

# 從創意到專利技術

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## 摘要

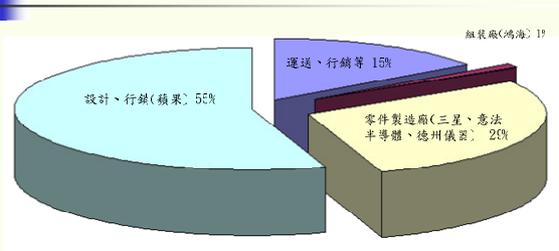
- 為何需要了解專利
- 從創意到專利技術
- 中華民國專利(法律)基本概念
- 未來

## why需要了解專利

## 摘要

- 1 why需要了解專利
- --從巨觀(世界趨勢)到微觀(個人),

## 專利權的價值



- 若iPhone售價649美元
- 蘋果 USD 356.95
- 鴻海 USD 6.49

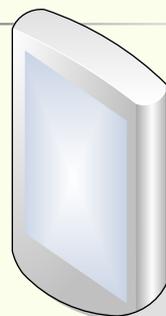
林宏達,商業週刊1240期,2011年8月

喇叭相關專利 15416件

天線相關專利 7501件

觸控螢幕相關專利 3642件

相機板組相關專利 6399件



麥克風相關專利 719件

3D通放標準 3278件

4G通放標準 2157件

軟體商店專利 663件

林宏達,商業週刊1240期,2011年8月



**TRIPS規定之智慧財產權**

「與貿易有關之智慧財產權協定」  
(Agreement on Trade-Related Aspects of Intellectual Property Rights)

TRIPS規定之智慧財產權	著作權及相關權利	第9至14條
	商標	第15至21條
	產地標示	第22至24條
	工業設計	第25至26條
	專利	第27至34條
	積體電路之電路布局	第35至38條
	未公開資訊之保護	第39條
	與契約授權有關之反競爭行為之防治	第40條

## 專利制度特點

- 屬地主義
- 審查主義
- 先申請主義
- 公眾審查主義

## 專利種類(標的)

- 發明專利
  - 利用自然法則技術思想的創作
  - 物品、物質、生物材料、製造方法、使用方法
- 新型專利
  - 物品的形狀、構造或裝置之創作或改良物品之內部形狀、構造之技術創新，具有某特定功能者
- 新式樣專利/設計專利
  - 物品的形狀、花紋、色彩或其結合，透過視覺訴求之創作外觀之造型視覺上之設計為保護對象

## 專利要件淺說

### 第22條(要件)

可供產業上利用之發明，無下列情事之一，得依本法申請取得發明專利：

- 一、申請前已見於刊物者。
- 二、申請前已公開實施者。
- 三、申請前已為公眾所知悉者。

發明雖無前項各款所列情事，但為其所屬技術領域中具有**通常知識者**依申請前之先前的技術所能輕易完成時，仍不得取得發明專利。

申請人有下列情事之一，並於其事實發生後六個月內申請，該事實非屬第一項各款或前項不得取得發明專利之情事：

- 一、因實驗而公開者。
- 二、因於刊物發表者。
- 三、因陳列於政府主辦或認可之展覽會者。
- 四、非出於其本意而洩漏者。

申請人主張前項第一款至第三款之情事者，應於申請時證明其事實及其年、月、日，並應於專利專責機關指定期間內檢附證明文件。

## 專利基本三要件

- 產業利用性：專利揭示的內容必須使熟悉該項技術者得據以實施。
- 新穎性：申請前無見於刊物或公開使用或已為公眾所知悉。
- 進步性(創作性)：非為其所屬技術領域中具有通常知識者依先前的技術所能輕易完成(易於思及)。

## 舉例 Amazon's 1-Click Patent (1999)

United States Patent 1999  
Hartman et al.

