

113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、民間之公證人考試試題

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（English）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、Supposed one of the patent inventors is wrongfully left behind from the inventorship in a registered patent. Besides the civil action remedy, please describe the alternative legal solution, which such above-mentioned inventor could advance from the perspective of Patent Act in R.O.C. (30 分)

二、Please translate the following Patent Law provisions into appropriate English.

- (一)發明專利申請人對於申請案公開後，曾經以書面通知發明專利申請內容，而於通知後公告前就該發明仍繼續為商業上實施之人，得於發明專利申請案公告後，請求適當之補償金。(10 分)
(二)補償金請求權，自公告之日起，2 年間不行使而消滅。(10 分)

乙、測驗題部分：（50分）

代號：5701

- (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 Unless otherwise provided for in the R.O.C. Patent Act, the patentee of an invention patent has _____ to prevent others from exploiting the invention without the patentee's consent.
(A) a dominant position (B) a dominant right
(C) an inclusive right (D) an exclusive right
- 2 Under the R.O.C. Patent Act, where an invention patent is revoked finally and bindingly, the effect of patent right _____.
(A) should be deemed not to have existed
(B) may be deemed not to have existed
(C) should become extinguished on the publication date of the invention patent
(D) may become extinguished on the filing date of the invention patent

- 3 Under the Paris Convention for the Protection of Industrial Property, patents granted in different Contracting States for the same invention _____.
(A) are interdependent on each other (B) are independent of each other
(C) are dependent on each other (D) interfere with each other
- 4 Under the R.O.C. Patent Act, _____ should, within the scope of the license granted, exclude the patentee and third parties from exploiting the patented invention.
(A) an exclusive licensor (B) an exclusive licensee
(C) a non-exclusive licensor (D) an inclusive licensee
- 5 An owner of patented invention may sell the invention, transferring all the exclusive rights of it to another person or legal entity. When all these rights are transferred, it is said that _____ of such rights has taken place.
(A) the assignment (B) licensing
(C) establishment of a pledge (D) entrusting
- 6 Under the Agreement on Trade-Related Aspects of Intellectual Property Rights, Members may exclude from patentability inventions dangerous to human, animal or plant life or health or seriously prejudicial to the environment, because the inventions _____.
(A) do not meet the requirement of industrial applicability
(B) are contrary to *ordre public* or morality
(C) do not meet the requirement of inventiveness
(D) do not help achieve the goal of climate neutrality
- 7 Under the R.O.C. Patent Act, where an invalidation action against an invention patent is considered well grounded, the patent right should be _____.
(A) granted (B) validated (C) revoked (D) valid
- 8 Under the R.O.C. Patent Act, where the inventor's _____ is infringed, the inventor may request for necessary disposition(s) to have his/her name indicated or to restore the impaired reputation.
(A) exclusive right to dispose as a whole (B) right to be restored as a whole
(C) exclusive rights as such (D) right to be indicated as such
- 9 Under the Agreement on Trade-Related Aspects of Intellectual Property Rights, for the purposes of civil proceedings in respect of the infringement of the rights of the owner, if the subject matter of a patent is a process for obtaining a product, the judicial authorities should have the authority to order the _____ to prove that the process to obtain an identical product is different from the patented process.
(A) defendant (B) plaintiff
(C) claimant (D) Specific Patent Agency

- 10 Under the R.O.C. Patent Act, the Specific Patent Agency should assign a patent examiner to conduct the _____ of a patent application for invention.
- (A) substantive examination (B) substantial examination
(C) authentic review (D) normative review
- 11 Under the provisions on _____, the Paris Convention for the Protection of Industrial Property provides that, as regards the protection of industrial property, each Contracting State must grant the same protection to nationals of other Contracting States that it grants to its own nationals.
- (A) most-favored national treatment (B) citizens' treatment
(C) most-favored-nation treatment (D) national treatment
- 12 Under the Agreement on Trade-Related Aspects of Intellectual Property Rights, Members should _____ the provisions of this Agreement within their own legal system and practice.
- (A) be free to determine the appropriate method of implementing
(B) follow the specific methods of implementing
(C) on certain conditions follow the specific methods of implementing
(D) not implement
- 13 Under the R.O.C. Patent Act, a claimed utility model should be patented if, after _____, there is no event negating its patentability, and the claim(s) and the drawing(s) thereof shall be published.
- (A) familiarity test (B) formality examination
(C) formula test (D) similarity examination
- 14 In accordance with the R.O.C. Patent Act, which one of following descriptions concerning “the purposing of enacting the Patent Act” and “types of patents” is true?
- (A) The Patent Act is enacted to encourage the creations of invention, utility model and design to promote industrial development.
(B) The Patent Act is enacted to maintain industrial ethics and order in competition.
(C) An “artistic work” is classified into a type of the term “patent” described in the Patent Act.
(D) A “musical work” is classified into a kind of the term “patent” referred to in the Patent Act.
- 15 Under the R.O.C. Patent Act, where the term of an invention patent has expired, the patent should become _____.
- (A) an extinguisher (B) non-existed (C) extinguished (D) distinguished
- 16 Under the R.O.C. Patent Act, in case an infringement of invention patent occurs due to intentional act or negligence, the patentee may claim for _____ suffered therefrom.
- (A) property (B) damages (C) comprehension (D) complications

