopper (10, 20, 30) is dimensioned so that it can be at least partially inserted into the neck of the bottle.

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

13.1 The subject-matter of claim III covers a stopper when it is not in the neck of a bottle.

13.2 D1 discloses a stopper comprising a body and an air channel extending continuously through the whole body.

13.3 The third embodiment of the stopper of the application is covered by the scope of claim III.

13.4 The subject-matter of claim III is limited to a stopper with a synthetic rubber body.

Document D2 (Published April 2001)

[**001**] This document describes a stopper for closing a bottle with an improved seal between the stopper and the neck of a bottle compared to stoppers made only from cork.

[**002**] FIG. 1 shows a stopper 200, with one half cut away. The stopper 200 comprises a cylindrical core 202a made of cork and a cylindrical tube 202b made of synthetic rubber. The synthetic rubber is impermeable to liquids and gasses.

[**003**] When the stopper 200 closes a bottle, the core 202a enables air to be exchanged between the interior and exterior of the bottle via a randomly distributed, continuous network of interconnected air channels running through the cork. The tube 202b ensures that the cork core 202a does not disintegrate when the stopper 200 is in contact with wine for a long time.

[**004**] The stopper 200 is made by gluing a cylindrical core 202a made of cork into a cylindrical tube 202b made of synthetic rubber. A strong glue is used so that the core 202a does not detach from the tube 202b, even when the bottle is opened using a corkscrew.

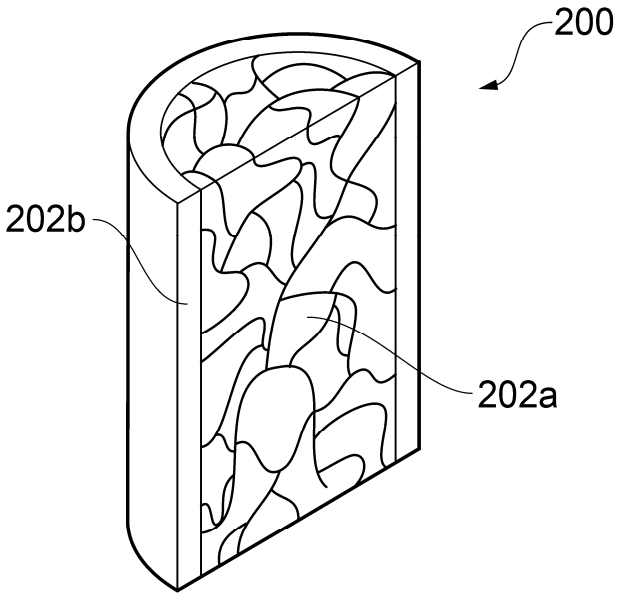

FIG. 1

Document D3 (Published April 2002)

[**001**] This document describes a stopper for closing a bottle, which can be easily compressed when it is inserted into the neck of the bottle. This makes it easy to insert the stopper into the neck of the bottle.

[**002**] FIG. 1 shows the stopper 300, with one half cut away. The stopper 300 comprises a cylindrical body 302 and a through-hole 303. The body 302 is made of natural or synthetic rubber. Rubber is a resilient material which is impermeable to liquids and gasses. Synthetic rubber is preferred, since it is less prone to deteriorate over time than natural rubber. Due to the through-hole the stopper can be easily compressed.

[**003**] FIG. 2 shows, in cross section, the stopper 300 after it has been inserted into the neck of a bottle 305. The body 302 is compressed and the lower part of the through-hole is completely closed. The stopper is completely impermeable to liquids and gasses and tightly closes the bottle.

