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102年專門職業及技術人員高等考試律師、 會計師、不動產估價師、專利師考試試題

類 科：專利師
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)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、Please translate the following paragraph into English.（10 分）

申請發明專利時，由專利申請權人備具申請書、說明書、申請專利範圍、摘要及必要之圖式，向專利專責機關申請。以申請書、說明書、申請專利範圍及必要之圖式齊備之日為發明專利申請日。

二、Write a composition entitled: “The latest amendment of Taiwan’s Patent Act dated at June 11, 2013” in English, please write at least 80 words.（20 分）

三、Please use 40 to 80 words to summarize the following article in English, **do not** copy any sentence in the excerpt.（20 分）

Last February during his Fireside Hangout, President Obama explained that patent trolls (known more formally as Patent Assertion Entities, or PAEs) “don’t actually produce anything themselves. They’re just trying to essentially leverage and hijack somebody else’s idea and see if they can extort some money out of them.” This type of abusive patent litigation is a major problem.

It’s also important to know what we’re not talking about here. We aren’t trying to make it harder to pursue legitimate intellectual property rights, or vigorously defend valid patents. Indeed, the United States has the best intellectual property protections in the world, and our system rightly ensures that these innovators are compensated for their creativity. The problem is when rogue companies make a business model out of exploiting and abusing the system, using it not to protect invention but to bring frivolous lawsuits to extract settlements from companies trying to serve American consumers. Bad patents in the system (such as those issued with broad or vague language) only compound the problem, and the issue extends far beyond any one industry.

乙、測驗題部分：(50 分)

代號：5701

(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 What does the term “patent pending” mean?
(A) patent assigned to (B) patent mortgaged (C) patent litigated (D) patent applied for
- 2 What does the term “prosecution history estoppel” mean?
(A) the doctrine of equivalents (B) the doctrine of all elements
(C) *inter partes* reexaminations (D) file-wrapper estoppel
- 3 An invention patent application is filed on January 1, 2010. The application is published 18 months later on July 1, 2011 and granted on May 30, 2013. The patent is valid until:
(A) May 30, 2033(20 years from the granted date of the patent)
(B) July 1, 2031(20 years from the publication date of the application)
(C) January 1, 2030(20 years from the filing date of the application)
(D) some other date
- 4 If the patent examiner does produce a _____ case, the burden of coming forward with evidence or arguments shifts to the applicant who may submit additional evidence of non-obviousness. Choose the one phase that best completes the above sentences.
(A) all elements (B) inherency (C) burden of Proof (D) *prima facie*
- 5 The EPO allowed a patent on a transgenic animal that had been bred as a research tool for cancer studies despite objections that it was _____ to patented life. Choose the one word that best completes the above sentences.
(A) immoral (B) immortal (C) irreverent (D) insignificant
- 6 European patents shall not be granted in respect of inventions the commercial _____ of which would be contrary to ‘ordre public’ or morality. Choose the one word that best completes the above sentences.
(A) exploitation (B) anticipation (C) incentive (D) litigation
- 7 The expression “either A or B, but not both” in a patent specification or claim has the sense of:
(A) implying the presence of both A and B.
(B) implying the presence of A or the presence of B, or the presence of A and B.
(C) implying the presence of A or the presence of B, but not the presence of both A and B.
(D) implying the absence of both A and B.
- 8 According to the Patent Act in Taiwan, which of the following statements is not correct?
(A) According to Article 52, patent rights shall start from the filing date of the application.
(B) The term of an invention patent shall not exceed a period of twenty years from the filing date of the application.
(C) An invention that involves national defense secrets or any other secrets pertaining to national security might be granted.
(D) The term of a design patent shall not exceed a period of twelve years from the filing date of the application.

