



**DELTA****P**ATENTS

Training for Patent Professionals

# PRE-EXAM BOOK CASES/EXAMS

**Update 20 December 2022**

Edition June 2022

P

# Contents

<b>Introduction and acknowledgement .....</b>	<b>1</b>
<b>EQE 2023 preparation courses .....</b>	<b>2</b>
<b>Other EQE 2023 material: model solutions, reference books .....</b>	<b>2</b>
Model Solutions / P-Book .....	2
Reference books .....	2
<b>Updates to legal provisions and material .....</b>	<b>3</b>
<b>Section 3 – Legal cases .....</b>	<b>4</b>
HJ14-04, H14-05 .....	4
<b>Section 4 – Answers to the cases.....</b>	<b>5</b>
HJ14-04, H14-05 .....	5
<b>Section 5 – pre-exam papers .....</b>	<b>5</b>
(No updates). .....	5
<b>Section 6 – answers and model solutions to the pre-exam papers .....</b>	<b>5</b>
(No updates). .....	5
<b>Annex A: Schedule EQE 2023 (Pre-Exam) .....</b>	<b>6</b>
<b>Annex B: No calendars provided with the exam paper (Pre-Exam) .....</b>	<b>7</b>
<b>Annex C: Marking scheme (Pre-Exam).....</b>	<b>8</b>

© Copyright DeltaPatents, 2022

All rights reserved. No part of this Training Material may be reproduced, used in any way for generating further course material or updates, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without written consent of DeltaPatents.

The Training Material is made available for personal use only. This Training Material may not be used in courses competing with DeltaPatents courses.

DeltaPatents does not accept any liability for the correctness or completeness of the Training Material.



## Introduction and acknowledgement

This document comprises an update to the “Pre-Exam Book - Cases/Exams” (“P-book”, edition July 2022, EQE 2023) in view of:

- Publications in OJ EPO after the Book was printed (OJ July – Oct 2022; OJ Suppl 3/2022 of 10.08.2022);
- Publications in PCT Newsletter after the Book was printed (PCT NL June – Oct 2022);
- Updates and corrections to the questions and answers;
- Notices on the EQE website

We thank all who provided any comments and all candidates who participated in our legal training courses, as well as those that gave feedback on our material via email, for useful feedback. Any further comments are highly appreciated – pleased send them to [training@deltapatents.com](mailto:training@deltapatents.com).

The latest version of this document is available on our website.

Our EQE blogs provide further information as well as a platform for comments, discussion and tips. Please feel invited to contribute!:

- [DeltaPatents EQE Blog](#)
- [DeltaPatents Pre-Exam Blog](#)
- [DeltaPatents D Blog](#)

Roel van Woudenberg,  
20 December 2022

## EQE 2023 preparation courses

DeltaPatents organizes further training sessions for candidates preparing for Pre-Exam 2023 and for the Main Exam 2023 in the period from May 2022 until February 2023. Also, our Correction Papers programme for the EQE Main Exam papers will start after the summer and be active until late January.

Please check our website for course details, further announcements and enrolment:

<http://www.deltapatents.com/eqe.html>

<http://www.deltapatents.com/eqe-pre-exam.html>

<http://www.deltapatents.com/eqe-main-exam-paper-d.html>

<http://www.deltapatents.com/registration--cancellation.html>

or contact us via email at:

[training@deltapatents.com](mailto:training@deltapatents.com) .

## Other EQE 2023 material: model solutions, reference books

### Model Solutions / P-Book

DeltaPatents provides **updated exam papers and model solutions** for (most) of the Pre-Exam papers since 2014 in the book "[Pre-Exam book – Cases/Exams](#)" ("P-Book")

DeltaPatents also provides **updated exam papers and model solutions** for all main exam papers.

Please order in our [webshop](#).

### Reference books

The DeltaPatents [webshop](#) also provides:

- "Basic Legal Questions for Pre-Exam and Paper D" by DeltaPatents ("L-Book")
- "References to the European Patent Convention" by Jelle Hoekstra
- "The Cross-Referenced Patent Cooperation Treaty" by Cees Mulder
- "Topic-Related Index to the EPC and PCT" by Cees Mulder and Roel van Woudenberg.