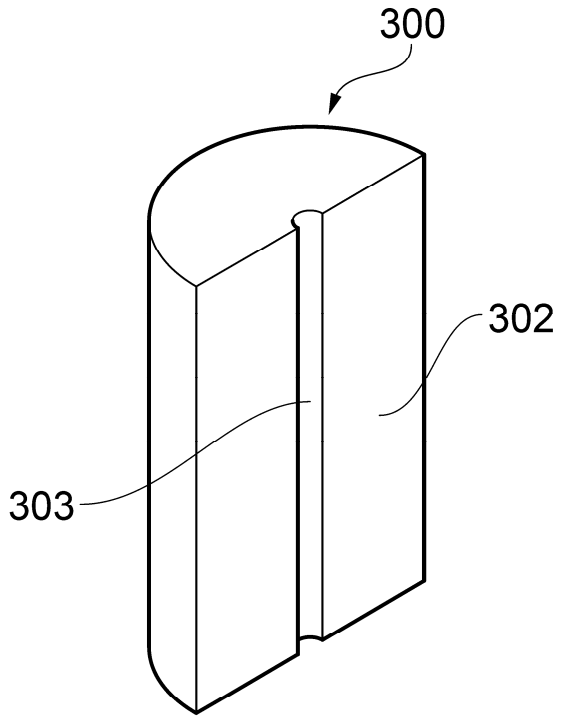

FIG. 1

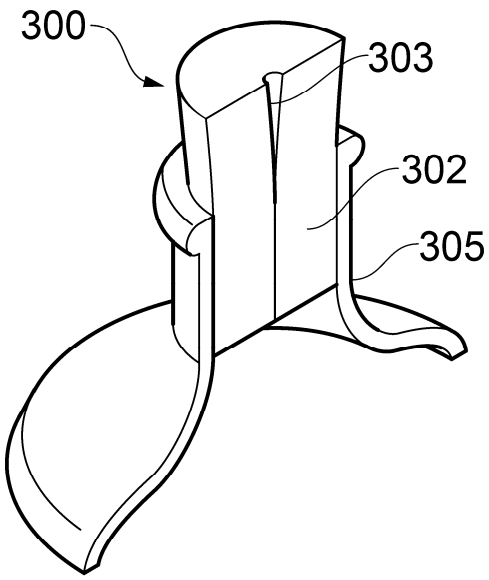

FIG. 2

QUESTION 14

For question 14, assume that claim IV is a single independent claim filed with the client's patent application and assume that a European search report cites D1 and further documents D2 and D3 whereby all documents are published prior to the filing date of the client's patent application.

IV. A bottle with a stopper (10, 20, 30) closing the bottle, whereby:
- the stopper (10, 20, 30) has a body (2) comprising a liquid-impermeable and air-impermeable rubber,
- the body (2) has an air channel (3) extending through the body (2),
- the body (2) is configured so that air inside the bottle can pass to the outside of the bottle via the air channel (3).

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

14.1 Claim IV is novel with respect to D1.
14.2 Claim IV is novel with respect to D2.
14.3 Claim IV is novel with respect to D3.
14.4 D3 discloses a stopper comprising a body and an air channel extending through the body.

Claim analysis

Document D4 (Published March 2002)

[**001**] This document describes a stopper for closing a wine bottle. Exchange of gasses between the interior and exterior of a wine bottle is necessary for wine to mature. Red wine requires more gas to be exchanged than white wine.

[**002**] The stopper comprises a body made of synthetic rubber. Synthetic rubber is a material which is impermeable to liquids and to gasses such as air. However, when synthetic rubber is produced as a foam, the synthetic rubber foam becomes gas permeable via a randomly distributed, continuous network of interconnected air channels running through the synthetic rubber foam. The rate at which gasses can flow through the synthetic rubber foam cannot be predicted due to the random distribution of the air channels.

[**003**] FIG. 1 shows a stopper 400 with part cut away. It comprises a body 402 made of synthetic rubber foam and a filter plate 404. The filter plate 404 is glued onto a first planar surface of the body 402. The filter plate 404 is made of an aluminium foil with perforations forming micro air channels. The filter plate 404 prevents wine from coming into contact with the synthetic rubber foam.

[**004**] When the stopper closes the neck of a bottle, the filter plate 404 is located inside the bottle. Gasses can flow between the inside and the outside of the bottle via the micro air channels in the filter plate 404 and the air channels in the body 402.

[**005**] The stopper 400 comprises a blind hole 405 formed when producing the synthetic rubber foam. The blind hole 405 has an opening on a second planar surface of the stopper. The second planar surface is on the outside of the bottle when the stopper is inserted in a bottle. The hole 405 acts as a guide for inserting a corkscrew 406 into the stopper 400.

