

99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、民間之公證人考試、99年第二次專門職業及技術人員高等考試社會工作師考試試題

代號： 70150 全一張  
|  
70650 (正面)

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、Peter is an American who would like to file a patent application to our Intellectual Property Office, and he wonders whether he should apply for the invention patent or utility model (new model) patent. You are a patent attorney. How would you explain to him the distinction between the invention and utility model under our Patent Law? (20分)
- 二、Duke owns a patent which will not expire until 2020. For some reason, Duke decides to give up his patent right. How would Duke do so? (20分)
- 三、Under our Patent Law, is an applicant required to hire a patent agent to file patent application? Please explain. (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 A \_\_\_\_\_ referred to in Article 25 of the Patent Act is a document containing the title of the invention, description of the invention, abstract of the invention, and scope of the claims.  
Choose the one word that best completes the above sentence:  
(A) instruction (B) manual (C) prospectus (D) specification
- 2 A patent application is a request \_\_\_\_\_ at the Taiwan Intellectual Property Office (TIPO) for the grant of a patent described and claimed by that application.  
Choose the one word that best completes the above sentence:  
(A) during (B) expanding (C) pending (D) suspending
- 3 In the case of taking patent right as the subject of a pledge, the \_\_\_\_\_ shall not be allowed to put the patent under pledge into practice, unless otherwise provided for as a covenant in an agreement.  
Choose the one word that best completes the above sentence:  
(A) pledgor (B) pledgee (C) obligee (D) creditor
- 4 John is an employee of Smart Corp. and creates an invention in the performance of his job duties. The person \_\_\_\_\_ to apply for the patent shall be Smart Corp., unless otherwise provided for in an agreement between John and Smart Corp.  
Choose the one word that best completes the above sentence:  
(A) embedded (B) enjoined (C) entitled (D) enriched
- 5 Although ideas are \_\_\_\_\_ subject matter, the application of an idea is not. In fact, it is the distinction between the idea and its application that defines the area of patentability.  
Choose the one word that best completes the above sentence:  
(A) inaugural (B) ineligible (C) incisive (D) incentive
- 6 If a patent is \_\_\_\_\_ by the TIPO or a competent court, it is treated as never having existed.  
Choose the one word that best completes the above sentence:  
(A) distinguished (B) expired (C) revoked (D) terminated
- 7 The novelty provisions focus on certain events constituting \_\_\_\_\_ that may occur prior to invention and, if they do, prohibit patentability for lack of novelty.  
Choose the one word that best completes the above sentence:  
(A) possibility (B) dissipation (C) constellation (D) anticipation
- 8 A person seeking to protect an invention idea should diligently \_\_\_\_\_ the idea to practice.  
Choose the one word that best completes the above sentence:  
(A) reduce (B) reject (C) reconcile (D) reiterate
- 9 The non-obviousness requirement serves to establish the minimum level of innovation over the prior art that is necessary for obtaining a patent. The "non-obviousness" is also known as \_\_\_\_\_ under the European Patent Convention.  
Choose the one word or phrase that best completes the above sentence:  
(A) inventive step (B) non-apparentness (C) novelty (D) uniqueness

(請接背面)

