

114年專門職業及技術人員高等考試會計師、
不動產估價師、專利師、植物診療師考試試題

代號：70150

70650

頁次：6-1

等 別：高等考試

類 科：專利師(選試專業英文及工程力學)、專利師(選試專業英文及生物技術)、
專利師(選試專業英文及電子學)、專利師(選試專業英文及物理化學)、
專利師(選試專業英文及工業設計)、專利師(選試專業英文及計算機結構)

科 目：專業英文

考試時間：2小時

座號：_____

※注意：禁止使用電子計算器。

甲、申論題部分：(50分)

(一)請以英文作答，不必抄題，作答時請將試題題號及答案依照順序寫在申論試卷上，於本試
題上作答者，不予計分。

(二)請以藍、黑色鋼筆或原子筆在申論試卷上作答。

一、下列題目以英文作答；中文作答者不計分：

(一)請將最高行政法院判決中的這句話翻譯成英文：「解釋申請專利範
圍，得參酌內部證據與外部證據；並以內部證據之適用為優先。」

(10分)

(二)有那些證據被認為是內部證據？(10分)

(三)有那些證據通常被列為外部證據？(10分)

二、Please translate the following extract from an opinion of the Supreme
Court into English：(20分)

所謂專利侵害之均等論，係指比對被控侵權物與訟爭專利請求項，兩
者在技術手段、功能及結果三者是否實質相同。所謂實質相同，乃侵害
物所採取之替代手段，對所屬技術領域中具有通常知識者於閱讀說明
書後，基於一般性之專業知識及職業經驗，易於思及所能輕易置換者。

乙、測驗題部分：（50分）

(一)本試題為單一選擇題，請選出一個正確或最適當答案。

(二)共25題，每題2分，須用2B鉛筆在試卡上依題號清楚劃記，於本試題或申論試卷上作答者，不予計分。

- 1 In accordance with the R.O.C. Patent Act, its enforcement rules and related regulations, the patent agent may take any action within the extent of power conferred upon, however, certain actions shall not be taken without being special empowerment. Which of the following action does not require special authorization by the patent applicant/owner?
(A) Abandoning a patent right.
(B) Withdrawing a request for post-grant amendment.
(C) Apply for patent term extension.
(D) Withdrawing a divisional patent application.
- 2 When conducting invalidation proceedings, the TIPO may, by ex officio, examine the reason and evidence not provided by the requester of invalidation action but within the scope of the invalidation statement, and notify the patentee to respond within a specified time period.
Ex officio means:
(A) By someone's request
(B) By its own authority
(C) Take all necessary actions
(D) Form a special group
- 3 According to the Intellectual Property Case Adjudication Act, which of the following statements regarding confidentiality preservation order is incorrect?
(A) A confidentiality preservation order shall become effective upon being served on the person subject thereto.
(B) No appeal may be taken if a motion or request for a confidentiality preservation order is denied by the court.
(C) The person subject to a confidentiality preservation order shall not use the trade secrets for purposes other than those related to the case, nor shall it disclose said trade secrets to those not subject to the order.
(D) A confidentiality preservation order shall become invalid when the ruling revoking such order becomes conclusive.
- 4 In Taiwan, the applicant whose invention involves green technologies may request AEP (Accelerated Examination Program) to ascertain its patentability at the earliest.
In the above sentence, "ascertain" means:
(A) Find out
(B) Seclude
(C) Expedite
(D) Exclude
- 5 Which of the following transitional phrases in patent application excludes any element, step, or ingredient not specified in the claim?
(A) Consisting of
(B) Characterized by
(C) Comprising
(D) Including
- 6 Article 70 of the Intellectual Property Case Adjudication Act states that in an administrative action concerning revocation of a patent right, the Intellectual Property and Commercial Court shall take into account any new evidence submitted on the same grounds for the revocation prior to the end of the oral argument, and the competent intellectual property authority shall provide written briefs in response to the new evidence in the preceding paragraph, indicating whether arguments provided by the opposing party concerning such new evidence have merit.
"Merit" in the above article means:
(A) Economic value
(B) Legal significance
(C) Matrimonial relationship
(D) Unrebuttable evidence

