

110 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、According to Article 27 of the TRIPS Agreement, patents shall be granted if inventions meet patentability requirements, including utility, novelty and inventive step (or non-obviousness). However, many WTO members, including the USA, Japan and Taiwan, provide the grace period system to grant patents for inventions even if they have been made available to the public before the date of filing of the patent application. Please elaborate the grace period system set forth in Article 22 of the Republic of China Patent Act. (30分)

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

按發明專利權範圍，以申請專利範圍為準，於解釋申請專利範圍時，並得審酌說明書及圖式。解釋申請專利範圍是以其中所載之文字為核心，探究該發明所屬技術領域中具有通常知識者於申請專利時所認知或瞭解該文字之字面意義。除非申請人在說明書中已賦予明確的定義，若申請人無明顯意圖賦予該文字其他意義，該文字被推定為具有通常知識者所認知或瞭解的通常習慣意義。

乙、測驗題部分：（50分）

(一)本測驗試題為單一選擇題，請選出一個正確或最適當的答案，複選作答者，該題不予計分。

(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 Under the R.O.C. Patent Act, which one of the following statements is not correct?
 - (A) An invention patent with respect to licensing, compulsory licensing, as well as other matters that should be published shall be published in the Patent Gazette.
 - (B) The decision on a request for compulsory license shall be made in writing and shall indicate the reasons, scope, duration, and the required remuneration.
 - (C) Exploitation of a compulsory license shall be predominantly for the supply of importing country market.
 - (D) Granting of compulsory licensing shall not affect the exercise of patent right by the patentee concerned.
- 2 _____ may be used to define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.
 - (A) Special technical feature
 - (B) Inventive steps
 - (C) Single general inventive concept
 - (D) Multiple dependent claim
- 3 A(n) _____ licensee may sub-license a third party to exploit the licensed patent unless stipulated otherwise in the contract.
Choose the one that best completes the above sentence.
 - (A) sole
 - (B) exclusive
 - (C) statutory
 - (D) non-exclusive
- 4 According to the R.O.C. Patent Act, which of the following statements about patent applications is incorrect?
 - (A) A patent application for invention shall relate to one invention. Two or more inventions so linked as to form a single general inventive concept may be filed in one application.
 - (B) The term of a utility model patent will not expire until the end of ten years after the patent application was made.
 - (C) Any person within three year after the filing date of a patent application for invention may make a request with the Intellectual Property Office for substantive examination of the patent application.
 - (D) The Intellectual Property Office may not advance the laying-open of a patent application at the request of the applicant.
- 5 Which of the following is included within the purpose of enacting the R.O.C. Patent Act?
 - I. To protect the creation of inventions, utility models and designs.
 - II. To balance different interests for the common good of society.
 - III. To encourage the creation of inventions, utility models and designs.
 - (A) I and II only
 - (B) I and III only
 - (C) II and III only
 - (D) I only

- 6 The purpose of Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) may not be _____.
 (A) to reduce distortions and impediments to international trade
 (B) to promote effective and adequate protection of intellectual property rights
 (C) to ensure that intellectual property rights not become barriers to legitimate trade
 (D) to reduce affect of Most-Favoured-Nation Treatment
- 7 Which of the following statements about the “two-part form” claim is correct?
 (A) It may be used in the form of a dependent claim.
 (B) It recites all or some of the elements of a known article, process, composition, or combination in the preamble to the claim.
 (C) It shall refer to more than one other claim in the alternative only.
 (D) It shall be construed to incorporate by reference all the limitations of each of the particular claims in relation to which it is being considered.
- 8 For patent application, what does the term “estoppel” mean?
 (A) Exemption (B) Application (C) Preclusion (D) Jurisdiction
- 9 According to the TRIPS Agreement, 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.
 In the above paragraph, the word “prejudice” means:
 (A) utilize (B) infringe (C) reduce (D) present
- 10 On the utility model patent, which of the following statements is true?
 (A) An applicant filing a patent application for invention and a patent application for utility model under the same invention on the same date shall make respective declarations in respect of the said applications.
 (B) A utility model patent may not be granted if it is contrary to public order or morality.
 (C) The term of a utility model patent will not expire until the end of twelve years after the patent application was made.
 (D) The utility model patent may be claimed on a specific technical process.
- 11 On the design patent, which of the following statements is not true?
 (A) The term of a design patent shall expire after a period of fifteen years from the filing date of the application.
 (B) A patent application for design shall indicate the article to which the design is applied.
 (C) A design patentee shall abandon his/her design patent right without consent from the licensee or pledgee.
 (D) The extent of the protection conferred by a design patent shall be determined by the drawing.

