

PATENT ADMINISTRATORS COURSE 2007/8

FINAL EXAMINATION

Thursday 24th April 2008

Exam Starts: 2.00pm

Reading Time: 2.00 pm – 2.15 pm

Writing Time: 2.15 pm – 5.15 pm

1. This is a three-hour Paper with an additional 15 minutes for reading only.
2. You should attempt all questions.
3. The number of marks allotted to each question is indicated on the paper.
4. Please write clearly, as it is difficult to award marks to illegible answers.
5. The Paper consists of 5 pages of questions plus Annex 1, Annex 2 and Annex 3.
6. In addition, you are provided with:
 - Blank Patents Form 1
 - Blank Patents Form 7
 - 2008 & 2009 Calendar
 - EPO Holiday dates 2008
7. Please ensure your candidate number is written on each page of your answers and any forms submitted.
Please do NOT write your name on the answer sheets.
8. At the end of the exam please ensure that your answer papers are placed in **the brown envelope with only your candidate number on and sealed.**

Patent Administrators Course 2007/8

Final Exam April 2008

1.

Complete the accompanying UK patents forms according to the instructions and information contained in the attached Annexes 1 and 2.

(15 marks)

2.

For the application in question 1, in order to secure grant:

a) which further official forms will have to be filed,

(2 marks)

and b) what are the time limits for filing them?

(3 marks)

(Ignore the need to file fee sheets).

3.

For this question, you should ignore possible extensions of time.

a) A UK patent application was filed on 1st February 2004, without claiming priority. By what date must the application be in order for grant? Explain your reasoning.

(2 marks)

b) The first examination report on the application in part a) of this question will be issued on 1st May 2008. Does this make a difference to your earlier answer? If so, when must the application now be in order? Give your reasons.

(3 marks)

4.

a) What is the latest date for filing a UK divisional patent application, assuming that the parent application is still pending?

(1 mark)

b) What is the normal period by which such a divisional application must be in order for grant?

(1 mark)

c) Can this period be extended as of right? If so, by how long? (1 mark)

5.

The time limit for answering a UK examination report expired on 21st April 2008. What must be done to obtain an extension as of right, and what will then be the final date for response? Explain your reasoning.

(5 marks)

6.

Who can file the following?

- i) A European patent application (1 mark)
- ii) A PCT application (4 marks)
- iii) A US patent application (1 mark)

7.

a) Ignoring any extensions, what is the time limit for requesting substantive examination and paying the corresponding official fee for a European patent application? (1 mark)

b) Which other fees are also payable by the deadline given in part a) above? (2 marks)

c) The "31 month" date (from earliest priority) of a PCT application is set to expire on 18th May 2008. The A3 publication of the PCT specification took place on 15th February 2008. By when must the examination fee be paid on a corresponding Euro-PCT application? (Ignore possible further processing). (5 marks)

8.

The following is a list of headings and subheadings that you might see in a patent specification. Re-arrange the list into the order that it is usual to expect in a UK patent application. (You may answer by writing a, b, c,... in the right order).

- a) CLAIMS
- b) EXAMPLE 2
- c) DESCRIPTION OF THE PREFERRED EMBODIMENTS
- d) [TITLE OF THE INVENTION]
- e) EXAMPLE 1
- f) FIELD OF THE INVENTION
- g) BRIEF DESCRIPTION OF THE DRAWINGS
- h) ABSTRACT
- i) DESCRIPTION OF THE RELATED ART
- j) SUMMARY OF THE INVENTION (5 marks)

9.

a) Acting on instructions from your US associate, you filed a UK patent application on 24th March 2008 without any priority claim. The US associate had received written instructions from their US client on 24th February 2008 to file this UK patent application. Today, 24th April 2008, you have just received an urgent fax from your US associate advising that they inadvertently omitted to tell you to claim priority from US patent application no. 60/123,456 filed on 30th March 2007. What can you do to save the priority claim? Mention any applicable time limits. (5 marks)

b) What would be your answer if you had not filed the UK application until 1st April 2008? (6 marks)

10.