- 7 Which of the following WIPO administrative treaties regulates the international classification for industrial designs?
- (A) Locarno Agreement (B) Nice Agreement
(C) Strasbourg Agreement (D) Vienna Agreement
- 8 To provide patent applicants with more comprehensive and flexible options for utilizing invention and design patents, thereby supporting enterprises in patent portfolio management and commercialization, starting January 1, 2025, the Taiwan Intellectual Property Office implemented the “Directions for Deferral of Substantive Examination of Invention and Design Patent Applications”.
- Deferral means :
- (A) Postponed (B) Speed up (C) Simplify (D) Different
- 9 According to the R.O.C. Patent Act, which of the following statements regarding patent invalidation action is incorrect?
- (A) Where a patent contains more than one claim, an invalidation action may be filed against parts of the claims.
(B) An invalidation statement shall not be modified or narrowed after filing.
(C) Where there are multiple invalidation actions filed against the same patent, the Taiwan Intellectual Property Office, when necessary, may consolidate the invalidation proceedings of the said actions.
(D) Where an invention patent is revoked finally and bindingly, the effect of patent right shall be deemed non-existent ab initio.
- 10 Article 72 of the R.O.C. Patent Act states that where the interested party possesses recoverable legal interests due to the revocation of a patent, such interested party may file an invalidation action after the said patent has become extinguished ipso facto.
- ipso facto means:
- (A) By the fact itself (B) Among others (C) Within the powers (D) From the office
- 11 “ABC Company (LICENSOR) will defend any claim, suit, or proceeding brought against XYZ Company (LICENSEE) and will pay any damages or court costs finally awarded against XYZ Company, or agreed to by ABC Company in settlement or compromise, to the extent such claim, suit, or proceeding is based on an allegation that the Licensed Patent under this Agreement, or the distribution or use thereof in accordance with this Agreement, infringes any patent right of unrelated third party provided that XYZ Company promptly notifies ABC Company of such claim, suit, or proceeding...”
- The above clause is generally referred to as:
- (A) Integration clause (B) Indemnification clause
(C) Litigation clause (D) Notice clause
- 12 A _____ is an agreement where a patent holder agrees not to seek to enforce its patent or other intellectual property rights against another party or parties, sometimes used as patent infringement settlement agreements that are drafted with the purpose of preemptively resolving present and future infringement disputes.
- (A) nolo contendere agreement (B) non-compete agreement
(C) non-assertion agreement (D) non-binding agreement

- 13 Article 9 of R.O.C. Patent Act states that an agreement concluded between an employer and an employee based on which the employee is precluded from enjoying legitimate rights and interests in respect of his/her invention, utility model, or design, shall be void.
Void is synonymous with:
(A) Null (B) Valid (C) Rescindable (D) Viable
- 14 “If after the Effective Date of this Agreement, ABC Company (LICENSOR) grants to any other third party, a patent license which is substantially the same scope as granted to XYZ Company (LICENSEE) herein but under more favorable royalty rates than those given to XYZ Company under this Agreement, ABC Company shall promptly notify XYZ Company of said more favorable royalty rates, and XYZ Company shall have the right and option to substitute such more favorable royalty rates for the royalty rates contained in this Agreement...”
The above clause is generally referred to as:
(A) Most-favored licensee clause (B) Lump-sum royalty clause
(C) Advance royalty clause (D) Grant-back license clause
- 15 An invention may be granted a patent upon application, except for the invention was publicly known prior to the filing of the patent application. Which requirement for patent is contained in this description?
(A) Patentable subject matter (B) Inventive step
(C) Enablement (D) Novelty
- 16 According to the Agreement on Trade-related Aspects of Intellectual Property Rights, which of the following statements is incorrect?
(A) Members shall provide for the protection of independently created industrial designs that are new or original; Members may not provide exceptions to the protection of industrial designs.
(B) Where the subject matter of a patent is a product, a patent shall confer on its owner the exclusive right to prevent third parties not having the owner’s consent from the acts of: making, using, offering for sale, selling, or importing for these purposes that product.
(C) Members may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.
(D) The term of protection available shall not end before the expiration of a period of twenty years counted from the filing date.
- 17 Which of the following statements with regard to patent licensing under the R.O.C. Patent Act is incorrect?
(A) An exclusive licensee of a patent has the right to grant sub-license to a third party to exploit the licensed patent unless otherwise agreed by contract.
(B) An exclusive license for a patent is not valid until it is recorded with the Specific Patent Agency.
(C) A non-exclusive licensee shall not be allowed to sub-license a third party to exploit the licensed patent without the consent of the invention patentee or the exclusive licensee.
(D) An exclusive licensee shall, within the scope of the license granted, exclude the patentee and third parties from exploiting the patented invention.

