A. Please define the following terms in Chinese: (15%)

1. Certiorari
2. act of God
3. ad hoc
4. affidavit
5. en banc

B. Please translate the following five paragraphs into Chinese (25%) (source: Steven Seidenberg, 11 January 2010. Year Ahead: Five Key IP Cases To Watch In The United States In 2010)

1. In Bilski v. Kappos, the US Supreme Court is considering the scope of patentable subject matter. The result could be a landmark ruling. Based on the justices’ questions at oral argument, many experts believe the court will rule that Bernard Bilski’ s invention - using hedge contracts to limit price fluctuations in commodities trading - is not patentable. (5%)

2. The issue in Ariad Pharmaceuticals, Inc. v. Eli Lilly and Co. might seem rather persnickety: Must an inventor provide a satisfactory “written description” of its invention in order to obtain a patent? If the Federal Circuit answers this question in the affirmative, however, it will greatly harm those who make breakthrough inventions. (5%)

3. Another case to watch in 2010 is Costco Wholesale Corp. v. Omega SA. The court ruling is likely to have a significant impact on US copyright and patent law. Ordinarily, in US law, a copyright owner’ s right to control the distribution of any particular copy ends once there is an authorised sale of the copy. The purchaser of that copy can, under the first sale doctrine, resell the copy to whomever he or she wishes. If the first sale doctrine applied in this case, Costco’ s actions would not be infringing. Omega’ s initial sale of its watches in Europe would terminate its right to control distribution of the copyrighted designs on the watches, so Costco could freely resell the watches in the US. (5%)

4. The issue in Reed Elsevier v. Muchnick is whether a work must be registered with the US Copyright Office in order to be included in a copyright infringement suit or settlement. The 2nd Circuit Court of Appeals has ruled that such registration is required by Section 411(a) of the Copyright Act. The court then threw out the class action settlement of a major copyright dispute which previously had gone up to the Supreme Court. Because the settlement covered unregistered copyrighted works and the courts have no subject matter jurisdiction over those works, the entire settlement had to be thrown out, the 2nd Circuit concluded. (5%)

5. Many authors and publishers are suing Google over the search giant’ s plan to digitise books and display snippets of them in response to users’ searches. The copyright owners assert this is infringement, while Google asserts its actions are protected as fair use. A proposed settlement was announced in late 2008, but it faced withering criticism from many fronts, including some writers’ organisations, large businesses (such as Amazon), European countries and the US Department of Justice. (5%)
首要利器，與科技發展及國家競爭力息息相關，亦為衡量國家現代化程度之重要指標。為鼓勵產業創新研發，提升我國經濟實力及產業競爭力，並為推動六大新興產業中，與生物技術、綠色能源及精緻農業等至為攸關之國內重要產業發展，及提升專利審查品質之需要，兼以國內外產業競爭，因應全球化趨勢影響，具有國際性之專利制度，尚應與國際規範相調和。經持續觀察國際智慧財產權環境變遷，密切關注各國專利法修正動態，並配合科技高度發展，除研議各項專利修正議題，自九十五年起陸續召開十五場公聽會外，同時對於現行法之施行情形，亦廣納各界意見，積極檢討有無不足或尚須修正之處，經整合後，現行專利制度有再修正之必要，並自九十八年二月起再召開八場公聽會，聽取各界意見，爰擬具「專利法」修正草案。

D. Composition (40%)

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