Patent Number: 5,906,411  
Date of Patent: Sep. 28, 1999

634. METHOD AND SYSTEM FOR PLACING A PENDING ORDER VIA A COMMERCE NETWORK

637. Invention: Hartman, Andrew W.; Harter, David; Hoshino, Junji; Spector, Ed of Seattle, Wash.

639. Assignee: Amazon.com, Inc., Seattle, Wash.

640. Int. Cl. 7: G06F 017/00

641. U.S. Class.: 709/201, 709/203, 709/204, 709/205, 709/206, 709/207, 709/208, 709/209, 709/210, 709/211, 709/212, 709/213, 709/214, 709/215, 709/216, 709/217, 709/218, 709/219, 709/220, 709/221, 709/222, 709/223, 709/224, 709/225, 709/226, 709/227, 709/228, 709/229, 709/230, 709/231, 709/232, 709/233, 709/234, 709/235, 709/236, 709/237, 709/238, 709/239, 709/240, 709/241, 709/242, 709/243, 709/244, 709/245, 709/246, 709/247, 709/248, 709/249, 709/250, 709/251, 709/252, 709/253, 709/254, 709/255, 709/256, 709/257, 709/258, 709/259, 709/260, 709/261, 709/262, 709/263, 709/264, 709/265, 709/266, 709/267, 709/268, 709/269, 709/270, 709/271, 709/272, 709/273, 709/274, 709/275, 709/276, 709/277, 709/278, 709/279, 709/280, 709/281, 709/282, 709/283, 709/284, 709/285, 709/286, 709/287, 709/288, 709/289, 709/290, 709/291, 709/292, 709/293, 709/294, 709/295, 709/296, 709/297, 709/298, 709/299, 709/300, 709/301, 709/302, 709/303, 709/304, 709/305, 709/306, 709/307, 709/308, 709/309, 709/310, 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642. Field of Search: 709/201, 709/203, 709/204, 709/205, 709/206, 709/207, 709/208, 709/209, 709/210, 709/211, 709/212, 709/213, 709/214, 709/215, 709/216, 709/217, 709/218, 709/219, 709/220, 709/221, 709/222, 709/223, 709/224, 709/225, 709/226, 709/227, 709/228, 709/229, 709/230, 709/231, 709/232, 709/233, 709/234, 709/235, 709/236, 709/237, 709/238, 709/239, 709/240, 709/241, 709/242, 709/243, 709/244, 709/245, 709/246, 709/247, 709/248, 709/249, 709/250, 709/251, 709/252, 709/253, 709/254, 709/255, 709/256, 709/257, 709/258, 709/259, 709/260, 709/261, 709/262, 709/263, 709/264, 709/265, 709/266, 709/267, 709/268, 709/269, 709/270, 709/271, 709/272, 709/273, 709/274, 709/275, 709/276, 709/277, 709/278, 709/279, 709/280, 709/281, 709/282, 709/283, 709/284, 709/285, 709/286, 709/287, 709/288, 709/289, 709/290, 709/291, 709/292, 709/293, 709/294, 709/295, 709/296, 709/297, 709/298, 709/299, 709/300, 709/301, 709/302, 709/303, 709/304, 709/305, 709/306, 709/307, 709/308, 709/309, 709/310, 709/311, 709/312, 709/313, 709/314, 709/315, 709/316, 709/317, 709/318, 709/319, 709/320, 709/321, 709/322, 709/323, 709/324, 709/325, 709/326, 709/327, 709/328, 709/329, 709/330, 709/331, 709/332, 709/333, 709/334, 709/335, 709/336, 