

題目	美國專利訴訟的策略評估模式
作者	邱榆淨（中原大學企業管理學系教授） 鄧曉華（中原大學企業管理學系碩士生） 尤淨纓（元智大學管理學院國際企業學群助理教授） 李宗偉（中原大學企業管理學系兼任助理教授） 陳筱琪（中原大學企業管理學系副教授） 易青雲（中原大學企業管理學系助理教授） 艾昌明（中原大學企業管理學系博士生）
摘要	處於現今專利訴訟與日俱增的環境，專利訴訟不只會發生在大企業，台灣中小型企業亦有可能面臨到跨國的專利訴訟威脅。而專利訴訟最重要的目的是作為市場競爭手段之一，用來干擾市場與打擊對手，且專利訴訟影響公司營運甚鉅，在專利訴訟中，和解並不代表認輸，應戰到底也未必就是贏，因此台灣企業一旦面臨到專利訴訟時，須謹慎面對以維護公司整體營運與利益為最大考量。因專利訴訟決策過程非常複雜且不易釐清各影響因素之關係，故本研究以決策實驗室分析法（Decision Making Trial and Evaluation Laboratory, DEMATEL）作為分析工具，評估訴訟初期與訴訟後期之重要關鍵準則，依所得出之重要關鍵準則進行評估是否應繼續應戰或尋求和解。由實證結果可知，在訴訟初期最主要影響準則為產品迴避設計可能性，而訴訟後期最主要影響準則為系爭專利之強度，表示企業未來若要取得訴訟之優勢，主要為取得有價值且具有攻擊性之專利，如此才能有效保護或強化自身之市場地位。本研究之貢獻主要藉由系統化的分析方法及邏輯性的推導，找出影響專利訴訟決策之關鍵因素，並同時將時間要素加入（訴訟前期與後期），以利企業評估專利訴訟後續戰與和決策之依據，希望能作為台灣中小型企業一旦面臨成為美國專利訴訟之被告時參考評估之模式。
關鍵字	美國專利訴訟、策略評估模式、決策實驗室分析法、關鍵因素
Title	U.S. Patent Litigation Strategy Evaluation Model
Author	Yu-Jing Chiu, Hsiao-Hwa Teng, Ching-Ying Yu, Chung-Wei Li, Hsiao-Chi Chen Chin-Yun Yi, Chang-Ming Ai
Abstract	As more and more patent litigations being raised nowadays, it would not just happen to the big enterprises. There is also possibility that small and medium sized enterprises may face threats from oversea patent litigations. By raising patent litigation is sometimes not prove who is right or wrong, it is a way to compete against others in the market, and to disturb and fight the competitors. Patent litigation may deeply affect the company operation. In the patent litigations, settlement does not mean loss in the competition. On the other hand, fighting for the final judgment does not mean winning in the case. The biggest concern is still the overall company operation and profit. This study will use Decision Making Trial and Evaluation Laboratory method to help the case company to find out the important key criteria during the beginning stage and later stage of the patent litigation. Help them to evaluate the prominence of each criterion and the relation between criteria. The case company can further evaluate the best strategy, whether to keep fighting or to settle, by evaluating the important criteria with its case situation, such as asserted patents, accused products, industrial and market, and case company's financial situation. From the case study and analysis, the study discovered that the case company

	should carefully study whether its product can be designed around or not in the beginning of the patent litigation stage. If it can be designed around, it would be good for the company to reduce the threat from the patent. By the end of litigation, the scope of patent becomes the most important factor. It also tells the company should focus on having valued and attackable patent in order to protecting the company and keeping competitive.
Keyword	U.S. Patent Litigation; Strategy Evaluation Model; DEMATEL; Key criteria