代號:70150

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70650

112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

等 别: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

※注意:禁止使用電子計算器。

甲、申論題部分: (50分)

──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。

□請以藍、黑色鋼筆或原子筆在申論試卷上作答。

- \ Paragraph 2 of Article 22 of the R.O.C. Patent Act provides: "An invention ... can be easily made by a person ordinarily skilled in the art based on prior art shall not be patented." Please elaborate on:
 - (一) The nature of "a person ordinarily skilled in the art." (10 分)
 - (二) In making a judgment under this paragraph, several steps must be taken. Please describe what these steps are. $(20 \, \%)$
- = Please translate the following extract from an opinion of the Supreme Court into English:

按專利侵權之判斷流程,第一步驟係解釋專利請求項,第二步驟係分析專利之技術特徵及被控侵權對象對應之技術內容,並進行比對,先判斷被控侵權對象是否符合「文義讀取」;若不符合「文義讀取」,而專利權人主張適用「均等論」時,再判斷被控侵權對象是否適用「均等論」。 (20分)

乙、測驗題部分: (50分)

代號:5701

- (→)本試題為單一選擇題,請選出<u>一個</u>正確或最適當<u>答案</u>。
- (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 of the following patent category requires the patentees to present the technical evaluation reports in order to warn the potential infringers?

(A) Invention patent

(B) Utility model patent

(C) Design patent

- (D) Plant patent
- 2 Under the R.O.C. Patent Act, which of the following method is not stipulated for calculating damages?
 - (A) The method set forth in Article 216 of the R.O.C. Civil Code
 - (B) The profit earned by the infringer from patent infringement
 - (C) The amount calculated on the basis of reasonable royalties
 - (D) The statutory damages authorized by the R.O.C. Patent Act

| 3 | | llowing patent category has primary protection on the |
|--|--|--|
| | ornamental appearance and visual appeal of prod | |
| | (A) Invention patent | (B) Utility model patent |
| | (C) Design patent | (D) Plant patent |
| 4 | According to the R.O.C. Patent Act, under what condition could the right to apply for a patent be assigned | |
| | or abandoned while such right is jointly owned by | - |
| | (A) Without any restriction | (B) Consent of half joint owners |
| | (C) Consent of two-thirds of joint owners | b and a second s |
| 5 | Under the R.O.C. Patent Act, which of the follow a patent right? | ving circumstance does not lead to the extinguishment of |
| | (A) The patent term has expired | (B) The patentee has charged excessive royalties |
| | (C) The patentee has passed away without heirs | (D) The patentee abandoned the patent |
| 6 | Under the R.O.C. Patent Act, which of the follow | wing subject could be granted a design patent? |
| | (A) The shape of an article solely dictated by its f | function |
| | (B) The layout of integrated circuits and electron | ic circuits |
| | (C) Fine arts | |
| | (D) The graphic user interface applied to an article | le |
| 7 | Which of the following is not the requirement for | or patentability? |
| | (A) Novelty | (B) Inventive step |
| | (C) Secrecy | (D) Industrial applicability |
| 8 is found where the accused subject matter falls precisely within the express | | ter falls precisely within the express boundaries of the |
| | patent claim. | |
| | (A) Doctrine of equivalents | (B) Literal infringement |
| | (C) Unclean hands doctrine | (D) Equitable estoppel |
| 9 | Which of the following cannot be used as a defe | nse against patent infringement accusations? |
| | (A) Forum shopping | (B) Implied license |
| | (C) Inequitable conduct | (D) Patent exhaustion |
| 10 | Which of the following can be used as extrinsic | evidence in claim interpretation? |
| | (A) Specification (B) Dictionaries | (C) Patent claims (D) Prosecution history |
| 11 | Which of the following issue could possibly be a | argued in patent litigation while the claims employ words |
| | of degree, such as "close to," "approximately," " | 'substantially equal," or "closely approximate"? |
| | (A) Definiteness (B) Inventorship | (C) Utility (D) Eligibility |
| 12 | Which of the following requirement mandates th | e patentee to disclose sufficient information in the patent |
| | application so that a skilled artisan would be able to practice the claimed invention without undue | |
| | experimentation? | |
| | (A) Eligibility (B) Enablement | (C) Estoppel (D) Essentiality |
| 13 | The court has the discretion to increase the dama | ages up to three times the amount found or assessed. The |
| | so-called "enhanced damages" are frequently awarded when the infringer acted in blatant disregard of the | |
| | patentee's rights. This circumstance is termed _ | |
| | (A) Divided infringement | (B) Inducing infringement |
| | (C) Contributory infringement | (D) Willful infringement |