709/337, 709/338, 709/339, 709/340, 709/341, 709/342, 709/343, 709/344, 709/345, 709/346, 709/347, 709/348, 709/349, 709/350, 709/351, 709/352, 709/353, 709/354, 709/355, 709/356, 709/357, 709/358, 709/359, 709/360, 709/361, 709/362, 709/363, 709/364, 709/365, 709/366, 709/367, 709/368, 709/369, 709/370, 709/371, 709/372, 709/373, 709/374, 709/375, 709/376, 709/377, 709/378, 709/379, 709/380, 709/381, 709/382, 709/383, 709/384, 709/385, 709/386, 709/387, 709/388, 709/389, 709/390, 709/391, 709/392, 709/393, 709/394, 709/395, 709/396, 709/397, 709/398, 709/399, 709/400, 709/401, 709/402, 709/403, 709/404, 709/405, 709/406, 709/407, 709/408, 709/409, 709/410, 709/411, 709/412, 709/413, 709/414, 709/415, 709/416, 709/417, 709/418, 709/419, 709/420, 709/421, 709/422, 709/423, 709/424, 709/425, 709/426, 709/427, 709/428, 709/429, 709/430, 709/431, 709/432, 709/433, 709/434, 709/435, 709/436, 709/437, 709/438, 709/439, 709/440, 709/441, 709/442, 709/443, 709/444, 709/445, 709/446, 709/447, 709/448, 709/449, 709/450, 709/451, 709/452, 709/453, 709/454, 709/455, 709/456, 709/457, 709/458, 709/459, 709/460, 709/461, 709/462, 709/463, 709/464, 709/465, 709/466, 709/467, 709/468, 709/469, 709/470, 709/471, 709/472, 709/473, 709/474, 709/475, 709/476, 709/477, 709/478, 709/479, 709/480, 709/481, 709/482, 709/483, 709/484, 709/485, 709/486, 709/487, 709/488, 709/489, 709/490, 709/491, 709/492, 709/493, 709/494, 709/495, 709/496, 709/497, 709/498, 709/499, 709/500, 709/501, 709/502, 709/503, 709/504, 709/505, 709/506, 709/507, 709/508, 709/509, 709/510, 709/511, 709/512, 709/513, 709/514, 709/515, 709/516, 709/517, 709/518, 709/519, 709/520, 709/521, 709/522, 709/523, 709/524, 709/525, 709/526, 709/527, 709/528, 709/529, 709/530, 709/531, 709/532, 709/533, 709/534, 709/535, 709/536, 709/537, 709/538, 709/539, 709/540, 709/541, 709/542, 709/543, 709/544, 709/545, 709/546, 709/547, 709/548, 709/549, 709/550, 709/551, 709/552, 709/553, 709/554, 709/555, 709/556, 709/557, 709/558, 709/559, 709/560, 709/561, 709/562, 709/563, 709/564, 709/565, 709/566, 709/567, 709/568, 709/569, 709/570, 709/571, 709/572, 709/573, 709/574, 709/575, 709/576, 709/577, 709/578, 709/579, 709/580, 709/581, 709/582, 709/583, 709/584, 709/585, 709/586, 709/587, 709/588, 709/589, 709/590, 709/591, 709/592, 709/593, 709/594, 709/595, 709/596, 709/597, 709/598, 709/599, 709/600, 709/601, 709/602, 709/603, 709/604, 709/605, 709/606, 709/607, 709/608, 709/609, 709/610, 709/611, 709/612, 709/613, 709/614, 709/615, 709/616, 709/617, 709/618, 709/619, 709/620, 709/621, 709/622, 709/623, 709/624,