- 18 Which of the following descriptions regarding the priority claim under the R.O.C. Patent Act is incorrect?
- (A) Where an applicant has first applied for a patent in any foreign country, the applicant may claim priority in respect of an R.O.C. patent application for the same invention if the R.O.C. patent application for the same invention is filed within twelve (12) months after the filing date of the said first patent application.
 - (B) Where an applicant claims two or more priorities in respect of a patent application, the priority period shall be determined based on the earliest priority date.
 - (C) For a patent application filed with priority, examination on its patentability shall be based on the priority date.
 - (D) Where an applicant unintentionally fails to claim priority claim at the time of filing, the applicant may, within sixteen (16) months after the earliest priority date, apply for reinstatement of priority claim, pay the required fees and submit the required declarations.
- 19 Which of the following is not one of the non-obviousness inquiries?
- (A) The scope of the prior art.
 - (B) The level of ordinary skill in the pertinent art.
 - (C) The content of the prior art.
 - (D) The differences between the patent at issue and the allegedly infringing product.
- 20 Which of the following statements regarding the right to apply for patent is correct?
- (A) Unlike the patent right itself, the right to apply for a patent is not assignable.
 - (B) The right to apply for a patent shall not be taken as the subject of a pledge.
 - (C) Where a fund provider appoints another party to conduct research and development, the ownership of the right to apply for a patent and the patent right in connection with the outcome of such research and development shall be vested in the fund provider.
 - (D) If there is no agreement providing otherwise, where an invention is made by an employee in the course of performing his/her duties, the right to apply for a patent thereof shall be vested in the employee.
- 21 Which of the following statements regarding the effects and limitation of patent rights is incorrect?
- (A) The patentee of an invention patent has an exclusive right to prevent others from exploiting the invention without the patentee's consent.
 - (B) The patentee's exclusive rights may apply to a vehicle merely passing through Taiwan.
 - (C) The effects of an invention patent right shall not extend to necessary acts to exploit the invention for research or experimental purposes.
 - (D) The effects of the patent right shall not extend to trials necessary for obtaining market approval of pharmaceuticals from a foreign country.
- 22 Which of the following statements regarding patent exhaustion is correct?
- (A) The patent exhaustion does not extend to the acts of reselling the patented product and is limited to the acts of using the product only.
 - (B) The R.O.C. Patent Act does not provide any specific rules regarding patent exhaustion doctrine.
 - (C) The buyer of the patented product must have purchased the product in the territory of R.O.C. in order for the patent to be exhausted.
 - (D) The effects of an invention patent right shall not extend to any patented product made by the patentee after its sale.

- 23 Which of the following statements regarding patent remedies is correct?
- (A) Where the inventor's right to be indicated as such is infringed, the inventor may request for necessary disposition(s) to have his/her name indicated or to restore the impaired reputation.
 - (B) A non-exclusive licensee may claim for damages only in case an infringement of invention patent occurs due to intentional act.
 - (C) For the purpose of calculating damages, the patentee may choose the method based on the profits earned by the infringer as a result of patent infringement, but only in cases where the infringement of an invention patent was intentional.
 - (D) A patentee of an invention patent may demand a person who infringes to stop only when the infringement occurs due to intentional act or negligence.
- 24 Which of the following descriptions regarding invention irrelevant to the performance of duties (an invention made by an employee without connection to the course of performing his or her duties) under the R.O.C. Patent Act is incorrect?
- (A) The right to apply for a patent and the patent right for such invention shall be vested in the employee.
 - (B) If such invention is made through the utilization of the employer's resources or experiences, the employer may exploit the invention in the enterprise without paying the employee remuneration.
 - (C) Upon completion of such invention, the employee shall give the employer a written notice regarding such event, and shall also inform the employer of the creative process, if necessary.
 - (D) If the employer fails to raise any objection to the employee within six (6) months after receiving the employee's written notice regarding such invention, the employer shall not claim that the invention at issue was made by the said employee in the course of performing his/her duties.
- 25 Which of the following descriptions regarding patent applications under the R.O.C. Patent Act is incorrect?
- (A) Where two or more patent applications are filed for the same invention, only the earliest application can be granted.
 - (B) Two or more inventions so linked as to form a single general inventive concept may be filed in one application.
 - (C) A patent application that substantially contains two or more inventions may, upon notice by the Specific Patent Agency or upon request by the applicant, be divided into two or more divisional applications.
 - (D) An applicant filing a patent application for invention and a patent application for utility model for the same creation on the same date can decide whether to make declarations in respect of the said applications.