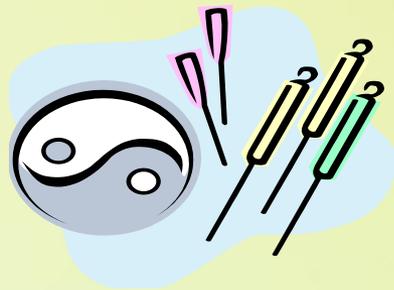




## 中药的知识产权保护

# Intellectual Property Protection for Chinese Medicines



张锦辉  
香港特别行政区政府 知识产权署署长  
2013年9月5日  
**Peter K F Cheung**  
Director of Intellectual Property  
Government of the HKSAR  
5 September 2013



# 传统中药的背境

## The TCM Context



# 混合增值 Mix & Match & Add Value



- 中药  
Chinese Medicine
- 知识产权  
Intellectual Property



# 知识产权 Intellectual Property



- 商业秘密 Trade Secret
- 版权 Copyright
- 发明专利 Patent



- 植物新品种 Plant Varieties
- 外观设计 Registered Design
- 集成电路布图设计 (拓扑图)



Layout-design (Topography) of Integrated Circuits

- 商标及地理标志  
Trade Marks and Geographical Indications





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- 版权 Copyright
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## 家传秘方与商业秘密 Secret Formula v. Trade Secret

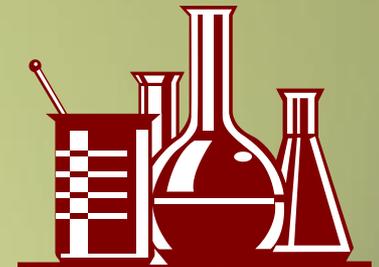
当归和黄芪

比例：1:5

煮：4小时

连续使用**21**天

- 回复血小板、红血球及白血球指数**80%-100%**
- 不似西药令体重暴跌**40%**

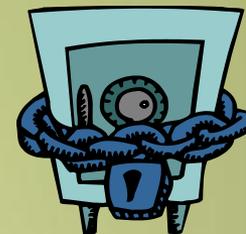


# 可保护的中药秘密

## Protectable Undisclosed Information

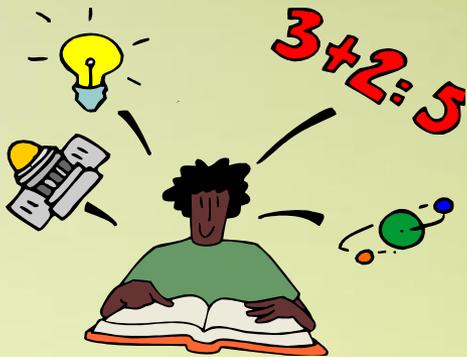


- 责任 / 合理步骤  
Duty / Reasonable steps
- 商业价值  
Commercial value
- 不用注册，永久保护  
No registration but perpetual protection



# 与草药有关的香港数据

## Traditional Medicine related HK Data



秘方

: 不详

Secret Formula

: unknown

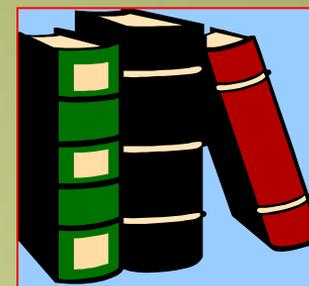




# 版权 Copyright



- 商业秘密 Trade Secret
- **版权 Copyright**
- 发明专利 Patent
- 植物新品种 Plant Varieties
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# “本草纲目” Medicinal Database



中药数据库、软件与版权  
Chinese Medicinal Database,  
Computer Software v. Copyright



# 方便的版权保护 Copyright Works



- 不用注册及通知  
No registration / notice



- 自动国际性保护  
Automatic international protection



- 作者有生之年 + 50年  
Life of Author + 50 years





数据库

: 不详

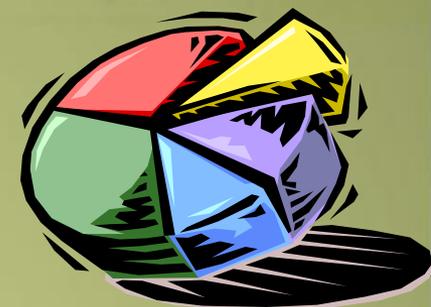
Database

: unknown

电脑软件

: 不详

Computer software: unknown



# 发明专利 Patent for Inventions



- 商业秘密 Trade Secret
- 版权 Copyright
- **发明专利 Patent**
- 植物新品种 Plant Varieties
- 外观设计 Registered Design
- 集成电路布图设计 (拓扑图)  
Layout-design (Topography) of Integrated Circuits
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Trade Marks and Geographical Indications