## Updates to legal provisions and material

- New accession to the EPC:
  - OJ 2022, A78 “Montenegro (ME) accedes to the EPC with effect of 1/10/2022”
    - also refer to OJ 2022, A82: delegation to the EPO of the PCT rO functions of ME and closure by ME of the national route under Art. 45(2) PCT for IAs filed ≥ 1/10/2022
- New editions of: “European Patent Guide – How to get a European patent”
  - The latest edition is the 22nd edition, updated to 1 May 2022, published 24 Aug 2022.
  - Available online in the EPO's three official languages in both HTML and PDF format.
  - <https://www.epo.org/applying/european/Guide-for-applicants.html>
- New edition of “National Law relating to the EPC”
  - <http://www.epo.org/patents/law/legal-texts/national-law-epc.html>
  - The latest edition is March 2022 (21<sup>th</sup> edition), published on 29 June 2022 [OJ 2022, A66]. The pdf version reflects the status of March 2022. The HTML version is routinely updated whenever the EPO learns of any changes at national level.
- New edition of “Case Law of the Boards of Appeal of the European Patent Office” (Case law Book) [10<sup>th</sup> edition, July 2022; published on 11 August 2022]
- New version of ADA/AAD:

ADA/AAD2019 is **superseded by ADA/AAD2022 per 10 September 2022** – OJ Suppl 3/2022 (published on 10 Aug 2022):

  - Main changes are new provisions:
    - To implement a process of direct clearing of debit orders;
    - To introduce a safety net for replenishments of deposit accounts;
    - To reflect the full deployment of Central Fee Payment (and the abolishment of Online Fee Payment; OJ 2022, A81: “Notice from the EPO dd 19 July 2022 concerning Central Fee Payment”) and the changes this will entail for managing automatic debit orders.
  - The need to make these amendments has also been taken as an opportunity to rearrange and split up a number of existing ADA provisions to improve readability, without, however, substantially changing their content.
    - The ADA provisions have been split, rearranged and renumbered extensively.
  - Note that also Online Fee Payment was abolished per 10 Sep 2022, and was replaced by Central Fee Payment as of that date – OJ 2022, A81 (Notice dated 19 July 2022).

## Section 3 – Legal cases

HJ14-04, H14-05

- Replace “Online Fee Payment” by “Central Fee Payment”



## Section 4 – Answers to the cases

### HJ14-04, H14-05

- The references to ADA/AAD2019 need to be updated for ADA/AAD2022 = OJ Suppl 3/2022: this new version of the ADA/AAD entered into force on 10 Sep 2022 and will be the relevant version for EQE2023
- H14-04, answer to statement 1: ADA2019 5.1.2 → ADA2022, 7.1.2; ADA2019 5.4.1 → ADA2022 10.1
- H14-04, answer to statement 2: ADA2019 5.2.2-5.2.3 → ADA2022 7.4.1 & 7.4.3
- H14-04, answer to statement 3: ADA2019 5.4.2 → ADA2022 7.5.2
- H14-04, answer to statement 4: ADA2019 5.4.1 → ADA2022 10.2
- H14-04, comments: update cf. answers to statements
- H14-05, answer to statement 1: AAD2019 4.1 → AAD2022 4.1; AAD2019 5 → AAD2022 5
- H14-05, answer to statement 2: AAD2019 7 → AAD2022 7.2
- H14-05, answer to statement 3: AAD2019 5.2(a) → AAD2022 5.2(a)
- H14-05, answer to statement 4: AAD2019 5.2(a) → AAD2022 5.2(a); AAD2019 7 → AAD2022 7.2
- H14-05, comments: update cf. answers to statements

## Section 5 – pre-exam papers

(No updates)

## Section 6 – answers and model solutions to the pre-exam papers

(No updates)

## Annex A: Schedule EQE 2023 (Pre-Exam)

The document "Information on the schedule for the EQE 2023 examination papers" dd 19 December 2022 provides:



Munich, 19 December 2022

### Information on the schedule for the EQE 2023 examination papers

#### General

The EQE 2023 exam schedule is now available. Candidates are advised that this document may be subject to minor changes as testing continues.

The EQE 2023 will take place online using the same setup as the EQE of 2021 and 2022. On examination days, candidates are advised to log on to the online examination system's internet platform at least 20 minutes before the start of the relevant paper. Information on how to register and log on to the online examination system will be communicated in due course.

