



第一大題(70 分)(答題提示：因果關係學說、因果歷程錯誤)

(一) (35 分)

1941 年，第二次世界大戰期間，每次飛行員出發去執行轟炸任務，皇家空軍總部最怕聽到的回報是：『呼叫總部，我中彈了』。飛行員迫切地請求聯軍幫助改善這個關係著飛行員生死的難題，為此，皇家空軍總部徵求各界提供意見。

英國政府僱請專家建議機體裝甲應該如何加強，以便降低被砲火擊落的機會。依照當時的航空技術，機體裝甲只能局部加強，否則機體過重，會導致起飛困難及操控遲鈍。在研究成果報告的會議上，卻發生一場激辯。英國皇家空軍的飛行員說：「我們出生入死的經驗清楚地顯示，聯軍轟炸機的機翼，彈孔密密麻麻，最容易中彈，而飛行員的座艙與機尾，則是最少被擊中的部位。因此，我們應該加強機翼的裝甲。」美國哥倫比亞大學著名的統計學家沃爾德教授(Abraham Wald, 1902-1950)則分析德國地面砲火擊中聯軍轟炸機的資料，發現的確機翼是最容易被密集擊中的部位，但他卻建議在飛行員座艙與機尾發動機部位加強裝甲，因為那兒最少發現彈孔。

在有限資源的限制下，試問我們到底應該相信這群作戰經驗豐富的飛將軍，還是要相信一個獨排眾議的統計學家？理由為何。

(二) (35 分)

依據上述推論，請分析智財權侵權行為對我國產業影響，並判斷決定智財犯罪黑數時應注意的現象，以及其解決之道。(本事例摘自《決勝，在看不見的地方》，時報出版)

第二大題(30 分)

Reading the following reports and decide how many crimes are committed by CCP from the legal viewpoint. Please describe it as detailed as you can.

On February 9, 2009, the United Nations Commission on Human Rights will review the human rights conditions in China based on the Universal Periodic Review (UPR). The UPR is a new and unique process that involves a review of the human rights records of all 192 UN member states once every four years. Those that trample on human rights receive the most attention



from the media and the public. The upcoming review is an opportunity to expose the persecution of Falun Gong by the Chinese Communist Party (CCP) and help the people and governments around the world find out the facts about the persecution.

The CCP launched a brutal and large-scale persecution against millions of Falun Gong practitioners ten years ago. The level of cruelty has been unprecedented, and the international community must not allow this persecution to continue. The Falun Gong Human Rights Working Group has submitted a strongly worded report to the United Nations on the persecution of Falun Gong by the Chinese government. The report has been published on the official website of UPR.

Information from Falun Gong practitioners and their sympathizers from China indicate that millions have been subjected to arbitrary detention; hundreds of thousands have been sent to labor camps; and thousands have been sent to psychiatric hospitals and injected with harmful chemicals, all of these tragedies come from decisions by a mysterious unit called "610". Almost all who have been arrested were tortured, and most women who have been arrested have suffered violence, including sexual abuse. Thousands have been tortured to death, while large numbers of living Falun Gong practitioners have systematically had their vital organs harvested, leading to their deaths. Information from other sources, including inquiries and interventions by Special Rapporteurs of the United Nations Human Rights Council (UNHRC), also point to a severe and extensive persecution. Given the information blackout by the PRC government, the real situation is believed to be much worse. The long duration of this persecution and the number of people affected makes the PRC government's persecution of Falun Gong the most severe human rights violation in the world.

The PRC government's severe and extensive violations against Falun Gong practitioners are precisely what the Universal Declaration of Human Rights (UDHR) calls "barbarous acts that have outraged the conscience of mankind." Such acts go against the letter and spirit of the UN Charter and violate every article of the UDHR and all international human rights treaties and laws that are based on the UDHR. The PRC's membership in the UNHRC taints the image of the UNHRC.

While this submission focuses on China's human rights violations against Falun Gong practitioners, it is important to note that Tibetans, Uyghurs, Mongolians, Christians, dissidents, and other groups have suffered similar human rights violations.