

Paper A

Wednesday, 4 March 2009

3 1/2 hours, second day, morning

Instructions to candidates for preparing their answers

I. General provisions

1. Candidates are expected to be sufficiently familiar with
 - the Guidelines for Examination in the EPO and
 - the content of the Official Journal of the EPOas published up to the end of the year preceding their examination.
2. It will be assumed that candidates have read the examination paper in the language in which they give their answer. Where this is not the case, candidates should indicate on the front page of their answer the language in which they read the paper. The same applies to candidates who, having filed a corresponding request when enrolling for the examination, give their answer in a language other than English, French or German.
3. Candidates are to accept the facts given in the paper and to limit themselves to these facts. Whether and to what extent these facts are used is the responsibility of the candidate. Candidates are not to use any special knowledge they may have of the field of the invention.

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4. Candidates are to assume that they have received a letter from their client which includes a description of an invention for which the client wishes to obtain a European patent, together with references to the most pertinent prior art known to him.
5. They are expected to draft an independent claim (or claims) which offers the applicant the broadest possible protection and at the same time has a good chance of succeeding before the EPO. When drafting the claim(s), candidates should bear in mind the requirements of the Convention, including the need for novelty and inventive step, and the recommendations made in the Guidelines for Examination in the EPO. Dependent claims, which should be limited to a reasonable number, should be drafted in order to provide a fall-back position in the event of failure of the independent claim(s).
6. Candidates are also expected to draft an introduction, ie that part of the description which precedes the examples or the explanation of the drawings. The introduction should be sufficient to provide support for the claim(s). In particular, candidates should give consideration to the advisability of mentioning the advantages of the invention in the introduction.
7. Candidates are expected to draft claims and an introduction for one European application only. The application should meet the requirements of the Convention as to unity. If in practice candidates would seek to protect further inventions by filing one or more separate applications, they should, in a note, clearly identify the features of the independent claim of such separate application(s), for example by referring to selected portions of the claims, or, alternatively, draft the claim itself.
8. In addition to their answer, candidates may set out the reasons for their choice of answer in a supplementary note: for example, why they selected a particular form of claim, a particular feature for an independent claim or a particular piece of prior art as starting point, or why they rejected or preferred a particular item of prior art. Supplementary notes from candidates to examiners cannot, however, replace essential parts of candidates' answers.
9. Those sheets of the examination paper which candidates might wish to cut up and include in their answer will be printed on one side only. Scissors, glue and transparent gummed tape may be used, but no staplers. Sheets containing drawings will also be printed on one side only.