Drawings Document D4

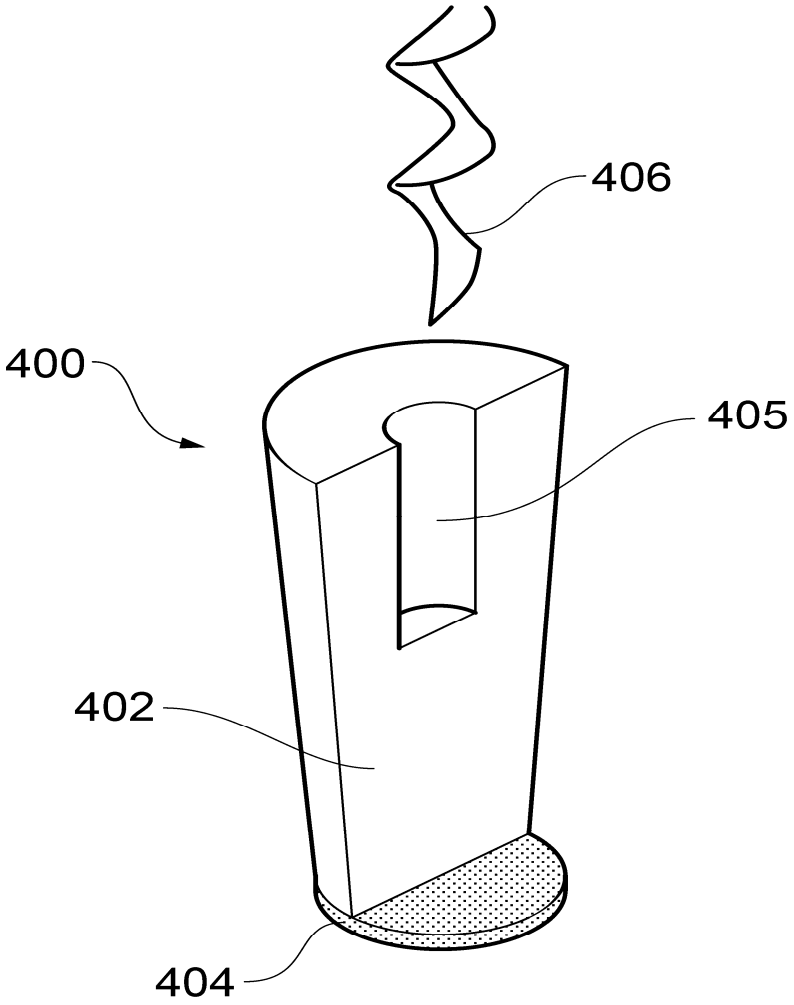

FIG. 1

QUESTION 15

For questions 15 to 18, assume that claim set V, which comprises claims V.1 to V.3, was filed with the client's patent application and assume that a European search report cites D1 to D4 as documents published prior to the filing date of the client's patent application.

V.1 Stopper (10, 20, 30) for inserting into the neck of a bottle to close the bottle, whereby:
- the stopper (10, 20, 30) comprises a body (2) made of liquid-impermeable and air-impermeable material,
- the body (2) has a first planar surface and a second planar surface,
- the body (2) has an air channel (3) opening at least on the first planar surface,
- a filtering unit (4) is attached on the first planar surface,
- the stopper (10, 20, 30) is arranged so that air can pass through the stopper (10, 20, 30) via the filtering unit (4) and the air channel (3),
- the first planar surface is inside the bottle and the second planar surface is outside the bottle when the stopper (10, 20, 30) closes the bottle.

V.2 Stopper (10, 20, 30) according to claim V.1 whereby the air channel is a straight channel extending from the first planar surface to the second planar surface.

V.3 Stopper (20) according to claim V.1 whereby the air channel (3) is a through-hole extending from the first planar surface to the second planar surface and the filtering unit (4) is attached to cover an end of the through-hole.

For each of the statements 15.1 – 15.4, indicate on the answer sheet whether the statement is true or false:

15.1 Claim V.1 is novel with respect to D1.
15.2 Claim V.1 is novel with respect to D2.
15.3 Claim V.1 is novel with respect to D3.
15.4 The stopper of D4 has a filtering unit.

QUESTION 16

For this question consider only claim V.2 of claim set V and assume that:

a) the EPO examiner considers D4 to be the closest prior art;

b) the EPO examiner identifies the straight air channel extending from the first planar surface to the second planar surface as the distinguishing feature with respect to D4.