The EPO has sent the letter attached [see Annex 3], which was received in your office on 11th January 2008.

a) On which date should the reply to the letter be received by the EPO? (3 marks)

b) The reply will not be ready in time. What can be done to avoid difficulty and extra costs to your client? What will the new deadline be? (4 marks)

In each case give your reasoning.

11.

Where must a European divisional patent application be filed and in what language? (2 marks)

12.

i) Which patent offices act as the International Search Authority for PCT applications filed at the following Receiving Offices?

a) UKIPO (1 mark)

b) USPTO (2 marks)

ii) What search fee reductions apply in the case of a Euro-PCT application based on a PCT application filed on or after 1st July 2005 at the USPTO? (2 marks)

iii) What percentage search fee reduction applies to a PCT application entering the UK national phase directly? (1 mark)

13.

If a PCT application is filed without payment of any fees, and the necessary fees are then paid at a later date, what effect does this have on the filing date of the application? (1 mark)

14.

Are renewal fees payable in respect of the following? Where renewal fees are payable, state when the first fee is due, the frequency of payment and when the need to pay ceases.

- a) A pending PCT application
- b) A pending European application
- c) A pending UK patent application. (3 marks)

15.

a) As of what date is a UK registered design claiming no priority now deemed registered? (1 mark)

b) As of what date is a UK registered design not claiming any priority now deemed registered? (1 mark)

c) What is the maximum term of a UK registered design? (1 mark)

16. You are preparing a PCT application for a British company, Imperial Tapes PLC. The only inventor is Imperial's full-time Research Director, Dr A. Wisecrack. The PCT application will designate UK and USA, among other states.

On the PCT application form, who must be named as applicant:

i) generally (Box II)? (1 mark)

ii) for USA? (1 mark)

In due course, this PCT application is granted in UK. Imperial Tapes PLC subsequently sells the UK patent to Paints Ltd.

iii) Which company or companies should sign Patents Form 21 "Application To Register Rights Acquired In a Patent", to avoid disclosure of the provisions of the contract of sale? (1 mark)

iv) When should this sale be registered at UKIPO? (1 mark)

17.

What is the definition of a trade mark?

(3 marks)

18.

In the case of a bill to a UK client, on which of the following is VAT payable?

- a) Official fees (1 mark)
- b) Postage (1 mark)
- c) Fees for attorneys in your (UK) office (1 mark)
- d) Overseas associates' fees (1 mark)

19.

What do the following abbreviations mean in the Patent Co-operation Treaty?

RO

IB

ISA

IPRP

(2 marks)

20.

State two essential practical requirements of an office organisation, necessary to meeting the standard of "all due care in the circumstances", that must be demonstrated for reestablishment of rights under the EPC. (2 marks)

A1.

Deduct 0.5 marks for each error (no deductions for consequential errors) from a total of:

(15 marks)

A2.

a) PFs 9A and 10 (2 marks)

b) 1 year from priority or 2M from filing, whichever later (2 marks)

6M from publication of the application (1 mark)

A3.

a) 4.5 years from priority (= filing date if no priority) = 01/08/2008 (2 marks)

b) Yes. 12M from date of 1st exam. report = 01/05/2009, which is later than part a) date. (3 marks)

A4.

a) 3M prior to the end of the parent acceptance period (1 mark)

b) The end of the parent acceptance period (1 mark)

c) Yes. 2M (1 mark)

A5.

Written request (1 mark)

Filed before the end of the extended period (1 mark)

Extended by 2M from due date (1 mark)

21st June 2008 is a Saturday (1 mark)

Therefore final date is 23rd June 2008 (1 mark)

A6.

i) Anyone (1 mark)

ii) A citizen or resident of a contracting state (2 marks)

alone or together with one or more other persons (1 mark)

who need not be citizens or residents of contracting states (1 mark)

iii) The inventor(s) (1 mark)

A7.

a) Six months from publication of the search report. (1 mark)

b) Designation fees (1 mark)

Extension fees (1 mark)

c) For realising PCT pub takes place of EP pub (1 mark)

For realising A3 pub is pub of S/R (1 mark)

6M from 15/02/08 is 15/08/08 (1 mark)

Which is Assumption Day [EPO Munich closed] (1 mark)

Therefore final deadline is 16/08/08. (1 mark)

A8.

