

Introduction

Most candidates are to be congratulated on their performance in the examination. They had obviously worked hard to understand and implement their knowledge of formalities. Most used the calendars provided to recognise where dates fell on weekends or holidays in order to calculate the final date.

Candidates are reminded to check their answers to avoid spelling errors in, for example, the Applicant names and addresses on the forms. Care should be taken when completing such critical details and marks were not awarded if there were mistakes. It should be noted that some boxes on the forms give clear instructions as to what details should be entered, and marks were not awarded if candidates failed to enter data as specified. Candidates are advised to familiarise themselves with these forms and the data required. Note that all data corresponds to on-line filing requirements.

When writing out date calculations as part of an answer, candidates are reminded to show their full working, and to indicate their final answer clearly – in some instances it was not possible to ascertain the final answer.

The examiners note that the pass rate for this year is lower than for previous years. A larger number of candidates sat the examination this year compared to previous years. Whilst it is difficult to identify reasons for the low pass rate, it appeared that some candidates had sat the examination without having had enough relevant experience. Not all candidates work across all topics in their day-to-day jobs. For these candidates in particular, practice with mentor support is invaluable in understanding and being able to correctly apply the course content.

Questions

Question number	Comments on questions
Question 1	The EP Divisional Application Form was completed well by most candidates. The question required extraction of the correct information from the correspondence and data provided for completion of the form. Some candidates made spelling errors in the Applicant name and address in Box 7. Box 15 required the name of the representative. His Company Name and Address were required in box 16. Marks were not awarded if this information was not entered correctly. For Box 25 (Page 3), the US priority details were required. Some candidates did not complete this information and were not awarded the mark. Page 4 caused many candidates a problem. Whilst the application number of the parent was entered in box 27 by most candidates, there was confusion over the generation of the divisional in box 27.1. This was a First Generation divisional as it was directly based on the original (parent) application (rather than on an earlier divisional application).

	<p>The instructions in this particular question required the date of the form to be 28 January 2019 (the day before the Oral Proceedings). Marks were not awarded if this date was incorrect.</p>
Question 2	<p>The question tested understanding of the EPO Opposition procedures, and many candidates missed at least one component of the requirements. A mark was available for showing the calculation of the deadline. A mark was also available for stating that Grounds of Opposition (or similar wording) must be filed, in addition to filing the Notice of Opposition. "File an opposition" was awarded only one mark as this was interpreted as the Notice of Opposition. It is essential to pay the opposition fee as any opposition is deemed as unfiled if this is not paid.</p>
Question 3	<p>Question 3 was a GB Renewals question requiring candidates to select the correct base date – from the provided filing or grant date – and calculate the first renewal fee. This was not particularly well answered.</p> <p>Part a) required candidates to recognise that since the patent was not granted by the 4th anniversary of the filing date, the renewal fees were due 3 months from the grant date. A mark was available for recognising that fees should then be payable at the end of the month.</p> <p>Fees due were for the 5th and 6th years (2017, 2018). This part was problematic to all but a few candidates.</p> <p>This required knowledge that the renewal fee is due on the anniversary of the filing date i.e. 4 July 2019, at the end of the month.</p>
Question 4	<p>This was a basic UK formalities question, and was generally well answered.</p> <p>Candidates were required to demonstrate knowledge of dates calculated from filing to complete formalities for an application.</p> <p>Marks were available for showing the calculation of 15 months from the earliest priority date. Use of the calendar provided would have shown that 23 February 2019 is a Saturday, and therefore the due date would be carried forward to the next working day.</p>
Question 5	<p>Question 5 was a UK formalities question.</p> <p>Candidates were required to demonstrate knowledge that an as-of-right extension of 2 months was available.</p> <p>Part a): Marks were available for showing the calculation and use of the calendar provided would have shown that 12 May 2019 is a</p>

	<p>Sunday. Therefore the due date would be carried forward to the next working day.</p> <p>Part b): To obtain the mark, it was necessary to state that an extension is requested by filing a form and paying a fee. It was not necessary to state which form is required.</p>
Question 6	<p>Again this was a basic UK formalities question, and generally well answered. Candidates were required to show knowledge that the deadline for filing a search request is the later of 2 months from the filing date or 12 months from the priority date.</p> <p>Part a): Marks were awarded for showing all calculations. A further mark was available for indicating which of the calculated dates was the later. Again, use of the calendar provided would have shown that 9 February 2019 is a Saturday. Therefore the due date would be carried forward to the next working day</p> <p>Part b) was well answered. A mark was awarded for the correct number of excess claims fees, and it was not necessary to show the calculation.</p>
Question 7	<p>An EPO examination report was presented in a scenario rather than presenting a copy of a communication. Both the issue date and date of receipt of the communication were given. Candidates were required to identify from which date the calculations should be made (here, the issue date). Most candidates correctly identified this.</p> <p>In Part a) the 10-day rule was correctly applied by most candidates.</p> <p>However, in Part b) it was necessary to apply the 10-day rule and add 6 months to that date. No marks were awarded for adding 2 months to the previous answer as this did not demonstrate that they knew the full calculation, i.e. adding 10-days then 6 months. (Although it was not the case for this answer, for some dates simply adding 2 months to the unextended deadline would give an incorrect due date. Hence such an approach did not gain the marks available for showing the calculation of the deadline.)</p>
Question 8	<p>This EPO Renewals question required candidates to select the correct base date – from the provided filing or national phase entry date – and calculate the first renewal fee. This was generally well answered.</p> <p>This question also required candidates to recognise that for EP applications renewals are due by the last day of the month.</p>