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

Given a) and b), a valid identification of a technical effect for claim V.2 using the problem-solution approach is that ...

16.1 ... a straight air channel extending from the first planar surface to the second planar surface is quicker to manufacture than foam.

16.2 ... with a straight air channel extending from the first planar surface to the second planar surface it is easier to determine by its diameter the rate of exchange of gasses.

16.3 ... with a straight air channel extending from the first planar surface to the second planar surface the rate of exchange of gasses is determined only by the gas permeability of the filter plate.

16.4 ... the provision of a straight air channel extending from the first planar surface to the second planar surface saves material of the stopper.

QUESTION 17

For this question consider only claim V.3 of claim set V and assume that:

a) the EPO examiner considers D4 to be the closest prior art;

b) the EPO examiner identifies as a distinguishing feature with respect to D4 the fact that the air channel is a through-hole extending from the first planar surface to the second planar surface and that the filter unit is attached to cover an end of the through-hole.

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

Given a) and b), a valid formulation of the objective technical problem for analysing claim V.3 using the problem-solution approach is ...

17.1 ... how to make a stopper for a bottle having a predictable gas permeability.

17.2 ... how to make a stopper for a bottle comprising a straight air channel.

17.3 ... how to make an air permeable stopper without using cork.

17.4 ... how to make a stopper for a bottle that allows to better predict the maturation of the wine.

QUESTION 18

Considering the description of the application and claim set V only, assume that after receiving a first communication, the applicant suggests that you amend the application by filing an additional claim V.4.

Following are four different proposals for the additional claim V.4:

A. V.4. A stopper according to claim V.1 whereby the body is made of natural rubber foam.

B. V.4. A stopper according to claim V.1 whereby the stopper comprises an additional perforated aluminium foil.

C. V.4. A stopper according to claim V.1 whereby the filter unit is a filter plate that is arranged to prevent wine from coming into contact with the air channel.

D. V.4. A stopper according to claim V.1 whereby the body comprises micro perforations.

For each of the statements 18.1 – 18.4, indicate on the answer sheet whether the statement is true or false:

Subject-matter that extends beyond the content of the application as filed is added by ...

18.1 ... the wording proposed in A.

18.2 ... the wording proposed in B.

18.3 ... the wording proposed in C.

18.4 ... the wording proposed in D.

QUESTION 19

For question 19, assume that claim VI is a single independent claim filed with the client's patent application.

VI. Stopper (30) for inserting into the neck of a bottle to close the bottle, whereby:
- the stopper (30) comprises a body (2) made of liquid-impermeable and air-impermeable material, a filter plate (4), a first air channel (3a) and a second air channel (3b),
- the filter plate (4) is fixed within the body (2) between the first and second air channels (3a, 3b),
- the stopper (30) is arranged so that when the stopper (30) closes the bottle, air can pass between the inside and outside of the bottle via the second air channel (3b), the filter plate (4) and the first air channel (3a).

Claim analysis

For this question also assume that:

a) the closest prior art is D4;

b) the objective technical problem is “to provide a stopper having a filter plate whereby the filter plate is securely held”.

For each of the statements 19.1 – 19.4, indicate on the answer sheet whether the statement is true or false:

Given a) and b), a valid argument as to why it is not obvious to solve the objective technical problem by the features of claim VI is that ...

19.1 ... starting from D4, the person skilled in the art would not consider to combine it with the teaching of D1, since the stopper of D1 is made of cork instead of synthetic rubber as is the stopper of D4.

19.2 ... starting from D4, and considering D2, which teaches to use a strong glue, the skilled person would glue the filter plate of D4 to the body of D4 using a strong glue but would not consider integrating the filter plate of D4 within the body of D4.

19.3 ... starting from D4, the person skilled in the art would not consider to combine it with the teaching of D3, since D3 does not provide a filter plate.

19.4 ... starting from D4 alone, the person skilled in the art would not consider to provide two air channels.

QUESTION 20

Consider that the applicant suggests to file the following claim VII as an amended version of claim VI after filing of the application. The changes to claim VI are highlighted by underlining additional words and striking through words which are deleted.