- 12 Under Article 97 of the R.O.C. Patent Act, the court of the R.O.C. may not calculate damages of patent infringement with _____.
 (A) the method as set forth in Article 216 of the Civil Code
 (B) awarding the damages greater than the loss suffered but not exceeding five times of the proven loss
 (C) the profit earned by the infringer as a result of patent infringement
 (D) the amount calculated on the basis of reasonable royalties that may be collected from exploiting the invention patent being licensed
- 13 According to the R.O.C. Patent Act, which of the following statements about depositing biological materials of filing patent applications for invention involving biological materials or utilization of biological materials is correct?
 (A) When filing patent applications for inventions concerning biological materials or utilization of biological materials, the applicants shall, no later than the filing date, make deposits of the biological materials with domestic depositories designated by the Taiwan Intellectual Property Office.
 (B) Applicants should, within six months after the filing dates of patent applications, submit to the Taiwan Intellectual Property Office certificates of deposit, indicating the depositories, dates of deposit and deposit numbers.
 (C) If the required documents are not submitted within the specified time period, the deposits should also be deemed to have been made.
 (D) No deposits are required even if the biological materials involved cannot be easily obtained by people ordinarily skilled in the art.
- 14 If the accused device or process does not fall within the literal construction of the claim, there may still be infringement under the _____.
 Choose the one that best completes the above sentence.
 (A) doctrine of estoppel (B) doctrine of limitations
 (C) doctrine of equivalents (D) first-to-file principle
- 15 According to the R.O.C. Pharmaceutical Affairs Act, if the holder of a new drug permit deems it necessary to submit the patent information regarding such drug, such holder shall submit relevant documents and information to the Central Competent Health Authority within 45 days after the next day to the receipt of the drug permit. Which of the following is not a drug patent shall be filed?
 (A) Substance (B) Formulation (C) Composition (D) Intermediates
- 16 According to the R.O.C. Patent Act, for purposes of assisting countries with insufficient or no manufacturing capacities in pharmaceutical sector to obtain pharmaceutical product(s) needed, the Specific Patent Agency may, upon request, grant a compulsory license to the requestor to exploit a patent concerned for the purpose of producing and importing pharmaceutical product(s) to these countries. Which of the following is not a qualified disease for applying compulsory licenses to the treatment?
 (A) HIV/AIDS (B) Tuberculosis (C) Diabetes (D) Malaria

- 17 According to the R.O.C. Patent Act, which of the following circumstances shall the effects of an invention patent right extend to?
- (A) Acts are exhibited at a non-commercial conference.
 - (B) Necessary acts are made to exploit the invention for research.
 - (C) Acts are done by a person who has been exploiting the invention or making all the necessary preparations for doing such act in this country before the filing date of the invention. However, the person has learned of the invention from the patent applicant for more than twelve months and the patent applicant has made a statement reserving his right to a patent being granted.
 - (D) After the sale of a patented product made by the patentee or made under consent of the patentee overseas, a consumer uses or resells such product domestically.
- 18 According to the R.O.C. Patent Act, which of the following is a possible reason for obtaining patent term extension?
- (A) The issue of a patent is delayed by certain failures of the Specific Patent Agency to take timely action during the patent application's pendency.
 - (B) Exploitation of the invention patent involving an agrichemical needs regulatory approval in accordance with other laws and regulations.
 - (C) Invention patentee has suffered loss as a result of civil commotion in the R.O.C.
 - (D) Exploitation of the invention patent involving a medical device needs premarket regulatory review.
- 19 According to the R.O.C. Patent Act, which of the following is not an acceptable amendment after the Specific Patent Agency issues a final notice during the examination of a patent application?
- (A) To delete a claim
 - (B) To narrow down the scope of a claim
 - (C) To correct an error on description in English which was submitted pursuant to Paragraph 3 of Article 25 of the R.O.C. Patent Act
 - (D) To clarify an ambiguous statement
- 20 Which type of patent protection is not provided in the R.O.C. Patent Act?
- (A) Industrial design
 - (B) Plant variety
 - (C) Microorganism
 - (D) Biological processes for producing microorganism
- 21 According to the R.O.C. Patent Act, where an invention is made by an employee in the course of performing his duties, the right to apply for a patent and the patent right thereof shall be vested in (1) ; where there is an agreement providing otherwise, such agreement shall prevail. Also, 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 party as mutually agreed upon in an agreement between both parties, or such rights shall be vested in (2) in the absence of such agreement.
- | | |
|--------------------------------------|---|
| (A)(1) the employee (2) the inventor | (B)(1) the employer (2) the fund provider |
| (C)(1) the employer (2) the inventor | (D)(1) the employee (2) the fund provider |

- 22 According to the R.O.C. Patent Act, which of the following statements of joint ownership is incorrect?
- (A) Where a right to apply for a patent is jointly owned, the patent application related thereto shall be filed by all the joint owner(s).
 - (B) Where a patent right is jointly owned, it shall not be exploited assigned, entrusted, licensed, pledged, or abandoned without the consent of all the joint owner(s).
 - (C) Where a patent right is jointly owned, no joint owner may assign, entrust or establish a pledge on his own share without the consent of all the other joint owner(s).
 - (D) Where a joint owner of a patent right has abandoned his own share, this share shall be vested in other joint owner(s).
- 23 According to the R.O.C. Patent Act, which of the following statements is incorrect?
- (A) Patent right shall not be taken as the subject of a pledge.
 - (B) An agreement concluded between an employer and an employee as stated in Article 8 of the R.O.C. Patent Act, based on which the employee is precluded from enjoying legitimate rights and interests in respect of his invention, utility model, or design, shall be void.
 - (C) While serving in the Specific Patent Agency, staff members or patent examiners shall not apply for a patent except for inheritance.
 - (D) Where an examination decision or any other document(s) cannot be served, such decision or document(s) shall be published in the Patent Gazette and shall be deemed to have been served thirty days after publication.
- 24 According to the R.O.C. Patent Act, which of the following is not a circumstance where an invention patent right shall become extinguished?
- (A) Where the patent term has expired, and the patent shall become extinguished.
 - (B) Where the patentee has passed away without heirs.
 - (C) Where a patent application for invention that is approved, the patent certificate fee and the first-year patent annuity are not paid by the applicant within three months after the date on which the approval decision is served.
 - (D) Where the patentee abandoned the patent, the patent right shall be extinguished from the date the patentee makes a declaration in writing.
- 25 According to Article 22, Paragraph 3 of the R.O.C. Patent Act, a disclosure made by or against the applicant's will shall not be deemed as one of the circumstances that would preclude the grant of an invention patent prescribed in the subparagraphs of Paragraph 1 or the preceding paragraph, provided that the concerned patent application is filed within twelve months after the date of the disclosure. The twelve- month period mentioned above is called ____.
- (A) grey period
 - (B) grace period
 - (C) prioritized period
 - (D) excused period