

考試規則：1. 禁止使用字典。 2. 單選題答錯不倒扣。

I. Choose the most appropriate word for each of the numbered blanks in the following excerpts of a U.S. Supreme Court decision (single choice, 5% each)

1 THOMAS delivered the opinion of the Court.

The patents at issue in this case disclose a computer-implemented scheme for mitigating "settlement risk" (i.e., the risk that only one party to a financial transaction will pay what it owes) by using a third-party 2. The question presented is whether these claims are patent 3 under 35 U.S.C. § 101, or are instead drawn to a patent-ineligible abstract idea.

...

Petitioner Alice Corporation is the 4 of several patents that disclose schemes to manage certain forms of financial risk. According to the specification largely shared by the patents, the invention "enabl[es] the management of risk relating to specified, yet unknown, future events." The specification further explains that the "invention relates to methods and 5, including electrical computers and data processing systems applied to financial matters and risk management."

...

6 CLS Bank International and CLS Services Ltd. (together, CLS Bank) operate a global network that 7 currency transactions. In 2007, CLS Bank filed suit against petitioner, seeking a declaratory judgment that the claims at issue are invalid, unenforceable, or not infringed. Petitioner counterclaimed, 8 infringement. Following this Court's decision in *Bilski v. Kappos*, ... (2010), the parties filed cross-motions for 9 judgment on whether the asserted claims are eligible for patent protection under 35 U.S.C. § 101. . . .

We granted 10, . . ., and now affirm.

1. 1 should be ...?

- A) Judge
- B) Chief Judge
- C) Justice
- D) Chief Minister
- E) President

2. 2 should be ...?

- A) intermediary
- B) incendiary
- C) indeterminacy

- D) impropriety
- E) inapplicability

3. 3 should be ...?

- A) essential
- B) eligible
- C) eccentric
- D) eligibility
- E) essentially

4. 4 should be ...?

- A) issuer
- B) inventee
- C) associate
- D) investment
- E) assignee

5. 5 should be ...?

- A) patents
- B) intellectual properties
- C) copyrights
- D) trademarks
- E) apparatus

6. 6 should be ...?

- A) Attorneys
- B) Representatives
- C) Congressmen
- D) Respondents
- E) Correspondents

7. 7 should be ...?

- A) facilitates
- B) demolishes
- C) frustrates
- D) fouls
- E) shatters

8. 8 should be ...?

- A) impeding
- B) allowing
- C) adding
- D) alleging
- E) accommodating

9. 9 should be ...?

- A) joint
- B) summary
- C) supplementary
- D) mutual
- E) jury

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10. 10 should be ...?

- A) testimony
- B) legitimacy
- C) certiorari
- D) writ of habeas corpus
- E) warrant

II. Choose the best answer for each question after reading the following news report (Single Choice, 5% each)

The Supreme Court decision making it harder for the police to search cellphones without a warrant could change procedures around the country, police officials and legal experts said Wednesday.

In an opinion hailed as a major advance for personal privacy in the digital age, Chief Justice John G. Roberts Jr. wrote that cellphones are tiny computers that can be said to contain "the privacies of life." And so the opinion concluded that the message for police in most cases is simple: "get a warrant."

That requirement, however, could hinder law enforcement, said Yousry Zakhary, president of the International Association of Chiefs of Police. "I wish it was just as simple as 'get a warrant' " to comply with the law, he said. "It takes time — and key evidence could be lost."

His organization filed an amicus brief with the Supreme Court, asking that the authority to search cellphones after an arrest be preserved. He said Wednesday's decision was disappointing.

Mr. Zakhary, the police chief of Woodway, Tex., a town near Waco, said that when the Supreme Court began requiring Miranda warnings in the 1960s, there were predictions it would impede law enforcement. "With Miranda, you'll never get confessions," he said some people predicted. "Well, we routinely get confessions. We worked through that, and we will work through this one."

The unanimous decision on Wednesday, however, will not mean the end of cellphone searches, said Mark Eckenwiler, a former deputy chief of the Justice Department's computer crime section. He said that Chief Justice Roberts's opinion allows searches when the owner of the phone gives consent, and that "police will now, as a routine matter, ask for consent."

"And an extraordinary number of arrestees will give that consent," Mr. Eckenwiler said, "just as people consent today to all sorts of searches of cars and containers, very much against their personal interest."

Mr. Eckenwiler, now a lawyer with the firm of Perkins Coie in Washington, said, "It's hard to see how this is going to kill some investigations."

