

103 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

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（選試專業英文及基本設計）、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)本科目請以英文作答，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、Agreement on Trade-Related Aspects of Intellectual Property Rights is to date the most comprehensive multilateral agreement on intellectual property. Under this Agreement, are there any provisions on compulsory licensing of patents and government use without the authorization of the patent holder? If your answer is negative, please explain, in about 200 words, why there is no rule concerning compulsory licensing and government use without the authorization of the right holder. If your answer is positive, please elaborate, in about 200 words, on the relevant conditions set out in the TRIPS Agreement. (35 分)

二、Please translate the following provisions into English:

(一)發明專利申請日後三年內，任何人均得向專利專責機關申請實體審查。(5 分)

(二)發明專利權人以其發明專利權讓與、信託、授權他人實施或設定質權，非經向專利專責機關登記，不得對抗第三人。(10 分)

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 “The application must describe the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or which it is most nearly connected, to make and use the same.” In U.S. patent law, the above sentence is referring to which patentability requirement?
(A)written description (B)enablement (C)best mode (D)disclosure
- 2 If an inventor assigns her rights to a patent and is subsequently sued for infringement of the patent, she may be barred from challenging the validity of the patent. This sentence refers to which doctrine?
(A)licensee estoppel (B)licensor estoppel
(C)assignor estoppel (D)assignee estoppel

- 3 The assigning, entrusting, licensing, or establishing of a pledge on a patent right by the patentee shall have no _____ against any third party unless it is recorded with the Specific Patent Agency.
Choose the one that best completes the above sentence.
(A)locus standi (B)locus sigilli (C)locus poenitentiae (D)locus in quo
- 4 The patentee has the right to exclude others from doing something. Which one of the following acts is not included?
(A)making (B)offering to sell (C)exporting (D)importing
- 5 If the accused device or process does not fall within the literal terms of the claim, there may still be infringement under the _____.
Choose the one that best completes the above sentence.
(A)doctrine of equivalents (B)statute of limitation
(C)doctrine of comparative (D)doctrine of substitute
- 6 Under the _____, the scope of a patent claim may be narrowed to less than its literal language to avoid the claim reaching beyond the equitable scope of the invention.
Choose the one that best completes the above sentence.
(A)doctrine of equivalents (B)reverse doctrine of equivalents
(C)doctrine of limitations (D)doctrine of estoppel
- 7 _____ infringement lies where one offers, sells, or imports material she knows is a component of a patented invention or is used in practicing a patented process.
Choose the one that best completes the above sentence.
(A)Direct (B)Inducement (C)Contributory (D)Joint
- 8 After the sale of a patented product made by the patentee or made under consent of the patentee, the _____ doctrine authorized the buyer to use and to sell the product.
Choose the one that best completes the above sentence.
(A)extinguishing (B)extinction (C)exhaustion (D)exclusion
- 9 A(n) _____ licensee may sub-license a third party to exploit the licensed patent unless otherwise agreed upon by contract.
Choose the one that best completes the above sentence.
(A)exclusive (B)monopoly (C)non-exclusive (D)oligopoly
- 10 According to the Patent Act in Taiwan, under what condition, the court may award the damages larger than the loss suffered but not exceeding three times of the proven loss?
(A)The infringement is found to be intentionally committed.
(B)The defendant had a fraud.
(C)The defendant had exported alleged products.
(D)The plaintiff was bankrupted.
- 11 The 2012 Patent Act amendment in Taiwan adds new type of design patent, but which one of the following designs is not included?
(A)computer generated icons design (B)graphic user interface design
(C)design for a set of articles (D)functional design