VII. Stopper (30) for inserting into the neck of a bottle <u>containing sparkling wine</u> to close the bottle, whereby:
- the stopper (30) comprises a body (2) made of liquid-impermeable and air-impermeable material <u>such as rubber</u>, a ~~filter plate~~ <u>filter element</u> (4), a first air channel (3a) and a second air channel (3b),
- the ~~filter plate~~ <u>filter element</u> (4) is fixed within the body (2) ~~between the first and second air channels (3a, 3b)~~,
- the stopper (30) is arranged so that when the stopper (30) closes the bottle, air can pass between the inside and outside of the bottle via the second air channel (3b), the ~~filter plate~~ <u>filter element</u> (4) and the first air channel (3a).

For each of the statements 20.1 – 20.4, indicate on the answer sheet whether the statement is true or false:

20.1 The added wording “containing sparkling wine” is allowable under Article 123(2) EPC.

20.2 The added wording “such as rubber” is allowable under Article 123(2) EPC.

20.3 The substituted wording “filter element” is allowable under Article 123(2) EPC.

20.4 The deletion of the wording “between the first and second air channels (3a, 3b)” is allowable under Article 123(2) EPC.

Annex 1

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
Mon 02	Thu 02	Fri 02	Mon 02	Wed 02	Sat 02	Mon 02	Thu 02	Sun 02	Tue 02	Fri 02	Sun 02
Tue 03	Fri 03	Sat 03	Tue 03	Thu 03	Sun 03	Tue 03	Fri 03	Mon 03	Wed 03	Sat 03	Mon 03
Wed 04	Sat 04	Sun 04	Wed 04	Fri 04	Mon 04	Wed 04	Sat 04	Tue 04	Thu 04	Sun 04	Tue 04
Thu 05	Sun 05	Mon 05	Thu 05	Sat 05	Tue 05	Thu 05	Sun 05	Wed 05	Fri 05	Mon 05	Wed 05
Fri 06	Mon 06	Tue 06	Fri 06	Sun 06	Wed 06	Fri 06	Mon 06	Thu 06	Sat 06	Tue 06	Thu 06
Sat 07	Tue 07	Wed 07	Sat 07	Mon 07	Thu 07	Sat 07	Tue 07	Fri 07	Sun 07	Wed 07	Fri 07
Sun 08	Wed 08	Thu 08	Sun 08	Tue 08	Fri 08	Sun 08	Wed 08	Sat 08	Mon 08	Thu 08	Sat 08
Mon 09	Thu 09	Fri 09	Mon 09	Wed 09	Sat 09	Mon 09	Thu 09	Sun 09	Tue 09	Fri 09	Sun 09
Tue 10	Fri 10	Sat 10	Tue 10	Thu 10	Sun 10	Tue 10	Fri 10	Mon 10	Wed 10	Sat 10	Mon 10
Wed 11	Sat 11	Sun 11	Wed 11	Fri 11	Mon 11	Wed 11	Sat 11	Tue 11	Thu 11	Sun 11	Tue 11
Thu 12	Sun 12	Mon 12	Thu 12	Sat 12	Tue 12	Thu 12	Sun 12	Wed 12	Fri 12	Mon 12	Wed 12
Fri 13	Mon 13	Tue 13	Fri 13	Sun 13	Wed 13	Fri 13	Mon 13	Thu 13	Sat 13	Tue 13	Thu 13
Sat 14	Tue 14	Wed 14	Sat 14	Mon 14	Thu 14	Sat 14	Tue 14	Fri 14	Sun 14	Wed 14	Fri 14
Sun 15	Wed 15	Thu 15	Sun 15	Tue 15	Fri 15	Sun 15	Wed 15	Sat 15	Mon 15	Thu 15	Sat 15
Mon 16	Thu 16	Fri 16	Mon 16	Wed 16	Sat 16	Mon 16	Thu 16	Sun 16	Tue 16	Fri 16	Sun 16
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
Thu 19	Sun 19	Mon 19	Thu 19	Sat 19	Tue 19	Thu 19	Sun 19	Wed 19	Fri 19	Mon 19	Wed 19
Fri 20	Mon 20	Tue 20	Fri 20	Sun 20	Wed 20	Fri 20	Mon 20	Thu 20	Sat 20	Tue 20	Thu 20
Sat 21	Tue 21	Wed 21	Sat 21	Mon 21	Thu 21	Sat 21	Tue 21	Fri 21	Sun 21	Wed 21	Fri 21
Sun 22	Wed 22	Thu 22	Sun 22	Tue 22	Fri 22	Sun 22	Wed 22	Sat 22	Mon 22	Thu 22	Sat 22
Mon 23	Thu 23	Fri 23	Mon 23	Wed 23	Sat 23	Mon 23	Thu 23	Sun 23	Tue 23	Fri 23	Sun 23
Tue 24	Fri 24	Sat 24	Tue 24	Thu 24	Sun 24	Tue 24	Fri 24	Mon 24	Wed 24	Sat 24	Mon 24
Wed 25	Sat 25	Sun 25	Wed 25	Fri 25	Mon 25	Wed 25	Sat 25	Tue 25	Thu 25	Sun 25	Tue 25
Thu 26	Sun 26	Mon 26	Thu 26	Sat 26	Tue 26	Thu 26	Sun 26	Wed 26	Fri 26	Mon 26	Wed 26
Fri 27	Mon 27	Tue 27	Fri 27	Sun 27	Wed 27	Fri 27	Mon 27	Thu 27	Sat 27	Tue 27	Thu 27
Sat 28	Tue 28	Wed 28	Sat 28	Mon 28	Thu 28	Sat 28	Tue 28	Fri 28	Sun 28	Wed 28	Fri 28
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
Brückentag - Bridging Day - Pont	27.12.2012	x	x	x
Brückentag - Bridging Day - Pont	28.12.2012	x	x	x
Silvester - New Year's Eve - Saint-Sylvestre	31.12.2012	x	x	x

