

# Examiner's Report January 2022

## ICPA - Introductory Certificate in Patent Administration

### Introduction

Overall, candidates are to be congratulated on their performance in the exam. It is recognised that the examination included some difficult questions, allowing very good candidates to distinguish themselves. Most had obviously worked hard to understand and implement their knowledge of formalities and most used the calendars provided to recognise where dates fell on weekends or holidays in order to calculate the final date. It should be noted that holidays at the EPO and in the UK can differ and the correct calendar should be used.

Candidates are reminded to read the questions carefully. All information and the instructions required for the answers are contained in the question paper. Candidates should follow the examination instructions and answer each question on a new page.

Many candidates did not appreciate that the PCT International Phase ends at 30 months from the priority date. There was also confusion about whether time periods run from priority or filing dates. There was considerable variation in candidates' knowledge of the Rule 71(3) EPC requirements and further processing, and many candidates confused requirements for EPO and UK IPO extensions of time.

Candidates are reminded that where questions require you to *"show your calculations"*, **all steps should be set out** and the final answer clearly indicated. Marks for intermediate calculation steps cannot be awarded where these steps are not set out in the answers.

The forms were completed well, but the selection of the date proved challenging with only a few candidates calculating the correct submission date. Good candidates noted the instructions provided and calculated the appropriate date.

It is noted that question 3 caused some issues for candidates. This was taken into account when setting grade boundaries.

### Questions

Question number	Comments on questions
<b>Question 1</b>	This was a basic formalities question, and was generally well answered. To obtain the mark, it was necessary to state both the period of time and the starting point (filing date).
<b>Question 2</b>	This was also a basic UK formalities question, and was generally well answered. Candidates were expected to provide the routes for protection, rather than simply listing patent offices. Since the question asks for three routes, only the first three answers were marked.

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<p><b>Question 3</b></p>	<p>This was a challenging difficult question that caused many candidates problems and was poorly answered. The question tested knowledge of the priority period and what actions can be taken at the UK IPO if this period is missed.</p> <p>Candidates were awarded a mark if they showed awareness that the 12-month deadline had been missed. The standard for validly being able to file the application is that the failure to file by the deadline was unintentional.</p>
<p><b>Question 4</b></p>	<p>This question tested knowledge of deadlines for divisional GB applications.</p> <p>In Part a) few candidates demonstrated knowledge of the deadline for requesting a search being the later of 12 months from the priority date or 2 months from the date of filing the divisional application. Only the calculation for 12 months from priority date was usually presented. Marks were awarded for showing all calculations. A further mark was available for indicating which of the calculated dates was later.</p> <p>In Part b) few candidates demonstrated knowledge of the deadline for filing the PF7 being the later of 16 months from the priority date or 2 months from the date of filing the divisional application. Again, only one calculation was generally presented. Marks were awarded for showing all calculations. A further mark was available for indicating which of the calculated dates was later.</p>
<p><b>Question 5</b></p>	<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. Marks were available for showing the calculation of 15 months from the filing date (as no priority was claimed).</p>

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<p><b>Question 6</b></p>	<p>This question tested knowledge of PCT filing requirements, and was generally well answered. Marks were awarded for the first four answers listed. Any subsequent answers were not awarded marks.</p> <p>It was not sufficient to state “an indication that a patent is sought”. A mark was awarded for demonstrating knowledge that it is an <b>international</b> patent application.</p> <p>No mark was awarded for “drawings”. It should be noted that a filing date can be obtained whether or not drawings are filed.</p>
<p><b>Question 7</b></p>	<p>This question tested knowledge of the PCT International Phase and deadlines for national phase entry.</p> <p>In Part a), few candidates showed understanding that the International Phase ends at 30 months from the earliest priority date. Marks were not awarded for stating 30/31 months.</p> <p>In Part b), most candidates were aware that the deadline for entering the European regional phase is 31 months from the earliest priority date.</p> <p>Part c) tested knowledge of EP renewals, requiring candidates to select the correct base date (PCT filing date) and to recognise that renewals are due by the last day of the month.</p>
<p><b>Question 8</b></p>	<p>This was a basic EP Oppositions question, and was generally well answered.</p> <p>Candidates were required to demonstrate knowledge of the deadline being 9 months from the date of grant.</p>
<p><b>Question 9</b></p>	<p>This was a basic UK formalities question testing knowledge of the compliance period for a GB patent application.</p> <p>Part a): 5 marks were available for demonstrating knowledge that the deadline is the later of 4.5 years from the earliest priority date or 12 months from the issuance of the examination report and for showing full calculations.</p> <p>Part b): 3 marks were available for showing knowledge of the procedure for extending the compliance date (filing a form and paying a fee), and for calculating the deadline. (It was not necessary to state form PF52.)</p>