- d) [TITLE OF THE INVENTION]
- f) FIELD OF THE INVENTION
- i) DESCRIPTION OF THE RELATED ART
- j) SUMMARY OF THE INVENTION
- g) BRIEF DESCRIPTION OF THE DRAWINGS
- c) DESCRIPTION OF THE PREFERRED EMBODIMENTS
- e) EXAMPLE 1
- b) EXAMPLE 2
- a) CLAIMS
- h) ABSTRACT

(0.5 marks for each pair in the correct order, including title at head of list and abstract at end).

A9.

- a) The UK app was filed within the 12 month priority term of the US app. (1 mark)
Therefore can file late priority claim (1 mark)
Final time limit is 16M from priority (1 mark)
Which is 30/07/2008 (1 mark)
Same time limit applies for filing prio. doc. (1 mark)
- b) The UK app was filed more than 12M after the US app (1 mark)
Can still claim priority, but must show the applicant always intended to claim priority within the 12M period. (2 marks)
Applicant's written instructions evidence of this (1 mark)
Time limit for priority claim outside convention period is 14 months from priority (1 mark)
Which is 30/05/2008 (1 mark)

A10.

- a) 7th Jan + 10 days = 17th Jan (1 mark)
+ 4M = 17th May (1 mark)
: a Saturday => due date Mon 19/05 (1 mark)
- b) 2M extension request, f.o.c. (1 mark)
Apply before 19th May (1 mark)
In writing (1 mark)
New deadline is (7th January + 10 days) + 6 months = 17th July (1 mark)

A11.

- The EPO (1 mark)
- In the language of the proceedings of the parent (1 mark)

A12.

- i) a) EPO (1 mark)
b) USPTO or EPO (2 marks)
- ii) ISA=EP: 100% (no supplementary search done) (1 mark)
ISA=US: €190 [balance €860; €810 prior to 01/04/2008] (1 mark)
- iii) 20% (1 mark)

A13.

None – no fees are required to establish an International Filing Date (1 mark)

A14.

- a) No fees (1 mark)
- b) Annually commencing 2nd filing anniversary, until grant (1 mark)
- c) No fees (1 mark)

A15.

- a) The UK filing date. (1 mark)
- b) Ditto. (1 mark)
- c) 25 years (1 mark)

A16

- i) Imperial Tapes PLC (1 mark)
- ii) Dr A. Wisecrack (1 mark)
- iii) Both Imperial Tapes PLC and Paints Ltd [or Pat. Atty. filing form, if authorised to act for both parties] (1 mark)
- iv) Within 6 months after its date (s. 68) (1 mark)

A17.

Any sign (1 mark)
capable of being represented graphically, [TM notes say "...graphic/visual sign or symbol..."] (1 mark)
capable of distinguishing the goods or services of one undertaking from those of other undertakings. (1 mark)

A18.

- a) No (1 mark)
- b) No (1 mark)
- c) Yes (1 mark)
- d) Yes (1 mark)

A19.

Receiving Office	(0.5 marks)
International Bureau	(0.5 marks)
International Search[ing] Authority	(0.5 marks)
International Preliminary Report on Patentability	(0.5 marks)

A20.

Any two sensible answers accepted, e.g. two of:

Staff qualifications, training, experience, defined responsibilities, supervision, staffing levels, cover for absence;

Systematic record keeping, appropriate record keeping, backups, error checks, systems review processes, documented routines. (2 marks)

Annex 1

Breitenfeld & Breitenfeld
2300 Wisconsin Avenue
Washington
DC 10008
USA

20 April 2008

Simon Green
Cardew and Worthing
12b Chancery Court
London WCI 2RB
England

Dear Mr Green.

Re: New UK Patent Application

Please file a new UK Patent application claiming priority from the enclosed US Application 60/499,411 filed on May 21 2007 for a "Coin release mechanism".

The applicants in the US were:

Hiram T. Windsock
A US citizen of
625 Armory Street
Hamden
Connecticut
CT 44001
USA

Alice M. Johnson
A Canadian Citizen of
of P.O.Box 6060
Station D
London
Ontario K1P 3Z6
Canada

The US Applicants assigned their patent rights to:

One Arm Bandit Corporation
A Delaware Corporation
4000 Hanover Street
Palo Alto
California
CA94304

as follows:

H.T Windsock on February 5 2008

A.M. Johnson on March 19 2008

Please file the application as soon as possible but defer payment of fees for as long as you can.