# 新发明中药 Inventive Chinese Medicine



## 新组合物及制炼方法与发明专利 New Components, Processes v. Inventive Patents

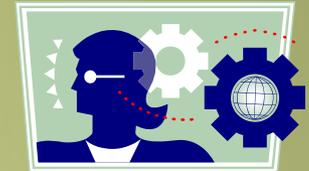


# 可享专利发明保护 Patentable Inventions



- 新 / 创造性 / 工业应用  
New / Inventive step / Industrial application

- 在注册地区受保护  
Protection in registered territories

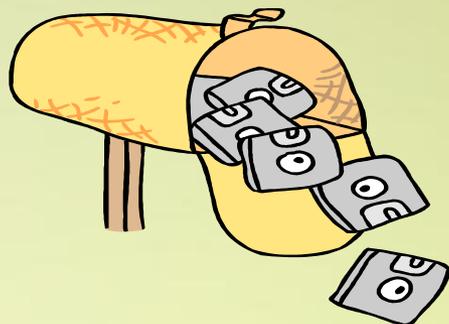


- 最长保护期：20年  
Maximum term of protection : 20 years



# 与草药有关的香港数据

## Traditional Medicine related HK Data



标准专利	:	90 (76) *
Standard Patent	:	90 (76) *
短期专利	:	29 (9) *
Short-term Patent	:	29 (9) *

Total : SP 37,977 StP 2,726 as at 21.8.2013

\* 括号内的数字代表有效注册  
Bracketed figures represent registration in force



# 植物新品种 Plant Varieties



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同质的药材

Homogeneous Medicinal Materials



新中草药品种与植物新品种保护

New Chinese Herbal Plants v. Plant Varieties Protection



# 可保护的植物新品种 Protectable New Plant Varieties



- 新 New
- 独特 Distinct
- 稳定 Stable
- 同质 Homogeneous



# 与草药有关的香港数据

## Traditional Medicine related HK Data

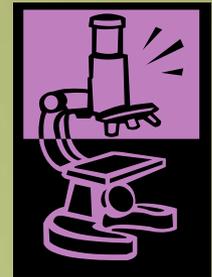


植物新品种 : 0

New Plant Varieties : 0



*Kiwi fruit  
Grapewine*



Total : 3 (based on the information available at the website of the Agriculture, Fisheries and Conservation Department as at 21.8.2013)

# 外观设计 Registered Design



- 商业秘密 Trade Secret
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- 发明专利 Patent
- 植物新品种 Plant Varieties
- **外观设计 Registered Design**
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# 另类的配套 Alternative Strategy



## 美感中医器材与外观设计

## Aesthetic Chinese Medical Treatment Equipment v. Industrial Designs



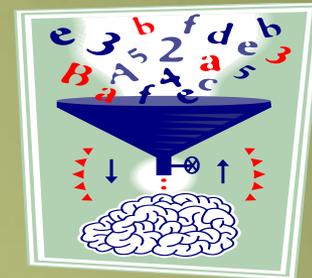
# 与草药有关的香港数据

## Traditional Medicine related HK Data



外观设计 : 125 (92) \*

Industrial Designs : 125 (92) \*



Total : 69,760 as at 21.8.2013

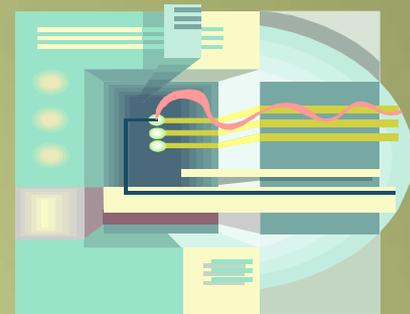
\* 括号内的数字代表有效注册  
Bracketed figures represent registration in force

# 集成电路布图设计 (拓扑图)

## Layout-design (Topography) of Integrated Circuits



- 商业秘密 Trade Secret
- 版权 Copyright
- 发明专利 Patent
- 植物新品种 Plant Varieties
- 外观设计 Registered Design
- 集成电路布图设计 (拓扑图)  
Layout-design (Topography) of Integrated Circuits
- 商标及地理标志  
Trade Marks and Geographical Indications