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## Dell's Build-to-Order Patents (1999)

United States Patent [06] Patent Number: 5,894,571 Date of Patent: Apr. 13, 1999

[04] PROCESS FOR CONFIGURING SOFTWARE FOR A BUILD-TO-ORDER COMPUTER SYSTEM  
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[05] Process: Dell USA, L.P., Round Rock, Tex.  
Primary Examiner—Jason D. Pate  
Assistant Examiner—Brent D. Christ

[1\*] Notice: This patent issued as a continued prosecution application first under 35 U.S.C. 135(a), and is subject to the terms and conditions applicable to such applications.

[01] Appl. No. 08/614,649  
[02] Filed: Aug. 14, 1996  
[03] Int. Cl.  
[04] Field of Search

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7 Claims, 2 Drawing Sheets

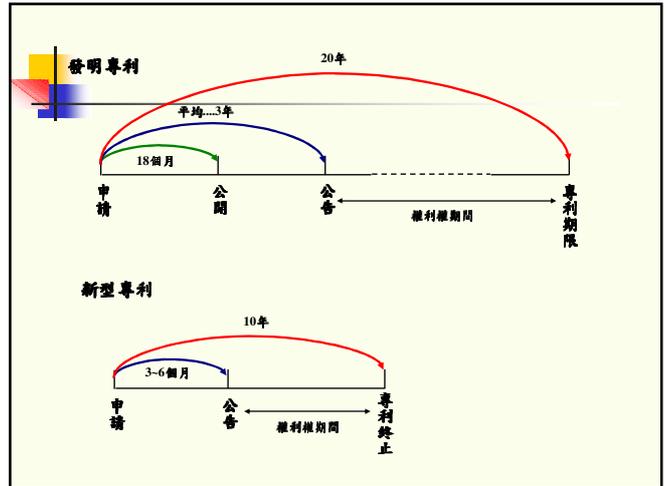
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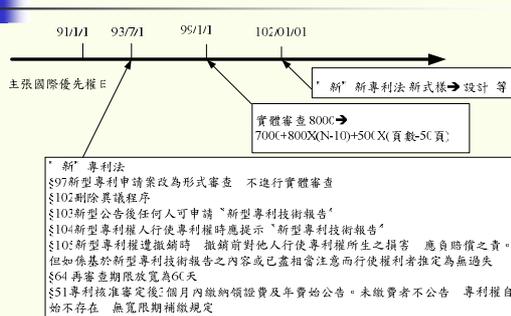
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## 中華民國專利

種類	保護年限	核准要件	特色
發明	申請日起20年	1. 產業利用性 2. 新穎性 3. 進步性	1. 申請日起18個月公開 2. 申請日起3年內請求實審 3. 物品、方法、微生物皆可專利
新型	申請日起10年	1. 產業利用性 2. 新穎性 3. 進步性	1. 採形式審查可快速取得專利權 2. 利用自然法則之技術思想，對物品之形狀、構造或組合之創作。 3. 配合新型專利技術報告制度
新式樣/ 設計 (102.01.01)	申請日起12年	1. 產業利用性 2. 新穎性 3. 創作性	1. 指對物品之全部或部分之形狀、花紋、色彩或其結合，透過視覺訴求之創作。 2. 應用於物品之電腦圖像及圖形化使用者介面，亦得依本法申請設計專利。

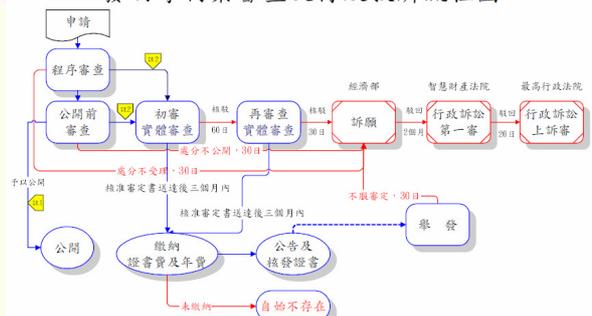


## 中華民國專利法



## 專利申請程序(例)

### 發明專利案審查及行政救濟流程圖



1. 發明專利申請案，經審定無不合規定形式且無不予公開之情事者，自申請日（有主張優先權者，自最早優先權之日）起十八個月後公開之。  
2. 發明專利申請案，自申請日起三年內，任何人均得申請實體審查，始進入實體審查。（智慧財產局網站）

## 相關費用參考

申請	發明	新型 新型專利技術報告	新式樣/設計
	3500/2700+實審費	3000 5000	3000
證書 1000			
年費	發明	新型	新式樣/設計
	1-3 2500/1700 4-6 5000/3800 7-9 8000 10- 16000	1-3 2500/1700 4-6 4000/2800 7- 8000	1-3 800/0 4-6 2000/800 7- 3000
舉發	發明	新型	新式樣/設計
	10000	9000	8000

1000701專利規費清單

http://www.tipo.gov.tw/ch/AllInOne\_Show.aspx?path=817&guid=bfbc2225-af80-4211-82f6-8dc6df4bb2aa&lang=zh-tw

## 智慧財產法院之設置

- 我國為保障智慧財產權，妥適處理智慧財產案件，促進國家科技與經濟發展，特設置智慧財產法院（智慧財產法院組織法§1）、
- 智慧財產法院依法掌理關於智慧財產之民事訴訟、刑事訴訟及行政訴訟之審判事務（智慧財產法院組織法§2）