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<p><b>Question 10</b></p>	<p>This was a basic EP formalities question requiring candidates to select the correct base date and calculate the date by which examination must be requested. The answer was 6 months from publication of the search report.</p>
<p><b>Question 11</b></p>	<p>The issue date and date of receipt of a Rule 71(3) EPC communication were given so that candidates were required to identify from which date the calculations should be made (here, the date of the communication). Most candidates correctly identified this.</p> <p>In Part a) the 10-day rule was correctly applied by most candidates who also then correctly added 4 months. It should be noted that no extensions of time are available for the Rule 71(3) EPC response.</p> <p>Part b) tested understanding of the Further Processing procedures at the EPO. 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>The other action required is to complete the omitted/missing action/file claims translations and pay required fees for the Rule 71(3) response. No date calculations were required here as the EPO will issue a notice informing the applicant of a loss of rights, setting a period of 2 months for response.</p>
<p><b>Question 12</b></p>	<p>This was a basic EP Appeals question, requiring candidates to show knowledge of the deadline being 4 months from notification of the decision to refuse the application.</p> <p>Correct use of the calendars would have shown that 30 April 2022 is a Saturday, therefore the due date would be carried forward to the next working day. At the EPO, this is Monday, 02 May 2022. This is not an office closing date for the EPO.</p>
<p><b>Question 13</b></p>	<p>This was an EP Renewals question requiring candidates to select the correct base date – filing/priority/grant – and calculate the next renewal fee date.</p> <p>Part a) required candidates to recognise that the next renewal date is the anniversary of the filing date, taken to the end of the month – 30 June 2022.</p> <p>Part b) required candidates to demonstrate knowledge that, as the patent will have been granted by 5 June 2022, renewal fees would be payable at the national patent offices in the UK, France and Germany.</p>
<p><b>Question 14</b></p>	<p>A basic GB Designs question to test candidates' knowledge of the difference in patent and design filing requirements to obtain a filing date.</p>

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<p><b>Question 15</b></p>	<p>This was a basic GB Design formalities question, and was generally well answered. To obtain the mark, it was necessary to state both the period of time (25 years) and the starting point (filing/registration date).</p>
<p><b>Question 16</b></p>	<p>This was a GB Renewals question requiring candidates to select the correct base date – filing, priority or grant date – and calculate the next renewal fee.</p> <p>It was recognised that the wording of this question was ambiguous, and “next” could reasonably be interpreted to mean either the August 2021 fee or the August 2022 fee. Therefore marks were awarded for either answer, as long as answers were self-consistent.</p> <p>Part a) required candidates to recognise the deadline being one month after the end of the month containing the filing anniversary, the first month’s extension being free of charge.</p> <p>Part b) required candidates to show knowledge of the deadline being six months after the end of the month containing the filing anniversary.</p>
<p><b>Question 17</b></p>	<p>The GB Forms PF1 and PF9A caused some candidates problems. The question required extraction of the correct information from the correspondence.</p> <p><b>Form PF1</b></p> <p>Box 7 regarding Inventorship was left blank by some candidates. An applicant company is not an inventor, and this was expected to be indicated here.</p> <p>Box 8 regarding the application fee required the “No” box to be checked. There were explicit instructions “Please pay all the fees using the PF9A.”</p> <p>Box 11: the signature box must be left blank. Further, the instructions stated “... would like us to file a priority-claiming GB patent application on the latest date possible.” The priority date is 12 February 2021. Correct use of the calendars would have shown that 12 February 2022 was a Saturday, therefore the latest possible date is 14 February 2022. Few candidates gained this mark.</p> <p>The PF1 fee payment details should have been left blank.</p> <p><b>Form PF9A:</b></p> <p>Box 4b) was to be checked.</p> <p>Box 5: the “Yes” box required checking to pay the application fee with this form.</p> <p>Box 7: the signature box must be left blank; the date required was 14 February 2022.</p>

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	<p>The PF9A fee payment details required completion to include both the search and application fees. Despite this being a change in the forms used by the UK IPO, most candidates completed this part of the form correctly. It is noted that this is not a separate 'fee sheet', but rather part of the new PF1 and PF9A forms.</p>
<p><b>Question 18</b></p>	<p>This was a basic GB formalities question requiring candidates to demonstrate knowledge that excess fees are payable for</p> <p>Part a): claims in excess of 25 (2)</p> <p>Part b): pages of description in excess of 35 (5).</p>