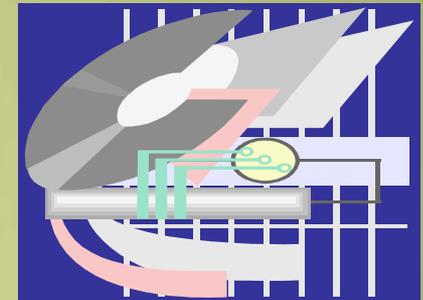
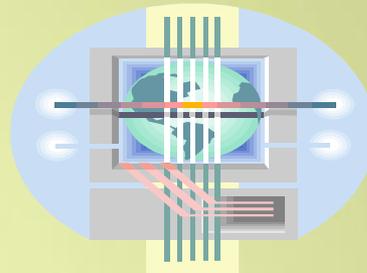
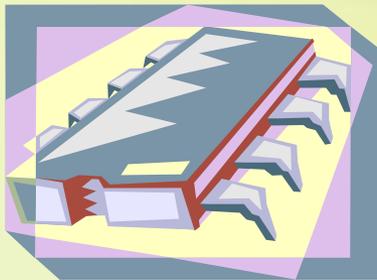


# 高新科技的配合 Married with High-tech



具原创性的集成电路布图设计 (拓扑图)

Original Layout-Design (Topography) of  
Integrated Circuits





集成电路布图设计 (拓扑图) : 0

Layout-Design (Topography) of  
Integrated Circuits : 0





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Layout-design (Topography) of Integrated Circuits



### ■ 商标及地理标志

## Trade Marks and Geographical Indications

# 实至名归的品牌 Quality Brands



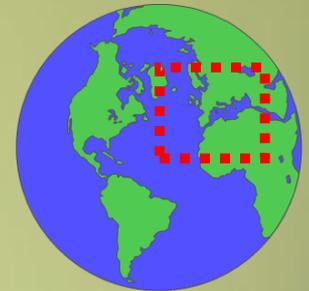
中医药产品及医疗服务品牌  
与商标及地理标志

Chinese Medicinal Products and  
Treatment v. Trade Marks and  
Geographical Indications



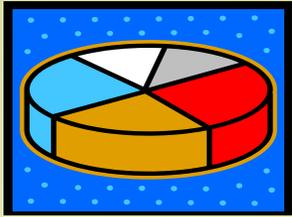


- 标志（书写 / 绘图）  
Sign (graphically represented)
- 能识别一企业的货品 / 服务  
Capable of distinguishing an undertaking's goods / services
- 在注册地区受到保护  
Protection in registered territories
- 可永久保护  
Perpetual protection possible



# 与草药有关的香港数据

## Traditional Medicine related HK Data



类 Class

产品 : 3,956 (3,619) \*

5

Products : 3,956 (3,619) \*

5

服务 : 231 (209) \*

42, 44

Services : 231 (209) \*

42, 44

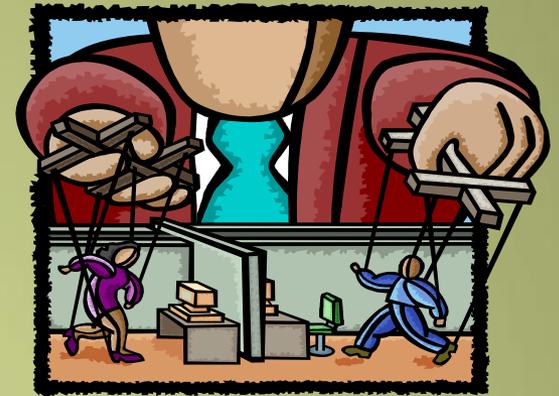
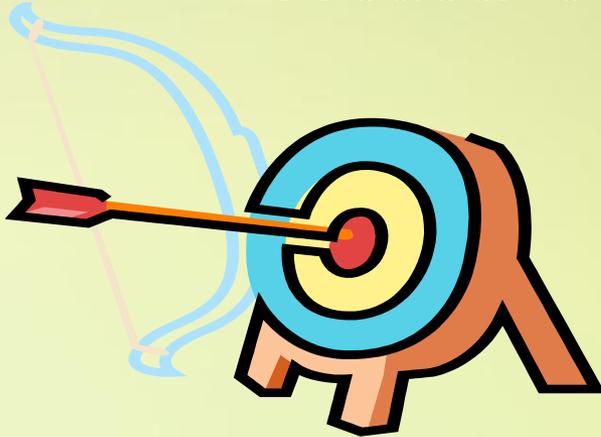
Total registered marks in force as at 21.8.2013 : 317,498