- 14 According to the R.O.C. Patent Act, which of the following statements is NOT correct?
 - (A) The pledgee of the patent right shall not be allowed to exploit the right, unless the patentee confers the right.
 - (B) The owner of the right to apply for a patent includes an inventor, a designer, and a pledgee.
 - (C) The successor of the right to apply for a patent can transfer the right to the assignee.
 - (D) The patent right can be transferred to an assignee after the patent application has been approved.
- 15 According to the R.O.C. Patent Act, which of the following statements is NOT correct?
 - (A) A foreign applicant who is not the citizen of WTO members is unable to make a priority claim.
 - (B) When the earlier patent application is a patent application for invention that has been published, it cannot be claimed as a priority case.
 - (C) When the earlier patent application has been withdrawn, it cannot be claimed as a priority case.
 - (D) For a patent application filed with priority, examination on its patentability shall be based on the priority date.
- 16 According to the R.O.C. Patent Act, which of the following statements is NOT correct?
 - (A) Three inventions related to a single general inventive concept cannot be filed in one application.
 - (B) A patent application that substantially contains two inventions may request by the applicant to be divided into two divisional applications.
 - (C) The filing date of the divisional patent application shall be the same as the filing date of the original application.
 - (D) The divisional patent application shall not extend beyond the scope of content disclosed in the description of the original patent application as filed.
- 17 According to the R.O.C. Patent Act, which of the following statements related to substantive examination is NOT correct?
 - (A) All kinds of patent applications have the procedures of substantive examination.
 - (B) Any person may request for a substantive examination of a patent application for invention.
 - (C) Design patent applications do not have to request for substantive examinations.
 - (D) When a request for a substantive examination over a patent application for invention is more than three years, the application shall be deemed to have been withdrawn.
- According to the R.O.C. Patent Act, which of the following statements related to utility model patents is NOT correct?
 - (A) Any person may file a request for a technical evaluation report of a utility model patent.
 - (B) A patent application for a utility model patent will undergo administrative examination and formality examination procedures.
 - (C) A right holder of utility model patent may not send a warning letter to an accused patent infringer without the technical evaluation report to the utility model patent.
 - (D) The technical evaluation report for exercising the rights to utility model patent shall be assumed to have the patentability.

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- 19 According to the R.O.C. Patent Act, which of the following statements is NOT correct?
 - (A) The claim may be made against a person who is fully aware that the patent application for invention has been laid open but continues to commercially exploit the invention prior to its publication.
 - (B) If the patent certificate number is not marked on the patented article, the patentee cannot claim damages for the infringement.
 - (C) An invention patent will be assigned a publication number eighteen months after the filing date.
 - (D) If the patent certificate number cannot be fixed on the patented article, the patentee may make such marking on the labels or packaging.
- 20 According to the R.O.C. Patent Act, which of the following statements regarding to the patent invalidation is NOT correct?
 - (A) The patent invalidation is a kind of public examination.
 - (B) Whoever possesses legal interests due to the revocation of a patent may file an invalidation action after the said patent has become extinguished ipso facto.
 - (C) The patentee shall provide a response within one month after having been served with a copy of the request form from the Specific Patent Agency.
 - (D) The revocation of an invention patent right shall become final and binding if no administrative remedy proceedings are filed.
- (A) Litigation
 (B) Assignment
 (C) Pledge
 (D) Inheritance
 Under the R.O.C. Patent Act, which of the following circumstance does not limit the exclusive rights of patents?

Under the R.O.C. Patent Act, the right to apply for a patent cannot be the subject of .

- (A) Acts done privately and for non-commercial purposes
- (B) Necessary acts to exploit the invention for research or experimental purposes
- (C) Patentees not practicing or commercializing the invented technology
- (D) Vehicles merely passing through the territory of the country
- Which of the following concept could best explain why business methods or computer software are often argued ineligible for patent protection?
 - (A) Laws of nature

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(B) Natural phenomena

(C) Abstract ideas

- (D) Morality criterion
- Which of the following does not belong to "secondary considerations" in determining the non-obviousness requirement?
 - (A) The failure of others to solve the problem addressed by the invention
 - (B) The existence of a long-felt need for the invention
 - (C) The research and development cost of the invention
 - (D) The commercial success of the invention
- 25 In accordance with Article 24 of the R.O.C. Patent Act, which of the following is NOT listed in the statutory exclusion from invention patents?
 - (A) Processes for producing microorganisms
- (B) Diagnostic methods for treating animals
- (C) Therapeutic methods for treating humans
- (D) Inventions contrary to public order or morality