

代號：70150
70650
頁次：4-1

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 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、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 分)

二、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

(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。

- 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
- 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 Under the R.O.C. Patent Act, which of the following patent category has primary protection on the ornamental appearance and visual appeal of products?
(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 two or more persons or entities?
(A) Without any restriction (B) Consent of half joint owners
(C) Consent of two-thirds of joint owners (D) Consent of all joint owners
- 5 Under the R.O.C. Patent Act, which of the following circumstance does not lead to the extinguishment of a patent right?
(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 following subject could be granted a design patent?
(A) The shape of an article solely dictated by its function
(B) The layout of integrated circuits and electronic circuits
(C) Fine arts
(D) The graphic user interface applied to an article
- 7 Which of the following is not the requirement for patentability?
(A) Novelty (B) Inventive step
(C) Secrecy (D) Industrial applicability
- 8 _____ is found where the accused subject matter 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 defense 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 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 the 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 damages 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.
- 18 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.