Annex 2

2013

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Tue 01	Fri 01	Fri 01	Mon 01	Wed 01	Sat 01	Mon 01	Thu 01	Sun 01	Tue 01	Fri 01	Sun 01
Wed 02	Sat 02	Sat 02	Tue 02	Thu 02	Sun 02	Tue 02	Fri 02	Mon 02	Wed 02	Sat 02	Mon 02
Thu 03	Sun 03	Sun 03	Wed 03	Fri 03	Mon 03	Wed 03	Sat 03	Tue 03	Thu 03	Sun 03	Tue 03
Fri 04	Mon 04	Mon 04	Thu 04	Sat 04	Tue 04	Thu 04	Sun 04	Wed 04	Fri 04	Mon 04	Wed 04
Sat 05	Tue 05	Tue 05	Fri 05	Sun 05	Wed 05	Fri 05	Mon 05	Thu 05	Sat 05	Tue 05	Thu 05
Sun 06	Wed 06	Wed 06	Sat 06	Mon 06	Thu 06	Sat 06	Tue 06	Fri 06	Sun 06	Wed 06	Fri 06
Mon 07	Thu 07	Thu 07	Sun 07	Tue 07	Fri 07	Sun 07	Wed 07	Sat 07	Mon 07	Thu 07	Sat 07
Tue 08	Fri 08	Fri 08	Mon 08	Wed 08	Sat 08	Mon 08	Thu 08	Sun 08	Tue 08	Fri 08	Sun 08
Wed 09	Sat 09	Sat 09	Tue 09	Thu 09	Sun 09	Tue 09	Fri 09	Mon 09	Wed 09	Sat 09	Mon 09
Thu 10	Sun 10	Sun 10	Wed 10	Fri 10	Mon 10	Wed 10	Sat 10	Tue 10	Thu 10	Sun 10	Tue 10
Fri 11	Mon 11	Mon 11	Thu 11	Sat 11	Tue 11	Thu 11	Sun 11	Wed 11	Fri 11	Mon 11	Wed 11
Sat 12	Tue 12	Tue 12	Fri 12	Sun 12	Wed 12	Fri 12	Mon 12	Thu 12	Sat 12	Tue 12	Thu 12
Sun 13	Wed 13	Wed 13	Sat 13	Mon 13	Thu 13	Sat 13	Tue 13	Fri 13	Sun 13	Wed 13	Fri 13
Mon 14	Thu 14	Thu 14	Sun 14	Tue 14	Fri 14	Sun 14	Wed 14	Sat 14	Mon 14	Thu 14	Sat 14
Tue 15	Fri 15	Fri 15	Mon 15	Wed 15	Sat 15	Mon 15	Thu 15	Sun 15	Tue 15	Fri 15	Sun 15
Wed 16	Sat 16	Sat 16	Tue 16	Thu 16	Sun 16	Tue 16	Fri 16	Mon 16	Wed 16	Sat 16	Mon 16
Thu 17	Sun 17	Sun 17	Wed 17	Fri 17	Mon 17	Wed 17	Sat 17	Tue 17	Thu 17	Sun 17	Tue 17
Fri 18	Mon 18	Mon 18	Thu 18	Sat 18	Tue 18	Thu 18	Sun 18	Wed 18	Fri 18	Mon 18	Wed 18
Sat 19	Tue 19	Tue 19	Fri 19	Sun 19	Wed 19	Fri 19	Mon 19	Thu 19	Sat 19	Tue 19	Thu 19
Sun 20	Wed 20	Wed 20	Sat 20	Mon 20	Thu 20	Sat 20	Tue 20	Fri 20	Sun 20	Wed 20	Fri 20
Mon 21	Thu 21	Thu 21	Sun 21	Tue 21	Fri 21	Sun 21	Wed 21	Sat 21	Mon 21	Thu 21	Sat 21