<p>Question 9</p>	<p>The question tested understanding of the Further Processing procedures at the EPO. Most candidates identified the procedure, and implemented the associated formalities correctly.</p> <p>Part a): It was necessary to state that the Further Processing Fee must be paid (as this constitutes the Request). Marks were not awarded just for “request further processing”. Simply saying “pay a fee” in the absence of anything else was considered too vague to attract a mark.</p> <p>Part b): The other action required was to respond to the examination report. This mark was also awarded for “complete the omitted/missing action”.</p> <p>The 10-day rule applies to the Communication, which gives a 2 month deadline for response.</p>
<p>Question 10</p>	<p>The PCT Request (PCT/RO/101) was completed well by most candidates. Most boxes on this form give clear instructions on the information required, and candidates should enter information accordingly to gain full marks. Care should be taken when completing forms, paying attention to the correct title of the invention, and full names of Applicant, Inventor and Agent. Marks were not awarded if any of the details were incorrect.</p> <p>For Name and Address boxes, the country (GB/United Kingdom) was required where explicitly stated on the form. No mark was allocated if this was omitted.</p> <p>In Box No.III on page 2 the “inventor only” box needed to have been checked. The boxes below to indicate the state did not need to be filled in. However, when candidates had completed these boxes, they needed to have done so correctly to gain the mark.</p> <p>A surprising number of candidates checked the “applicant” box here too, indicating that they were unfamiliar with this form.</p> <p>Box No.VI: There were was a claim to priority, which was recognised by all candidates. The application number of the priority application was required in the section “Number of earlier application”.</p> <p>The DAS code information was included in this question to test understanding and knowledge of the procedure for requesting priority documents.</p> <p>The second set of boxes were to be checked: “The International Bureau is requested to obtain from a digital library a certified copy of the earlier application(s) identified above”. This service is free of charge.</p>

	Box No. IX required the Language of filing of the international application - English (or EN). The mark was not awarded for EP.
Question 11	This Designs question tested knowledge of distinguishing the difference between priority periods of Designs and Patents. Most candidates correctly identified the deadline of 6 months from the filing date of the US design application. Marks were awarded for correct calculations.
Question 12	This basic question required candidates to identify competent receiving offices, and was generally well answered.
Question 13	<p>This Designs question tested knowledge of the calculation of renewals.</p> <p>Most candidates knew that renewals are due 5 years from filing, and use of the calendar would have shown that 6 October 2019 is a Sunday and would therefore carry over to the next working day.</p> <p>Some candidates mistakenly thought that UK design renewals can be paid at the end of the month. This is not the case in the UK. Marks were not awarded for calculations carried to the end of the month.</p>
Question 14	This basic UK formalities question tested knowledge of the minimum requirements to obtain a filing date. Candidates generally answered well.
Question 15	<p>This tested knowledge of PCT fee requirements.</p> <p>Part a): 3 marks were available for possible fees due. Examiners recognised that, in addition to the transmittal fee, international filing fee and international search fee, page fees might be due. Marks were not awarded for "Handling Fee" as this was deemed too vague.</p> <p>Part b): Most candidates correctly identified that fees are due within one month of the date of filing.</p>
Question 16	This was a basic question on the duration of a patent. No mark was awarded if the starting point was missed: simply stating "20 years" was insufficient. It was necessary to state "from filing date" to be awarded the mark.
Question 17	<p>This question tested knowledge of PCT filing requirements. Some candidates mistakenly thought that the UK IPO would require a translation.</p> <p>A mark was awarded for recognising that the UK IPO was not competent to act as receiving office as the specification was in Chinese (not because the company is Chinese). UK IPO would therefore forward the application to the IB (who would act as RO).</p>

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	It is important to note that the application would retain the original filing date.
Question 18	<p>This was a basic UK formalities question. A correct calculation implied that the candidate had demonstrated knowledge that the details of inventors are required 16 months from filing date.</p> <p>28 days in February caused a number of problems for candidates. Note that the date does not carry forward into March. (30 October 2017 + 16 months = 28 February 2019.)</p>