The pre-examination and both papers C and D will be split into parts. This means that candidates will not be free to allocate their time as they see fit across the different parts of the papers. To compensate for this restriction, the total duration of the relevant papers has been extended. Once the time allowed for a part has elapsed, it will not be possible to go back to that part.

#### Pre-examination - 17 March 2023

The pre-examination will have the same syllabus and character as before, but it will be split into four parts. Each part must be completed before the start of the next break, with the next set of questions only becoming available after the break. The pre-examination lasts four hours and forty minutes.

Candidates will be allowed to print the description of the invention as well as the prior-art documents for the claim analysis parts before the start of the appropriate part. The documents allowed for printing will be made available during the break preceding the relevant claim analysis part.

Part	Content	Duration	CET time
Part 1	5 x 4 legal questions	70 min	9:30 - 10:40
	Break	20 min	10:40 - 11:00
Part 2	5 x 4 legal questions	70 min	11:00 - 12:10
	Break	80 min	12:10 - 13:30
Part 3	5 x 4 claim analysis, case 1	70 min	13:30 - 14:40
	Break	20 min	14:40 - 15:00
Part 4	5 x 4 claim analysis, case 2	70 min	15:00 - 16:10



## Annex B: No calendars provided with the exam paper (Pre-Exam)

The document “Calculation of time limits in paper D and pre-examination” dd 19 November 2021 provides:



19 November 2021

### Notice from the Examination Board for the European qualifying examination (EQE)

Calendars are a necessary tool for calculating time limits, in particular where Rule 134(1) EPC, first sentence, applies. According to this provision, time limits expiring on a day on which at least one EPO filing office is not open for receipt of documents (closing day) 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.

As of the 2022 examination, the practice concerning calendars will change: calendars will no longer be provided to candidates as part of the examination papers for the pre-examination and Paper D.

A notice listing the dates on which the EPO filing offices are closed is published each year in the Official Journal. For the purposes of applying Rule 134(1), first sentence, EPC and Rule 80.5 PCT, candidates should refer to the relevant notice on EPO closing days. They will be able to access the EPO website for this during the exam.

Candidates are allowed to use their own calendar to identify dates falling on a Saturday or Sunday.

This notice supersedes the notice from the Examination Board dated 18 July 2013 concerning the use of calendars.

For the Examination Board  
The Chairman

Nicolas Favre

## Annex C: Marking scheme (Pre-Exam)

The document "Instructions for answering the pre-examination paper and marking scheme" dd 11 February 2021 provides:

### Instructions for answering the pre-examination paper and marking scheme

1. The pre-examination takes the form of a multiple-choice test made up of four parts and comprising a total of 20 questions. Ten of the questions are on aspects of legal knowledge (parts 1 and 2) and the other ten are on the analysis of claims (parts 3 and 4). Questions must be answered by ticking the appropriate circle ("True" or "False") next to each of the statements that follow each question. For the claim analysis parts, the hyperlinks shown at the beginning of each question refer to the documents made available for printing before the beginning of the relevant part of the pre-examination.

(a) Each question is followed by four separate statements. Candidates must indicate whether the statements are true or false. For each statement, only one answer may 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 is true, candidates should tick the circle next to "True". To indicate that a statement is false, they should tick the circle next to "False".

(c) All four statements making up a question must be answered either "true" or "false". If at least one of the four statements is left unanswered, then **the answer to the whole question will be deemed not to be correct.**

(d) There is no provision for submitting notes or remarks to the examiner. Any such submission will be disregarded.

### 2. Marking

#### (a) Marks awarded per question

If at least one of the four statements within a question is not answered either "true" or "false", then 0 marks will be awarded for this question.

If all four of the statements within a question are answered either "true" or "false", the following marks will be awarded:

If within one question none or only one of the answers to the four statements is correct, then 0 marks will be awarded for this question.

If within one question two of the answers to the four statements are correct, then 1 mark will be awarded for this question.

If within one question three of the answers to the four statements are correct, then 3 marks will be awarded for this question.

If within one question, all four of the answers to the four statements are correct, then 5 marks will be awarded for this question.

#### (b) Total number of marks awarded

The total marks awarded for the pre-examination is the sum of the marks achieved for each question in all four parts, calculated as stated above.