## 管轄恆定與程序從新

- 2008/6/31 智慧財產案件審理法施行
- 智慧財產法院管轄事件
- 1. 民事訴訟事件
- 2. 刑事訴訟案件
- 3. 行政訴訟事件

## 查找技術(專利檢索/網路蒐集資料)

- Google:智財局 →  
<http://twpat4.tipo.gov.tw/tipotwoc/tipotwkm?0011A9930000000000000000000000A0000001E000000000>
- 美國專利(google patent)
- <https://www.google.com/?tbs=pts>

## 從創意到專利技術

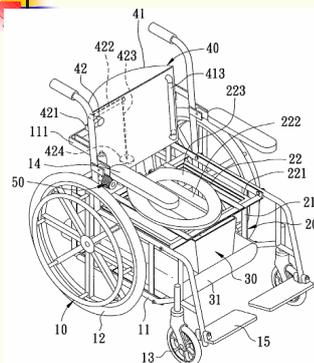
## 構思哪裡來? / 創意從何而來?

- 觀察 ==> 問題 ==> 解決 ==> 創意
- 1. 觀察 觀察 再觀察
- 哪裡不方便 就改哪裡
- 好還要更好
- 2. 想像 想像 再想像
- 反正是想像嘛!!!

## 迷思

- 我沒有創意
- 我不會思考

## M388932 具有馬桶功能之組合式輪椅構造



1. 八十歲退休老兵宋希微花了六年時間，研發兼具輪椅、沐浴及如廁的多功能輔具。
2. 拒絕廠商六百萬買專利，將專利捐給仁愛社福基金會。

[http://city.udn.com/57039/4199409?tpno=0&cate\\_no=86997#ixzz1gFeF01Cn](http://city.udn.com/57039/4199409?tpno=0&cate_no=86997#ixzz1gFeF01Cn)

## 變形金剛般的神奇包包

- 輔英科技大學池宇佳老師
- 2012年韓國首爾發明展銀牌



<https://www.twtm.com.tw/web/aip/page-success-ca>

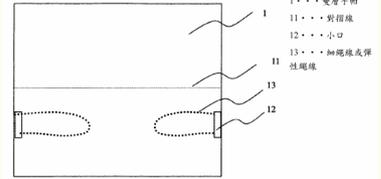
## M373219可當口罩之手帕



本創作是一種口罩，特別是將口罩製作成手帕，以方便攜帶及使用者。傳統的口罩不論其形態或功用，全部限定在單純的「口罩」上，也就是說：「口罩就是口罩」，出門除非必要，否則很少人會隨身攜帶口罩。但是在習慣上，幾乎每個人都會隨身攜帶手帕，而近年來各種流行性疾病的傳染，經常是變本加厲，隨身攜帶口罩已經是必要的動作。然而，既要攜帶手帕又要準備口罩，確實有點麻煩。甚至重要時刻還是會忘記攜帶口罩。而本創作的出現，將手帕與口罩結合在一起，既方便又實用，對於世人的疾病預防，將會帶來更大的貢獻。

本創作是一種可當口罩之手帕。在手帕兩側三分之一處各開一個小口，小口內各縫製一條可繫在耳朵上之細繩或彈性繩。平時將細繩或彈性繩塞入小口內，當需要戴口罩時，將手帕摺成對摺，再將小口內的細繩拉出或彈性繩拉出，立即成為實用的布口罩。

本創作最佳的製作方式是，將傳統的單層手帕，改為雙層手帕(1)，手帕材質可選用較薄之棉布，製作完成之手帕大小約在20公分見方；手帕之兩側大約在三分之一處各開一個小口(12)，小口內各縫製一條可繫在耳朵上之細繩或彈性繩(13)，平時將細繩或彈性繩塞入小口內，當需要戴口罩時，將手帕在對折線(11)處摺成對摺，再將小口內的細繩或彈性繩拉出，立即成為實用的對摺手帕(2)。