Very truly yours,

Elliot Breitenfeld

PS. I have just remembered that in the UK you may need the second forenames of the inventors. In case you do they are:

H.T.Windsock Thompson

A.M Johnson May

Annex 2

Memo

Cardew and Worthing
Tel 020 7405 9450
Fax 0207402 0663
e-mail s.green@carding .co.uk

Please complete Forms 1 and 7 for a new UK application from the details in the attached letter from the Associate.

I have revised the US Application for use in the UK. It has 23 pages of description, 4 pages of claims and 1 page of abstract. There are 9 sheets of drawings.

Please note that this application has the firm's reference CW 4018

S.Green.
24 April 2008

Annex 3



European Patent Office
80238 MUNICH
GERMANY
Tel: +49 89 2399 0
Fax: +49 89 2399 4465

Simon Green
Cardew and Worthing
12b Chancery Court
London WC1 2RB
England

Formalities Officer
Name: Vestergaard, Anne
Tel: +49 89 2399 - 7740
or call
+31 (0)70 340 45 00

Substantive Examiner
Name: Pinna, Stefano
Tel: +49 89 2399 - 7912



Application No. 04 123 456.7-1234	Ref PAT010101/SG	Date 07.01.2008
Applicant One Arm Bandit Corporation		

Communication pursuant to Article 94(3) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(2) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

of 4 months

from the notification of this communication, this period being computed in accordance with Rules 126(2) and 131(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (R. 50(1) EPC).

Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Art. 94(4) EPC).



Primary Examiner
for the Examining Division

Request for grant of a patent

(An explanatory leaflet on how to fill in this form is available from the Office)

Concept House
Cardiff Road
Newport
South Wales
NP10 8QQ

Application number GB

1. Your reference:
(optional)

2. Full name, address and postcode of the applicant
or of each applicant (underline all surnames):

Patents ADP number (if you know it):

3. Title of the invention:

4. Name of your agent (if you have one):

"Address for service" to which all correspondence
should be sent. This may be in the European
Economic area or Channel Islands
(see warning note below)
(including the postcode)

Patents ADP number (if you know it):

	Country	Application number (if you know it)	Date of filing (day / month / year)
5. Priority declaration: Are you claiming priority from one or more earlier-filed patent applications? If so, please give details of the application(s):			

	Number of earlier UK application	Date of filing (day / month / year)
6. Divisionals etc: Is this application a divisional application, or being made following resolution of an entitlement dispute about an earlier application? If so, please give the application number and filing date of the earlier application:		

7. Inventorship: (Inventors must be individuals not companies)	(Please tick the appropriate boxes)	
Are all the applicants named above also inventors?	YES ☐	NO ☐
If yes, are there any other inventors?	YES ☐	NO ☐

8. Are you paying the application fee with this form?	YES ☐	NO ☐
---	------------------------------	-----------------------------

Patents Form 1

9. Accompanying documents:
please enter the number of pages
of each item accompanying this form:

Continuation sheets of this form:

Description:

Claim(s):

Abstract:

Drawing(s):

If you are not filing a description, please
give details of the previous application
you are going to rely upon:

Country

Application number

Date of filing
(day / month / year)

-
10. If you are also filing any of the following,
state how many against each item.

Priority documents:

Statement of inventorship and right
to grant of a patent (Patents Form 7):

Request for search (Patents Form 9A):

Request for substantive examination
(Patents Form 10):

Any other documents:
(please specify)

-
11. I/We request the grant of a patent on the basis of this application.