Tue 22	Fri 22	Fri 22	Mon 22	Wed 22	Sat 22	Mon 22	Thu 22	Sun 22	Tue 22	Fri 22	Sun 22
Wed 23	Sat 23	Sat 23	Tue 23	Thu 23	Sun 23	Tue 23	Fri 23	Mon 23	Wed 23	Sat 23	Mon 23
Thu 24	Sun 24	Sun 24	Wed 24	Fri 24	Mon 24	Wed 24	Sat 24	Tue 24	Thu 24	Sun 24	Tue 24
Fri 25	Mon 25	Mon 25	Thu 25	Sat 25	Tue 25	Thu 25	Sun 25	Wed 25	Fri 25	Mon 25	Wed 25
Sat 26	Tue 26	Tue 26	Fri 26	Sun 26	Wed 26	Fri 26	Mon 26	Thu 26	Sat 26	Tue 26	Thu 26
Sun 27	Wed 27	Wed 27	Sat 27	Mon 27	Thu 27	Sat 27	Tue 27	Fri 27	Sun 27	Wed 27	Fri 27
Mon 28	Thu 28	Thu 28	Sun 28	Tue 28	Fri 28	Sun 28	Wed 28	Sat 28	Mon 28	Thu 28	Sat 28
Tue 29		Fri 29	Mon 29	Wed 29	Sat 29	Mon 29	Thu 29	Sun 29	Tue 29	Fri 29	Sun 29
Wed 30		Sat 30	Tue 30	Thu 30	Sun 30	Tue 30	Fri 30	Mon 30	Wed 30	Sat 30	Mon 30
Thu 31		Sun 31		Fri 31		Wed 31	Sat 31		Thu 31		Tue 31

Tage / Days / Jours		München Munich	Den Haag The Hague La Haye	Berlin
Neujahr - New Year's Day - Nouvel An	01.01.2013	x	x	x
Karfreitag - Good Friday - Vendredi Saint	29.03.2013	x	x	x
Ostermontag - Easter Monday - Lundi de Pâques	01.04.2013	x	x	x
Nationalfeiertag - National Holiday - Fête nationale	30.04.2013		x	
Maifeiertag - Labour Day - Fête du Travail	01.05.2013	x	x	x
Christi Himmelfahrt - Ascension Day - Ascension	09.05.2013	x	x	x
Pfingstmontag - Whit Monday - Lundi de Pentecôte	20.05.2013	x	x	x
Fronleichnam - Corpus Christi - Fête-Dieu	30.05.2013	x		
Mariä Himmelfahrt - Assumption Day - Assomption	15.08.2013	x		
Tag der Deutschen Einheit - Day of German Unity - Fête Nationale	03.10.2013	x		x
Allerheiligen - All Saints' Day - Toussaint	01.11.2013	x		
Heiliger Abend - Christmas Eve - Veille de Noël	24.12.2013	x	x	x
1. Weihnachtstag - Christmas Day - Jour de Noël	25.12.2013	x	x	x
2. Weihnachtstag - Boxing Day - Lendemain de Noël	26.12.2013	x	x	x
Silvester - New Year's Eve - Saint-Sylvestre	31.12.2013	x	x	x