## 無鍊腳踏車

腳踏車踏板控制變速的線拉式傳動系統



腳踏車連接的紅色圓形結構為驅動系統，依腳力力度變速。

- 第10屆旺宏科學獎金牌二
- 台北市麗山高中三年級學生趙士翔
- 2011年12月10日 22:44 蘋果日報

## 口腔檢查器

戴牙套矯正牙齒，他曾把小鏡子放入口腔，欲看口腔內的情況，但不是鏡面起霧就是太暗看不清楚等



- 想到把牙刷跟攝影機結合(牙刷造型的口腔檢查器)
- 攝影機所拍攝的影像連結到顯示器上，由於鏡頭可彎曲卅五度角，口腔內各個角度都不漏。

- 英國倫敦發明展金牌及大會唯一鑽石獎
- 東海大學附屬高中國中部三年級林明毅

## 浴缸滿水位警報器



- 現成的磁簧開關警報器，裝在盒子裡貼在浴缸設定的水位位置，當水到達設定水位時，水的浮力會把磁簧推開，只要磁簧相距一分，就會發出警報聲響，提醒該關水了。(70元搞定)

陳翁基利用現成的磁簧門窗警報器，做成浴缸滿水位警報器，拿下美國喬治亞州青少年發明展第三名。  
2010/03/18 聯合報/記者吳淑君/宜蘭縣報導

<http://edushare.sclub.com.tw/viewthread.php?tid=799&extra=page%3D1>

## 浴缸滿水位警報器

- 宜蘭市復興國中學生陳翁基
- 獲邀到美國喬治亞州參加青少年發明展，甚受愛泡澡的美國人欣賞，他的英語口述成績也最優，總成績獲第三名。

陳翁基說，他買指導老師方琮民、蘇敬菱鼓勵他，繼續努力朝在警報器響的同時自動關上水龍頭，那就更妙了。

到美國參賽，要用全美英語發言，老師特地請學校外籍英語老師，模擬問答，反覆幫陳翁基練習英語口述說明，上月27日到美國喬治亞州參賽，這段期間他演練100多次，在參賽的30多件作品中，陳翁基的口說能力拿到99分最高分，比美國學生還高分。

- 2010/03/18 聯合報/記者吳淑君/宜蘭縣報導

## 《1鍋多用》創意壓力鍋



- 奶酪店老闆廿八歲的溫家珩，因小時候家裡的壓力鍋曾發生爆炸，致力改良安全壓力鍋，洩壓閥還分成三段式，燉湯料不會阻塞洩壓孔造成危險，燉湯的同時，鍋蓋上面同時還具有煎鍋、涮煮的功能。
- 上週參加首屆國際發明展不但拿到金牌，也獲世界智慧財產組織「最傑出發明家獎」。
- 溫家珩說，用壓力鍋燉湯會發生爆炸，多是洩壓設計不良，一般市售的壓力鍋雖有二到三個洩壓孔，但孔徑太小容易阻塞，導致壓力過大而爆炸，或是從鍋蓋側邊橡皮條擠出空隙洩壓造成「氣噴」傷人。
- **下層燉湯 上層可用鍋蓋煮菜**
- 他說，改良設計除了把鍋蓋中間洩壓孔孔徑加大，讓濃稠液體、碎屑不至於堵塞氣孔，外面還有一層不鏽鋼濾網過濾掉較大的食物纖維，最外層也可手動直接洩壓。



2012-12-08 09:43:19 自由時報記者花孟琛／花蓮報導

## 創意壓力鍋

- 除了增加鍋子使用的安全性，鍋蓋「下凹」的設計讓蓋子多了煎盤、涮鍋的功能，可以煎蛋、煎肉、煮壽喜燒都沒問題，節省能源而且可以一次進行多樣料理。
- 曾遇鍋爆炸 溫家珩致力改良，大學讀會計系的溫家珩說，小時候媽媽在廚房用快鍋煮綠豆湯，煮到一半卻爆炸，整個廚房噴得到處都是，幸好廚房無人，由於婚後常用快鍋煮東西以節省時間，因此有了改良壓力鍋的動機。
- 由於沒有機械或設計相關經驗，他自己看書研究、請教鐵工廠老闆協助開模製造，透過不斷試煮並改良，花了八個月完成設計。他說，為了測試鍋子，研發期間天天煮綠豆湯，吃綠豆湯「吃到怕」！
- 但夫妻倆的毅力也獲得評審肯定，不僅今年台北國際發明暨技術交易展拿到銅牌獎，還進軍首屆發明展拿到金牌、傑出發明家獎，他的創意設計也已申請國家專利，未來還計畫量產。