Signature(s):

Date:

-
12. Name, e-mail address, telephone,
fax and/or mobile number, if any,
of a contact point for the applicant:

Warning

After an application for a patent has been filed, the Comptroller will consider whether publication or communication of the invention should be prohibited or restricted under section 22 of the Patents Act 1977. You will be informed if it is necessary to prohibit or restrict your invention in this way. Furthermore, if you are resident in the United Kingdom and your application contains information which relates to military technology, or would be prejudicial to national security or the safety of the public, section 23 of the Patents Act 1977 prohibits you from applying for a patent abroad without first getting written permission from the Office unless an application has been filed at least 6 weeks beforehand in the United Kingdom for a patent for the same invention and either no direction prohibiting publication or communication has been given, or any such direction has been revoked. Until such time or until the revocation of any direction, for any such application the address for service referred to at part 4 above must be in the United Kingdom. Although you may have an address for service in the Channel Islands, any agent instructed to act for you must reside or have a place of business in the European Economic Area or Isle of Man.

Notes

A leaflet on how to fill in this form is available from the Office. If you would like a copy of the leaflet it is available on our website at <http://www.ipo.gov.uk/patent/info/fact01.pdf> or alternatively you could telephone 08459 500505 or send an email to enquiries@ipo.gov.uk to request a copy.

Statement of inventorship and of right to grant of a patent

Concept House
Cardiff Road
Newport
South Wales
NP10 8QQ

1. Your reference

2. Patent application number
(if you know it)

3. Full name of the or of each applicant

4. Title of the invention

5. State how the applicant(s) derived the right
from the inventor(s) to be granted a patent

6. How many, if any, additional Patents Forms
7 are attached to this form?
(see note (c))

7. I/We believe that the person(s) named over the page (and on
any extra copies of this form) is/are the inventor(s) of the invention
which the above patent application relates to.

Signature

Date

8. Name, e-mail address, telephone, fax and/or mobile
number, if any, of a contact point for the applicant

Notes

- a) If you need help to fill in this form or you have any questions, please contact the Office on 08459 500505.
- b) Write your answers in capital letters using black ink or you may type them.
- c) If there are more than three inventors, please write the names and addresses of the other inventors on the back of another Patents Form 7 and attach it to this form.
- d) Once you have filled in the form remember to sign and date it.

Patents Form 7

Enter the full names, addresses and postcodes of the inventors in the boxes and underline the surnames

Patents ADP number <i>(if you know it):</i>

Patents ADP number <i>(if you know it):</i>

Reminder

Have you signed the form?

Patents ADP number <i>(if you know it):</i>

2008 (UK)

January

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February

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March

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April

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May

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June

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July

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August

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September

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October

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November

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December

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Holidays and Observances:

1 Jan	New Year's Day
21 Mar	Good Friday
23 Mar	Easter Sunday
24 Mar	Easter Monday (WAL, ENG, NIR)
5 May	Early May Bank Holiday
26 May	Spring Bank Holiday

25 Aug Summer Bank Holiday (WAL, ENG, NIR)
31 Oct Halloween
5 Nov Guy Fawkes Day
25 Dec Christmas Day
26 Dec Boxing Day

2009 (UK)

January

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February

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March

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April

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May

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June

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July

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August

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September

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October

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November

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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

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December

Mo	Tu	We	Th	Fr	Sa	Su
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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

2:☉ 9:☉ 16:☉ 24:☉ 31:☉

Holidays and Observances:

1 Jan New Year's Day
10 Apr Good Friday
12 Apr Easter Sunday
13 Apr Easter Monday (WAL, ENG, NIR)
4 May Early May Bank Holiday
25 May Spring Bank Holiday

31 Aug Summer Bank Holiday (WAL, ENG, NIR)
31 Oct Halloween
5 Nov Guy Fawkes Day
25 Dec Christmas Day
26 Dec Boxing Day
28 Dec Bank Holiday

Mitteilungen des Europäischen Patentamts

Mitteilung der Präsidentin des Europäischen Patentamts vom 3. August 2007 über die Tage, an denen die Annahmestellen des EPA im Jahr 2008 geschlossen sind

1. Nach Regel 85 (1) EPÜ erstrecken sich Fristen, die an einem Tag ablaufen, an dem zumindest eine Annahmestelle des EPA zur Entgegennahme von Schriftstücken nicht geöffnet ist (geschlossene Tage), auf den nächstfolgenden Tag, an dem alle Annahmestellen zur Entgegennahme von Schriftstücken geöffnet sind und an dem gewöhnliche Postsendungen zugestellt werden.