\* 括号内的数字代表有效注册  
Bracketed figures represent registration in force

# 管理策略 Management Strategy



- 保卫式  
Defensive
- 进取式  
Proactive



# 保卫式 Defensive Strategy



- 不要不问自取  
Always seek authorization
- 审核  
Audit

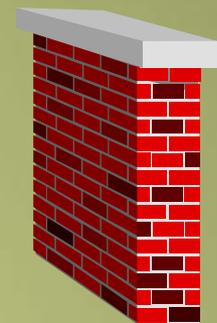
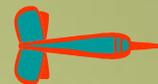




# 进取式 Proactive Strategy



- 保护创意成果  
Acquire intellectual property rights
- 知识产权管理为重点业务  
Make intellectual property part of your business



# 抽象资产价值高 Valuable Intangible Assets



## 品牌企业的价值 Value of Branded Enterprises

### 2012世界十大最有价值品牌 Top 10 Best Global Brands 2012

	百万美元 US\$ Million
1. 可口可乐 Coca-Cola	77,839
2. 苹果 Apple	76,568
3. 国际商业机器 IBM	75,532
4. 谷歌 Google	69,726
5. 微软 Microsoft	57,853
6. 通用电气 GE	43,682
7. 麦当劳 McDonald's	40,062
8. 英特尔 Intel	39,385
9. 三星 Samsung	32,893
10. 丰田 Toyota	30,280

资料来源 Source : Interbrand / October, 2012

### 2013全球最具价值品牌十强 Top 10 Most Valuable Global Brands 2013

	百万美元 US\$ Million
1. 苹果 Apple	185,071
2. 谷歌 Google	113,669
3. 国际商业机器 IBM	112,536
4. 麦当劳 McDonald's	90,256
5. 可口可乐 Coca-Cola	78,415
6. AT&T	75,507
7. 微软 Microsoft	69,814
8. 万宝路 Marlboro	69,383
9. Visa	56,060
10. 中移动 China Mobile	55,368

资料来源 Source : BrandZ / May, 2013



## ■ 商业秘密 Trade Secret

- 版权 Copyright



## ■ 发明专利 Patent

- 植物新品种 Plant Varieties
- 外观设计 Registered Design
- 集成电路布图设计 (拓扑图)  
Layout-design (Topography) of Integrated Circuits

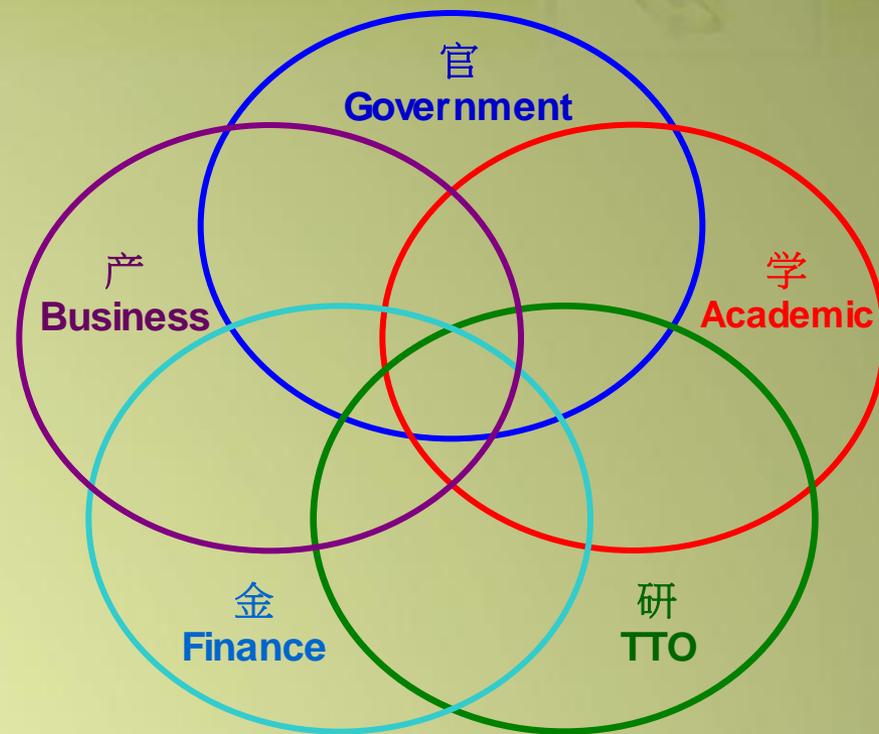


## ■ 商标及地理标志

## Trade Marks and Geographical Indications



- 庞大而艰辛工程  
Do it because it is hard
- 政商学研金结合
- Government/Business/  
Academic/TTO/Financial  
partnership





以**终**为始!

Begin with the **End** in mind!

[www.ipd.gov.hk](http://www.ipd.gov.hk)