- 9 The requirement of industrial applicability in the EPC means that it must be shown that the invention can be made or used in any kind of industry. Which of the following statements is true?
- (A) In the Unites States, the equivalent criterion requires utility.
 - (B) In the Unites States, the equivalent criterion requires novelty.
 - (C) In the Unites States, the equivalent criterion requires inventive steps.
 - (D) In the Unites States, the equivalent criterion requires fully disclosure.
- 10 Which of the following patentability statements is not correct?
- (A) Enablement requires the patent applicant to submit already functionally sample embodiment type of the invention to the patent examiners.
 - (B) The invention that one skilled in the art must be enabled to make and use is that defined by the claim(s) of the particular application or patent.
 - (C) Enablement requires a person of “outstanding skill in the art” of the invention can make and use the invention without “undue experimentation”.
 - (D) The information contained in the disclosure of an application must be sufficient to inform those skilled in the relevant art how to both make and use the claimed invention.
- 11 According to the Patent Act in Taiwan, which of the following statement is correct?
- (A) The right to apply for a patent is not assignable, but the patent right is inheritable.
 - (B) Both the right to apply for a patent or the patent right are assignable and inheritable.
 - (C) The right to apply for a patent shall be taken as the subject of a pledge.
 - (D) Where an invention made by an employee in the performance of his job duties, the right to apply for a patent shall belong to the employee.
- 12 According to the Patent Act in Taiwan, “invention” means the creation of technical ideas, utilizing the laws of nature. Regarding the following statements or phrases, what could be possibly deemed as an “invention”?
- (A) the discovery of a natural resource
 - (B) chemical compounds which are artificially isolated from natural sources
 - (C) chemical compounds which are artificially isolated from natural sources however the usefulness cannot be figured out
 - (D) a law of universal gravitation itself
- 13 A disclosure of the invention before a corresponding patent application in field will affect which of the following patentability criteria?
- (A) novelty
 - (B) utility
 - (C) non-obviousness
 - (D) enablement
- 14 Which type of patent protection is not provided in the Patent Act of Taiwan?
- (A) artificial compound
 - (B) essential biological processes for the production of plants
 - (C) biological processes for producing microorganism
 - (D) microorganism
- 15 A patent gives its owner the _____ to prevent or stop others from making, using, offering for sale, selling or importing a product or a process, based on the patented invention, without the owner’s prior permission.
- (A) dominant position
 - (B) dominant right
 - (C) exclusive right
 - (D) exclusive jurisdiction

- 16 In general, _____ refers to all the relevant technical knowledge available to the public anywhere in the world prior to the first filing date of the relevant patent application.
- (A) fine art (B) prior right (C) an early skill (D) prior art
- 17 For patents involving microorganisms, many countries require the microorganism to be placed for safekeeping at a recognized _____.
- (A) depositary institution (B) preservative organization
(C) saving institution (D) disposable biology bank
- 18 As regards processing a patent application, the aim of _____ is to ensure that the application satisfies the patentability requirements.
- (A) concrete test (B) substantial examination
(C) substitutive review (D) substantive examination
- 19 A patentee is a person, group, company, etc., that _____.
- (A) is granted permission by the patent owner to use the patented invention
(B) has been granted a patent
(C) examines patent applications
(D) has granted a patent
- 20 As regards patent infringement, injunctions are often needed urgently. An interim injunction is _____ that may be granted at a special hearing pending the outcome of the main hearing of the case.
- (A) a temporary injunction (B) a perpetual injunction (C) a permanent measure (D) an appellate court
- 21 According to Article 1 of the Paris Convention for the Protection of Industrial Property, industrial property should apply to “industry and commerce proper” and to “agricultural and extractive industries and to all manufactured or natural products”. In this regard, the phrase “industrial property” should be understood in the _____ sense.
- (A) narrow (B) narrowest (C) broad (D) broadest
- 22 In Taiwan, unauthorized offering to sell any patented invention constitutes _____.
- (A) fair use of patent (B) patent infringement (C) honest use of patent (D) a patent troll
- 23 Agreement on Trade-Related Aspects of Intellectual Property Rights is a minimum standards agreement. According to Article 1 of this Agreement, Members may implement in their law _____ protection than is required by this Agreement.
- (A) extinct (B) narrower (C) more distinctive (D) more extensive
- 24 Under Agreement on Trade-Related Aspects of Intellectual Property Rights, the _____ clause forbids discrimination between the nationals of other Members of World Trade Organization. According to this clause, nationals of all trading partners in the WTO must be treated equally.
- (A) most-flavored-country treating (B) most-advantaged-nation treatment
(C) most-favored-nation treatment (D) most-benefited-nation treatment
- 25 Under the Paris Convention for the Protection of Industrial Property, _____ means that, on the basis of a regular application for a patent filed by a given applicant in one of the member countries, the same applicant may, within 12 months, apply for protection in all the other member countries.
- (A) the right of priority (B) the advanced right (C) the advancing right (D) the early authority