## Frederick Smith

[http://en.wikipedia.org/wiki/Frederick\\_W.\\_Smith](http://en.wikipedia.org/wiki/Frederick_W._Smith)

- In 1962, Smith entered **Yale University**.
- He wrote a paper for an economics class,
- **outlining overnight delivery service in a computer information age.**



## Federal Express

<http://www.examiner.com/article/count-fred-smith-out-on-buying-rams>

- 有構思
- 有一個待解決的問題
- 找到很好的參考資料可以...
- 就可以撰寫新型專利申請而且獲得證書

## 看見檳榔



嘉義縣中埔鄉一處種植檳榔山坡 (聯合新聞網)

<http://udn.com/NEWS/NATIONAL/NATS1/NEWS/AA/B3/E6/A6/94/20/E6/B9/B4/E5/89/BE/80/E5/84/84/E7/84/A2/E5/80/80/E6/8D/8B/E6/80/97/E6/90/8D/E7/89/BE/E5/84/84/80/95/89/81/m1/zzz2m/Ww5gc>

## 通常 ...

- Idea越多越好
- 100 ideas 只有10個有用
- 10個有用的idea中只有1個有機會寫成專利
- 100個專利中只有10個有機會做出來
- 1個做出來的專利中只有一個有機會商品化(可以賣)
- 所以 要亂槍打鳥

## 如果idea別人已經有了

- 表示這樣的idea不錯 所以已經有人先想過了 別難過 有為者亦若是
- 認真看看/檢查現有的跟你的idea的差異
- 是技術相同 解決同樣問題 →無新穎性
- 技術不同 解決相同問題 →OK
- 練習多了 idea很容易產生 總會超越現有的idea

- 因此再接再厲
- 即使都跟別人現有的一樣 也沒關係
- 只是慢一點想到 當idea產生夠多時
- 總有一天會比別人先想到
  
- 別人跟你的一樣 學別人的架構跟專利內容以持續充實實力

- 藉由分組討論而能提出一些學生自己的創意起點(以增加信心)

## 須具備能力

1. 繪圖能力
2. 網路檢索能力
3. 文書處理能力
4. 思考能力
5. 學習態度

## 哪些人適合修

0. 簽課程保密協定
1. 想增加自己競爭力
2. 想增加創造能力
3. 創意學程
4. 增加就業機會
5. 增加履歷表上的資料(專利)
6. 需要畢業學分
7. 有強力心臟與努力寫作業的心理準備

## 哪些人不適合修

1. 未簽課程保密協定
2. 不想增加履歷表上智財相關資料
3. 想作弊
4. 不想上課就能及格
5. 嫌寫作業麻煩
6. 其他

## 實例

- 具備飾品變換功能之耳環式藍芽耳機結構(國企系)
- 指甲剪之檔版結構(企管系)
- 9812眼鏡妹新型專利申請書-D95421145 (國企系)
- 9812 小U 結合收納式釘書機之隨身碟/The USB apparatus with stapler (國企系)

## 湯姆鞋 (Toms Shoes)

### ONE FOR ONE®

- 布雷克·麥考斯基2006年創立
- 每賣出一雙鞋，公司就會送一雙鞋給買不起鞋子的小孩。
- 布雷克去阿根廷度假時，發現很多小朋友沒有鞋子穿

湯姆鞋賣的價值觀 盛治仁/聯合報2013.11.19

### ONE FOR ONE®

機場穿紅色湯姆鞋的少女 →  
說明買一送一的理念  
選對布雷克詳細介紹布雷克這個創辦人的故事

工作满兩年的員工，就會被安排到需要的國家親自送鞋給孩童

湯姆鞋已經擴展產品線到眼鏡，將營收的部分比例捐助給十個發展中國家，幫助了十五萬人改善眼疾及視力的問題

## 創意的產生

- 從生活產品開始，
- 如何改善生活品質

- 第一 v 唯一

- 不要期望太高 不想玩的請翹課

## 曲終人未散

- 終結塞車
- 充分利用塞車時間
- 如何協助盲友過馬路
- 冷天保暖衣物不致太重。
- ...



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