- 12 The extent of protection conferred by design patent shall be determined by the _____.
Choose the one that best completes the above sentence.
(A)specification (B)claims (C)drawings (D)description
- 13 Which of the following one is NOT patentable under Article 21 of the Patent Act in Taiwan?
(A)An artificial compound. (B)A machine.
(C)A process. (D)A physics formula.
- 14 Under Subparagraph 1 of Article 58 of the Patent Act in Taiwan, the patentee of an invention has an exclusive right to:
(A)collect money from TIPO.
(B)keep others from making his invention without his/her consent.
(C)make his/her invention.
(D)publish the invention on scientific journals.
- 15 A patent application for invention is filed on January 5, 2009. The application is published 18 months later on July 7, 2010 and granted on March 30, 2012. Under the Patent Act in Taiwan, the patent is valid until:
(A)January 4, 2019; 10 years from the filing date of the application.
(B)January 4, 2029; 20 years from the filing date of the application.
(C)July 6, 2030; 20 years from the published date of the application.
(D)March 29, 2032; 20 years from the grant date of the patent.
- 16 Anna obtains an invention patent but fails to mark the certificate number on the patented article under Article 98 of the Patent Act in Taiwan. Later, Anna discovers that Elsa infringes her patent, Anna
(A)is prohibited to sue Elsa because there is no certificate number marked on the patent article.
(B)is prohibited to sue Elsa because Anna violates the law.
(C)still can sue Elsa but Anna has to prove that Elsa knows or has a reason to know that the said article is under patent protection.
(D)still can sue Elsa and Elsa has to prove that she does not know nor has a reason to know that the said article is under patent protection.
- 17 If anyone wants to know the extent of the protection conferred by an invention patent under the Patent Act in Taiwan, he should look at:
(A)the title and the abstract.
(B)the claims.
(C)the claims together with the description.
(D)the claims together with the description and the drawings.
- 18 Meg, Beth and Amy jointly own an invention patent. Meg wants to assign her share of right to Jo, under Article 64 of the Patent Act in Taiwan:
(A)Meg can assign her share of right with the consent of either Beth or Amy.
(B)Meg can assign her share of right with the consent of both Beth and Amy.
(C)Meg cannot assign her share of right unless either Beth or Amy dies.
(D)Meg cannot assign her share of right unless both Beth and Amy die.

- 19 Sana exclusively licenses her design patent to Cerise. Under Article 63 of the Patent Act in Taiwan:
- (A) Cerise may sub-license the patent to Tyron unless otherwise agreed upon by the licensing contract.
 - (B) Cerise may sub-license the patent to Tyron regardless how it is written in the licensing contract.
 - (C) Cerise may not sub-license the patent to Tyron unless otherwise agreed upon by the licensing contract.
 - (D) Cerise may not sub-license the patent to Tyron regardless how it is written in the licensing contract.
- 20 Ariel exclusively licenses her design patent to Ursula. During the licensing term, Ursula discovers that Carlotta infringes Ariel's patent. Under Subparagraph 4 of Article 96 of the Patent Act in Taiwan:
- (A) Ursula can sue Carlotta unless otherwise agreed upon by the licensing contract.
 - (B) Ursula can sue Carlotta regardless how it is written in the licensing contract.
 - (C) Ursula has to ask Ariel to sue Carlotta unless otherwise agreed upon by the licensing contract.
 - (D) Ursula has to ask Ariel to sue Carlotta regardless how it is written in the licensing contract.
- 21 Which of the following one is patentable under the Patent Act in Taiwan?
- (A) Color and pattern of fine arts.
 - (B) Graphic user interface applied to an article.
 - (C) The layout of electronic circuits.
 - (D) Shape of an article solely dictated by this function.
- 22 Under Subparagraph 2 of Article 129 of the Patent Act in Taiwan, two or more articles belonging to the same class and are _____ sold or used together may be filed as one design.
- (A) collectively
 - (B) correspondently
 - (C) corruptively
 - (D) customarily
- 23 Under Article 70 of the Patent Act in Taiwan, an invention patent shall become extinguished where:
- (A) the patent licensing term has expired.
 - (B) the patentee has passed away with heirs.
 - (C) the patentee fails to pay the patent annuity within the time period provided by the Patent Act.
 - (D) the patentee has pledged the patent.
- 24 Under Article 72 of the Patent Act in Taiwan, where a party possesses recoverable legal interests due to the revocation of a patent, such interested party may file a(n) _____ action after the said patent has become extinguished *ipso facto*.
- (A) elimination
 - (B) evaluation
 - (C) expiration
 - (D) invalidation
- 25 An invention claimed in a patent is obvious under Subparagraph 2 of Article 22 of the Patent Act in Taiwan if
- (A) it can be easily made by a person having ordinary skill in the art based on prior art.
 - (B) once a skilled person had been directed to come up with a solution to be problem solved by the invention, that person would have found the claimed invention.
 - (C) the prior art contains a clear signpost to seek developments in the area of the invention.
 - (D) the skilled person, working from a particular piece of prior art and bearing in mind common general knowledge, would have identified a problem to be solved and in solving it found the claimed invention.