2. Die Annahmestellen des EPA in München, Den Haag und Berlin sind auch 2008 an allen Samstagen und Sonntagen zur Entgegennahme von Schriftstücken nicht geöffnet¹. Die weiteren geschlossenen Tage des Jahres 2008 werden in der nachfolgenden Übersicht bekannt gegeben.

3. Diese Regelungen werden nach Inkrafttreten des EPÜ 2000 unverändert fortgelten (Regel 134 (1) EPÜ 2000).

Information from the European Patent Office

Notice from the President of the European Patent Office dated 3 August 2007 concerning the days on which EPO filing offices are closed in 2008

1. Under Rule 85(1) EPC, time limits expiring on a day on which at least one EPO filing office is not open for receipt of documents (closing days) are extended until the first day thereafter on which all the filing offices are open for receipt of documents and on which ordinary mail is delivered.

2. In 2008, as hitherto, the EPO's filing offices in Munich, The Hague and Berlin will be closed for the receipt of documents on every Saturday and Sunday¹. The other closing days in 2008 are listed below.

3. These arrangements will continue to apply unchanged after the entry into force of EPC 2000 (Rule 134(1) EPC 2000).

Communications de l'Office européen des brevets

Communiqué de la Présidente de l'Office européen des brevets, en date du 3 août 2007, relatif aux jours de fermeture des bureaux de réception de l'OEB en 2008

1. Conformément à la règle 85(1) CBE, les délais qui expirent un jour où l'un au moins des bureaux de réception de l'OEB n'est pas ouvert pour recevoir le dépôt des pièces (jours de fermeture) sont prorogés jusqu'au premier jour suivant où tous les bureaux de réception sont ouverts pour recevoir ce dépôt et où le courrier normal est distribué.

2. En 2008 encore, les bureaux de réception de l'OEB à Munich, à La Haye et à Berlin ne seront ouverts ni le samedi, ni le dimanche pour recevoir le dépôt des pièces¹. Les autres jours de fermeture au cours de l'année 2008 sont énumérés dans la liste ci-après.

3. Les présentes dispositions continueront de s'appliquer telles quelles après l'entrée en vigueur de la CBE 2000 (règle 134(1) CBE 2000).

Tage / Days / Jours		München Munich	Den Haag The Hague La Haye	Berlin
Neujahr – New Year's Day – Nouvel An	01.01.2008	x	x	x
Karfreitag – Good Friday – Vendredi Saint	21.03.2008	x	x	x
Ostermontag – Easter Monday – Lundi de Pâques	24.03.2008	x	x	x
Nationalfeiertag – National Holiday – Fête nationale	30.04.2008		x	
Maifeiertag – May Day – Fête du Travail	01.05.2008	x	x	x
Christi Himmelfahrt – Ascension Day – Ascension		x	x	x
Tag der Befreiung – Liberation Day – Journée de la Libération	05.05.2008		x	
Pfingstmontag – Whit Monday – Lundi de Pentecôte	12.05.2008	x	x	x
Fronleichnam – Corpus Christi – Fête-Dieu	22.05.2008	x		
Mariä Himmelfahrt – Assumption Day – Assomption	15.08.2008	x		
Tag der deutschen Einheit – Day of German Unity – Fête Nationale	03.10.2008	x		x
Heiliger Abend – Christmas Eve – Veille de Noël	24.12.2008	x	x	x
1. Weihnachtstag – Christmas Day – Noël	25.12.2008	x	x	x
2. Weihnachtstag – Boxing Day – Lendemain de Noël	26.12.2008	x	x	x
Silvester – New Year's Eve – Saint-Sylvestre	31.12.2008	x	x	x

¹ Beschluss der Präsidentin des EPA vom 12. Juli 2007 über die Bestimmung der Annahmestellen des EPA (Sonderausgabe Nr. 3, ABI. EPA 2007, A.1.).

¹ Decision of the President of the EPO dated 12 July 2007 concerning the designation of the EPO filing offices (Special edition No. 3, OJ EPO 2007, A.1.).

¹ Décision de la Présidente de l'OEB en date du 12 juillet 2007, relative à la désignation des bureaux de réception de l'OEB (Edition spéciale n° 3, JO OEB 2007, A.1.).