EXAM NO._____

INTERNATIONAL & COMPARATIVE PATENT LAW

Final Exam, IPSI 2002

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INSTRUCTIONS

This is a two hour, open book exam. You may consult any written materials, yet your examination must be your own work. Consideration of the problems outside the exam room or discussion with any other persons during the exam period is not permitted.

Organize your answers before you begin to write and try to keep your answers concise and clear. Write your answers in the blue books supplied, but please use only one side of the page and observe the margins. Please write as legibly as possible!

Grading will be anonymous; please do not put your name on anything you turn in. Be sure your examination number is on each blue book you turn in.

EXAM NO._____

5 Points Each

1. Are these statements correct? If not, indicate in what respect.

   a) In the first-to-invent system, the first and true inventor has always the right to the patent.

   b) In the first-to-file system, the person who files first has the right to the patent.

   c) In the first-to-file system, the date of invention is irrelevant.

   d) In the case of two applications for the same invention, the European Patent Office will check who is the true inventor.

   e) The novelty of a European application can only be destroyed by state of the art made available to the public before the priority date.

10 Points Each

2. A PCT applicant has received a "written opinion" from the IPEA and forgot to react in due time. Does this entail a risk of losing the application?

3. A Japanese company has filed a Japanese patent application for an electronic device on April 18, 2001, and immediately afterwards started to publicly offer and sell such devices. In a management meeting in the morning of April 18, 2002, it was found desirable to have protection also in Europe. What can be done?

15 Points

4. A European patent after grant is dissected into patents in the designated countries having the same effect and being subject to the same conditions as national patents in the countries concerned (Article 2 E.P.C.). However, some provisions of the E.P.C. are binding the national authorities and courts with respect to validity and infringement (the "European Core"). Name at least two of such provisions.

EXAM NO._____

10 Points Each

5. Does a published European application confer any right?

6. An employee of a Belgian company A has invented a chemical substance useful as component in paints. A orders a chemical company B in the Netherlands to produce that substance and deliver it entirely to A, keeping it as a business secret. B signs a confidentiality agreement.

   After a series of further tests, A files a European patent application on June 10, 1998, designating all E.P.C. countries. During examination, the examiner cites an ad published in the January 1998 issue of a chemical journal by company B, offering that substance, indicating the chemical composition, for general sale. The examiner considers this as full anticipation of A's application.

   What can A do?

   What if A had filed 3 months later?

7. Mr. X, an employee of the U.S. Company Y, has given a speech at a public symposium in Chicago on May 22, 2002, explaining an invention he had made. The speech was well received, and Y now wants to file a U.S. patent application and European patent application.

   What would be your advice to Y?

8. Define the term "regional exhaustion." Is a patent affected by exhaustion still enforceable?