- 17 Which of the following descriptions about “duty of staff members and patent examiners” under the R.O.C. Patent Act is true?
- (A) While serving in the Taiwan Intellectual Property Office, staff members shall receive any interests related to such patent indirectly for succession.
 - (B) Patent examiners of the Taiwan Intellectual Property Office are not required to keep confidential any design of an applicant which have been possessed by them in the course of performing their duties for interior uses.
 - (C) Where, for a concerned patent case, the patent examiner’s spouse is the patentee, the patent examiner requires to exclude himself or herself.
 - (D) Where, for a concerned patent case, the patent examiner is currently related to the invalidation requester by consanguinity within the ninth degree or by affinity within the eighth degree, the patent examiner needs to exclude himself or herself.
- 18 According to the R.O.C. Patent Act, which one of the following statements about “patent application” is wrong?
- (A) If the delay has exceeded one year after expiration of the statutory time period caused by natural calamity or other causes not attributable to the applicant, an application for reinstatement shall not be accepted.
 - (B) Where an examination decision cannot be delivered, such decision shall be published in the Patent Gazette and deemed to have been delivered thirty days after publication.
 - (C) Application for patent and other relevant proceedings may be electronically processed.
 - (D) The duration of relevant time periods shall include the beginning date thereof.
- 19 Which one of the following descriptions concerning “substantial applicable condition of novelty” in accordance with the R.O.C. Patent Act is wrong?
- (A) The invention was exploited publicly before the filing of the patent application.
 - (B) The invention was known publicly after the filing of the patent application.
 - (C) Where an invention claimed in a patent application for invention is identical to an invention disclosed in the drawings of an earlier-filed patent application for invention published after the later-filed patent application, an invention patent shall not be granted.
 - (D) Where the later-filed applicant of invention claimed in a patent application for the identical disclosed drawings of an earlier-filed patent application for invention is also the applicant of an earlier-filed patent application, an invention patent shall be granted.

- 20 Which of the following statements about a subject matter in the “statutory protection of utility model patent” in accordance with the R.O.C. Patent Act is true?
- (A) A utility model, which is contrary to morality or public order, shall not be granted a utility model patent.
 - (B) Layout of integrated circuits and electronic circuits shall be granted a utility model patent.
 - (C) Primary biological processes for the production of animals shall be granted a utility model patent.
 - (D) The shape of an article solely dictated by its function shall be granted a utility model patent.
- 21 Which one of the following statements related to “priority claim” under the R.O.C. Patent Act is correct?
- (A) Where an applicant has first applied for a patent in a foreign state, any member of the World Intellectual Property Organization (WIPO), 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 eighteen months after the filing date of the said first patent application.
 - (B) Within six months after the earliest priority date, the applicant shall submit a certified copy of the first patent application issued by the member of the World Trade Organization (WTO).
 - (C) An applicant filing a patent application based on an earlier patent application for utility model in the R.O.C. may make a priority claim with respect to the utility model disclosed in the descriptions, drawings, or claims submitted for the earlier patent application that has not been published.
 - (D) Priority claimed shall not be withdrawn upon an expiry of six months after the filing date of the earlier patent application.
- 22 Which of the following descriptions related to “importation of patented articles or devices” and “compulsory license” in accordance with the Paris Convention is wrong?
- (A) Importation by the patentee into the state where the patent has been granted of articles manufactured in any state of the Union for the Paris Convention shall entail forfeiture of the patent.
 - (B) No proceedings for revocation or the forfeiture of a patent may be instituted before the expiration of two years from the grant of the first compulsory license.
 - (C) A compulsory license shall be non-exclusive and not be transferable, even in the form of the grant of a sub-license, except with that part of the enterprise or goodwill which exploits such license.
 - (D) When a product is imported into a state of the Union for the Paris Convention where there exists a patent protecting a process of manufacture of the product, the patentee shall have all the rights, with regard to the imported product, that are accorded to him by the legislation of the imported state, on the basis of the process patent, with respect to products manufactured in that state.

- 23 According to the TRIPS Agreement, which one of the following statements about “patent rights conferred” is wrong?
- (A) Where the subject matter of a patent is a product, third parties do not allow to make, use, offer for sale, sell, or import for these purposes that product without a patent owner’s consent.
 - (B) Where the subject matter of a patent is a process, there are no restrictions to third parties using the process and no limitations to use, offer for sale, sell, or import for these purposes at least the product obtained directly by that process.
 - (C) WTO members’ laws may consider the legitimate interests of third parties to provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with an ordinary use of the patent and do not fairly prejudice the legitimate interests of the patent owner.
 - (D) Patent owners have the right to transfer, or assign by succession, the patent and to make licensing contracts.
- 24 According to the Enforcement Rule of the Patent Act, which one of the following descriptions related to “the original or the certified copy” is correct?
- (A) Any documents of proof submitted pursuant to the Patent Act and Enforcement Rule of the Patent Act shall be the photocopy thereof.
 - (B) With regard to the certified priority document for patent application, the parties involved may submit the photocopy instead even though the photocopy of the documents of proof is identical to the original or the certified copy.
 - (C) Where a photocopy of the documentary evidence is submitted as evidence of invalidation, it shall be proved to be identical to the original or the certified copy thereof.
 - (D) When the original or the certified copy of the documents of proof has been verified by the Taiwan Intellectual Property Office, it may be kept by the Taiwan Intellectual Property Office.
- 25 Which one of the following statements about “the description of a patent application for invention” and “deposit for a biological material” in accordance with the Enforcement Rule of the Patent Act is wrong?
- (A) The paragraphs of the description may be arranged with two consecutive Arabic numbers in separate square brackets so that each of the paragraphs can be clearly identified.
 - (B) The title of invention should concisely describe the contents of the claimed inventions; irrelevant wording is not permitted.
 - (C) When a patent application for invention involves a biological material, where the biological material concerned has been deposited, the description shall specify the depository, date of deposit, and deposit number.
 - (D) Before the patent application filing, the biological material concerned has been deposited in a foreign depository recognized by the Taiwan Intellectual Property Office, the description shall also specify the foreign depository, date of deposit, and deposit number.