



**DELTA****PATENTS**

Training for Patent Professionals

# PRE-EXAM BOOK CASES/EXAMS

**Update 1 November 2023**

Edition July 2023

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## Introduction and acknowledgement

This document comprises an update to the “Pre-Exam Book - Cases/Exams” (“P-book”, edition July 2023, EQE 2024) in view of:

- Publications in OJ EPO after the Book was printed (OJ July – Oct 2023);
- Publications in PCT Newsletter after the Book was printed (PCT NL June – Oct 2023);
- 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,  
1 November 2023

## EQE 2024 preparation courses

DeltaPatents organizes further training sessions for candidates preparing for Pre-Exam 2024 and for the Main Exam 2024 in the period from May 2023 until February 2024. 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:

<https://www.deltapatents.com/eqe/>

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

<https://www.deltapatents.com/eqe-paper-d/>

<https://www.deltapatents.com/eep-training-auf-deutsch/>

<https://www.deltapatents.com/eqe-formation-en-francais/>

or contact us via email at:

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

## Other EQE 2024 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 Roel van Woudenberg and Cees Mulder.



## Updates to legal provisions and material

- New editions of: “European Patent Guide – How to get a European patent”
  - The latest edition is the 23rd edition, updated to 1 July 2023, published 2 October 2023.
  - Available online in the EPO's three official languages in both HTML and PDF format.
  - <https://www.epo.org/en/legal/guide-epc>
- “National Law relating to the EPC”
  - The latest edition is July 2023 (22<sup>th</sup> edition), published on 3 August 2023. The pdf version reflects the status of July 2023
- “Arrangements for deposit accounts” [OJ Suppl 3/2022, per 10 September 2022; superseded OJ Suppl 4/2019]  
Amended by:
  - OJ Suppl 3/2023, 10 “Decision of the President dd 24 April 2023 concerning the revision of the ADA and their annexes in view of the entry into force of the Unitary Patent system”.
  - OJ Suppl 3/2023, 20: “Notice from the EPO dd 24 April 2023 concerning the revision of the ADA their annexes in view of the entry into force of the Unitary Patent system”
  - OJ 2023, A58 “Decision of the President dd 13 June 2023 concerning the revision of the Arrangements for deposit accounts (ADA)”: MyEPO Portfolio added to ADA 7.1.2 per 1/7/2023

## **Section 3 – Legal cases**

(No updates)

## **Section 4 – Answers to the cases**

(No updates)

## **Section 5 – pre-exam papers**

(No updates)



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

### Case 1 (Pre-Exam 2023), 18.4:

Please replace the argumentation given with the answer to 18.4 by:

- The gist of the answer is the same as in 18.2: the claim does not (necessarily) achieve the stated effect, and therefore the objective technical problem is wrongly defined.
- The reduction in the number of layers may be true for the sealing part. Namely, according to the claim, the sealing part now consists solely of the aluminium foil, so compared to other embodiments/claims, it omits the polyester film. However, the OTP refers to the entire closure, and the claim is written in an open-ended way (“closure comprising...”) which means that the claim actually does not rule out that the closure has additional (unmentioned) layers. In other words, it is not inevitable that the claimed closure has fewer layers than D2.

## Annex A: Schedule EQE 2024 (Pre-Exam)

The document "Information on the schedule for the EQE 2024 examination papers" dd 27 July 2023 provides:



Munich, 27 July 2023

### Information on the schedule for the EQE 2024 examination papers

#### General

The EQE 2024 will take place online using the examination software Wiseflow.

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. Candidates will be informed in due course about their personal access to the online examination system.

The pre-examination and both papers C and D are 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 - 15 March 2024

The pre-examination is 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.

No calendars will be provided.

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: Notification provisions EQE 2024 (Pre-Exam)

In view of the change of R.126(2)/127(2)/131(2) per 1 November 2023, while the IPREE defines the texts as in force on 31 October 2023 to be the relevant legal texts for EQE 2024, the Supervisory Board of the EQE decided:

### DECISION OF THE SUPERVISORY BOARD OF THE EQE

Whereas:

1. The syllabus cut-off date for the EQE 2024 is 31 October 2023.
2. In its decision CA/D 10/22, the Administrative Council adopted amendments to Rules 126, 127 and 131 EPC for entry into force on 1 November 2023.
3. Candidates sitting the EQE 2024 are required to apply Rules 126, 127 and 131 EPC as in force on 31 October 2023, while on the day of the exam, the new provisions as set out in CA/D 10/22 will already have been in force for several months.