"I don't think there will be difficulty in getting a warrant in appropriate cases," he said. "It's certainly going to increase the paperwork load for prosecutors and the courts."

The decision will cause some jurisdictions to change procedures, while not requiring any change from others, Mr. Eckenwiler said. By his count, the law applicable in roughly 20 states does not require a warrant to search a cellphone, while case law already restricts the right of the police to automatically look at cellphones in other parts of the country. Some states have variations among local jurisdictions.

Denver requires warrants, for example, while other Colorado cities, like Colorado Springs, do not. Lt. Catherine Buckley, a spokeswoman for the Colorado Springs Police Department, said its legislative unit would review the Supreme Court's decision and decide how to conform. The New York Police Department expects no change.

"The requirements of this ruling are consistent with the current N.Y.P.D. procedure for searching cellphone data," Stephen P. Davis, the department's deputy commissioner for public information, said in an email. "Therefore it does not have any added effect in that the N.Y.P.D. has been already operating within the same general guidelines."

Police officials in San Diego — where the plaintiff in the case, David L. Riley, was arrested — are preparing a department order that will detail the new warrant requirements, said Lt. Kevin Mayer, a spokesman. "Obtaining search warrants is an investigative tool and cellphones will simply be incorporated into this process," he said.

The Riley case could curb police excesses in cellphone searches, said John Wesley Hall, a criminal defense lawyer in Little Rock, Ark., and the creator of a blog on constitutional search issues, FourthAmendment.com. Mr. Hall, a former president of the National Association of Criminal Defense Lawyers, said that this year, the wife of a client of his who was facing a possible indictment on drug charges was taken to the police station for questioning. "They took her cellphone away from her," he said. Later, they returned it to her and said, "You can go now." He has filed a motion to force the police to give up any information they received from the phone, he said.

He added, however, that many police departments had been changing their policies even before the Supreme

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國立中央大學104學年度碩士班考試入學試題

所別：產業經濟研究所碩士班 法律組(一般生)

科目：法學英文 共 3 頁 第 3 頁

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*請在答案卷(卡)內作答

Court ruling. "Every case file I've seen for the last six months or so say there was a search warrant for a cellphone," he said. "They could see this coming."

11. Which of the following is the least appropriate title for the news story?

- A) Cellphone Ruling Could Alter Police Methods.
- B) Supreme Court Rules on Police Cellphone Search.
- C) Supreme Court Cellphone Ruling A Victory for Privacy.
- D) A Split Court Rules Against Warrantless Cellphone Search.
- E) All of the above are appropriate.

12. Which of the following is false?

- A) This is a news report about a Supreme Court decision.
- B) Chief Justice Roberts decided the case alone.
- C) The impact of the decision on police work varies from state to state.
- D) None of the above.
- E) All of the above.

13. What can you tell from the story?

- A) Mr. Zakhary welcomes the decision.
- B) Mr. Eckenwiler thinks the police will have great difficulty collecting evidence on cellphone from now on.
- C) Mr. Coie thinks the impact of the decision is limited.
- D) All of the above.
- E) None of the above.

14. Which of the following is false about Mr. Zakhary?

- A) He is a police officer in Texas.
- B) He welcomes the decision.
- C) His department made the arrestment that led to this case.
- D) He disagrees with the Court, but thinks the police will cope eventually.
- E) None of the above.

15. What is an "amicus brief"?

- A) An official police request.
- B) An official statement by the International Association of Chiefs of Police.
- C) A document that people use to show disagreement with the court.
- D) A "friend of the court" certificate.
- E) None of the above.

16. The case will have a substantial impact on ...?

- A) New York police.
- B) Denver police.
- C) San Diego police.
- D) police in a handful of states.
- E) nobody.

17. What right is at stake in this case?

- A) Freedom of speech.
- B) Privacy.
- C) The right to a phone call when arrested.
- D) The right to a warrant.
- E) None of the above.

18. What is the most likely name of the case?

- A) Riley v. California.
- B) Riley v. Colorado.
- C) Zakhary v. Texas.
- D) Zakhary v. United States.
- E) None of the above is possible.

19. What is a "unanimous decision"?

- A) A ruling made by the Supreme Court.
- B) A decision made by a split court.
- C) A 5:4 decision.
- D) A non-binding decision.
- E) None of the above.

20. Who is not a law enforcement officer?

- A) John Wesley Hall.
- B) Stephen P. Davis.
- C) Catherine Buckley.
- D) Yousry Zakhary.
- E) None of the above is a law enforcement officer.

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