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- 10 The novelty inquiry is into the entire prior art, whether or not applicable, pertinent, or analogous. All that matters is that somewhere in the prior art the invention may be \_\_\_\_\_ disclosed.  
Choose the one phrase that best completes the above sentence:  
(A) periodically possibly (B) extremely ironically (C) substantially identically (D) unduly faintly
- 11 \_\_\_\_\_ are concerned with the appearance of an article rather than its structure or utilitarian features.  
Choose the one phrase that best completes the above sentence:  
(A) Design patents (B) Utility patents (C) Plant patents (D) Process patents
- 12 A collection of patents owned by a single entity, such as an individual or corporation is called \_\_\_\_\_.  
Choose the one phrase that best completes the above sentence:  
(A) patent accumulation (B) patent pool (C) patent portfolio (D) patent troll
- 13 Under the common law “\_\_\_\_\_” doctrine, an employer who can show that an employee developed a patentable invention on company time with company facilities and materials, will be treated as having an implied, irrevocable, non-assignable, non-exclusive, royalty-free license to use the employee’s invention.  
Choose the one phrase that best completes the above sentence:  
(A) shop right (B) beneficiary right (C) employment right (D) social right
- 14 After a utility model claimed in a patent application is published, any person may, with respect to the conditions set forth in Article 31 applicable mutatis mutandis under Article 108 of Patent Act, apply to the TIPO for obtaining a/an \_\_\_\_\_.  
Choose the one phrase that best completes the above sentence:  
(A) examination determination (B) examiner opinion (C) patent gazette (D) technical report
- 15 What does “mutatis mutandis” mean in the previous question?  
(A) otherwise (B) same as  
(C) with the necessary changes having been carried out (D) without any changes
- 16 Tying the licensing of a product, technology, or process to the purchase of materials used in manufacturing the licensed product or to the license of another patent is prohibited. Recent changes to the law seem to indicate that some tying is allowed. Here “Tying” means:  
(A) conditioning (B) adoring (C) debating (D) looking
- 17 “Misuse” means that the patent owner has overreached and tried to do more than legitimately is authorized by the patent monopoly. Until a patentee “purges” himself of the misuse, he cannot enforce the patent. Here “purges” means:  
(A) eradicate (B) exculpate (C) excrete (D) erode
- 18 Secondary considerations, the “subtests” or the “objective tests”, of nonobviousness, are highly relevant, assuming a “nexus” to the inventive characteristic is first established. Here “nexus” means:  
(A) connection (B) congratulation (C) ratification (D) inhibition
- 19 In an independent claim, it states: “An automatic pencil sharpener comprising: a motor; a transmission device operatively coupled to the motor; a cutter assembly operatively coupled to the transmission device and being adapted to shave a front portion of a pencil .....” Which of the following choices is the “transitional phrase” of the above-stated claim?  
(A) an automatic pencil sharpener (B) comprising  
(C) a motor (D) a transmission device
- 20 Mark has invented an electronic stethoscope and first files a patent application in Germany on July 15, 2009. If Mark files a patent application in Taiwan for the same invention on March 16, 2010, and if, upon filing the patent application in Taiwan, Mark claims priority, which will the date for examining the patent requirements in Taiwan be?  
(A) July 15, 2009. (B) July 16, 2009. (C) November 15, 2009. (D) March 16, 2010.
- 21 John and Jane jointly own an invention patent. Which of the following things may John do without the consent of Jane?  
(A) Assign the patent to others. (B) License the patent to others.  
(C) Practice the patent by himself. (D) Use the patent as a pledge.
- 22 Which of the following defenses is not applicable in the patent infringement litigation in the R.O.C.?  
(A) experimental use (B) laches (C) prior art (D) prior use
- 23 Intel Corp. entered into cross license with Hewlett-Packard Company (HP) by which each party received a nonexclusive license to make, use, and sell any product covered by any of the licensed patents of the other party. Cyrix and ULSI, Intel competitors, thereafter contracted with HP to make for them microprocessors of their design. When Intel sued Cyrix and ULSI for infringement of Intel’s patents, they alleged their products were licensed because the products were made and sold by an authorized licensee. The courts agreed. The best explanation for courts’ decisions is:  
(A) patent exhaustion (B) patent infringement (C) patent invalidity (D) patent nondisclosure
- 24 An agreement in which a number of manufactures agree to an interchange of patent licenses among the members of the group is often called:  
(A) patent litigation (B) patent trolling (C) patent pooling (D) patent infringement
- 25 In the event of an infringement on an invention patent, the patentee may not:  
(A) claim for damages in an amount 10 times higher than the amount of damages estimated.  
(B) request a ruling for publishing in a newspaper the judgment in full or in part, at the expenses of the losing party.  
(C) request a ruling to indicate the inventor’s name.  
(D) request for destruction of the infringing products.