The Supervisory Board has decided as follows:

1. Candidates sitting the EQE 2024 (pre-examination and main examination) can use as legal basis Rules 126, 127 and 131 EPC as in force on 31 October 2023 or Rules 126, 127 and 131 EPC as in force on 1 November 2023.
2. In the main exam papers, the default Rules 126, 127 and 131 EPC to be applied are those in force on 1 November 2023. If the candidate chooses to apply Rules 126, 127 and 131 EPC as in force on 31 October 2023, this must be clearly indicated.
3. Candidate papers will be marked accordingly.

This decision will enter into force on 1 July 2023.

Done at Munich, 26 June 2023

For the Supervisory Board of the EQE

The Chairman  
Michael Liebetanz

So when calculating time limits during Paper D 2024 that run from the (fictitious) date of notification of a document, you are free to use:

- either the current "10-day rule" for deemed notification (with true date of receipt if received later) according to current Rule 126(2)/127(2) (as in force until 31/10/2023 in line with Rules 2 & 22 IPREE) - in which case **you need to indicate that you use** the version as in force in 31/10/2023; [Guidelines E-II, 2.3](#) and 2.4
- or the new PCT-like version (as in force from 1/11/2023) with deemed notification on date of dispatch/date of the document and a compensation for receipt later than 7 days ([OJ 2022, A101, article 1\(10\)-\(12\)](#); [OJ 2022, A114, section IV](#); and [OJ 2023, A29](#); also [Guidelines E-II, 2.3](#) and 2.4) - in this case, you do not need to indicate that you use the new version (despite it deviating from Rule 2 & 22 IPREE).

Our Q&A books "[Basic Legal Questions for Pre-Exam and Paper D](#)" and "[Main Exam Questions for Paper D](#)" provide time limit calculations for **both versions** of R.126(2)/127(2) for (almost) all questions involving time limits calculated from the notification of a document.

**Rules 126(2), 127(2) and 131(2) EPC as in force until and on 31/10/2023**

Rule 126(2) EPC as in force **until and on** 31/10/2023:

(2) Where notification is effected in accordance with paragraph 1, **the letter shall be deemed to be delivered to the addressee on the tenth day following its handover to the postal service provider**, unless it has failed to reach the addressee or has reached him at a later date; in the event of any dispute, it shall be incumbent on the European Patent Office to establish that the letter has reached its destination or to establish the date on which the letter was delivered to the addressee, as the case may be.

Rule 127(2) EPC as in force **until and on** 31/10/2023:

(2) Where notification is effected by means of electronic communication, **the electronic document shall be deemed to be delivered to the addressee on the tenth day following its transmission**, unless it has failed to reach its destination or has reached its destination at a later date; in the event of any dispute, it shall be incumbent on the European Patent Office to establish that the electronic document has reached its destination or to establish the date on which it reached its destination, as the case may be.

Rule 131(2) EPC as in force **until and on** 31/10/2023:

(2) Computation shall start on the day following the day on which the relevant event occurred, the event being either a procedural step or the expiry of another period. **Where the procedural step is a notification, the relevant event shall be the receipt of the document notified, unless otherwise provided.**

**Amended Rules 126(2), 127(2) and 131(2) EPC as in force as of 1/11/2023**

Amended Rule 126(2) EPC as in force **as of** 1/11/2023:

(2) Where notification is effected in accordance with paragraph 1, **the document shall be deemed to be delivered to the addressee on the date it bears**, unless it has failed to reach the addressee. In the event of any dispute concerning the delivery of the document, it shall be incumbent on the European Patent Office to establish that the document has reached its destination and to establish the date on which the document was delivered to the addressee. If the European Patent Office establishes that the document was delivered to the addressee **more than seven days after the date it bears**, a period for which the deemed receipt of that document is the relevant event under Rule 131, paragraph 2, shall expire later by the number of days by which the seven days were exceeded.

Amended Rule 127(2) EPC as in force **as of** 1/11/2023:

(2) Where notification is effected by means of electronic communication, **the electronic document shall be deemed to be delivered to the addressee on the date it bears**, unless it has failed to reach its destination. In the event of any dispute concerning the delivery of the electronic document, it shall be incumbent on the European Patent Office to establish that the document has reached its destination and to establish the date on which it reached its destination. If the European Patent Office establishes that the electronic document has reached its destination **more than seven days after the date it bears**, a period for which the deemed receipt of that document is the relevant event under Rule 131, paragraph 2, shall expire later by the number of days by which the seven days were exceeded.

Amended Rule 131(2) EPC as in force **as of** 1/11/2023:

(2) Computation shall start on the day following the day on which the relevant event occurred, the event being either a procedural step or the expiry of another period. **Where the procedural step is a notification, the relevant event shall be the deemed receipt of the document notified**

## Annex C: 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 D: 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.