
Lean Intellectual Property Rights (IPR) Protection: Maximizing IPR Portfolios While Minimizing Costs

by

Carlos R. Villamar, J.D., M.S.E.E., B.S.E.E.

crvillamar@villamars.com

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US Patent System & Common Pitfalls

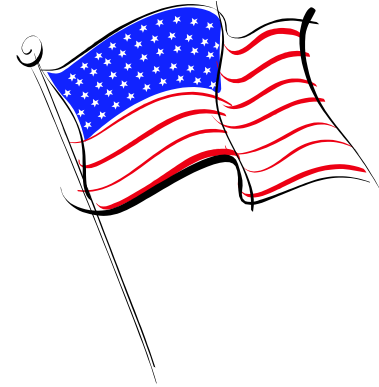
• Distinguishing features of US Patent system:



- Now a first inventor to file with grace period system
- Applicant is the inventor and not the company or university
- Overview of US Patent Office climate

• Common pitfalls for start ups and universities:

- Missing the boat on IP protection
- Letting your patent sink with the inventorship
- Creating the joint venture nightmare scenario



Maximizing IP & Minimizing Cost

- **Maximizing IP:**

- Do your due diligence
- Split up system and subsystems into separate applications
- Picket fence approach to IP protection



- **Minimizing IP Costs:**

- Prepare patent-like disclosures to minimize attorney time
- Work with an experienced attorney
- Interview patent cases with examiner early and often



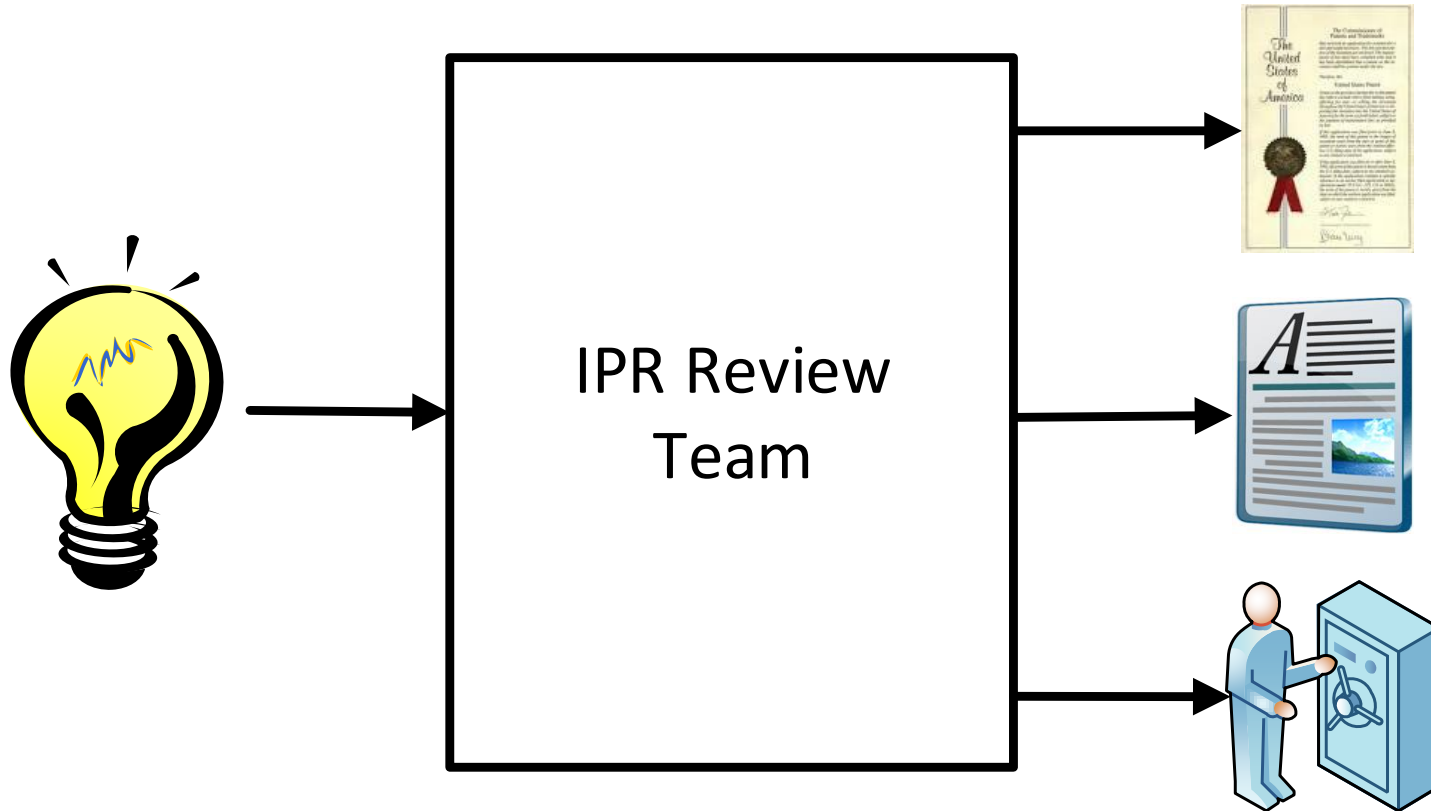
IP Umbrella

• IP protection can come in various forms:

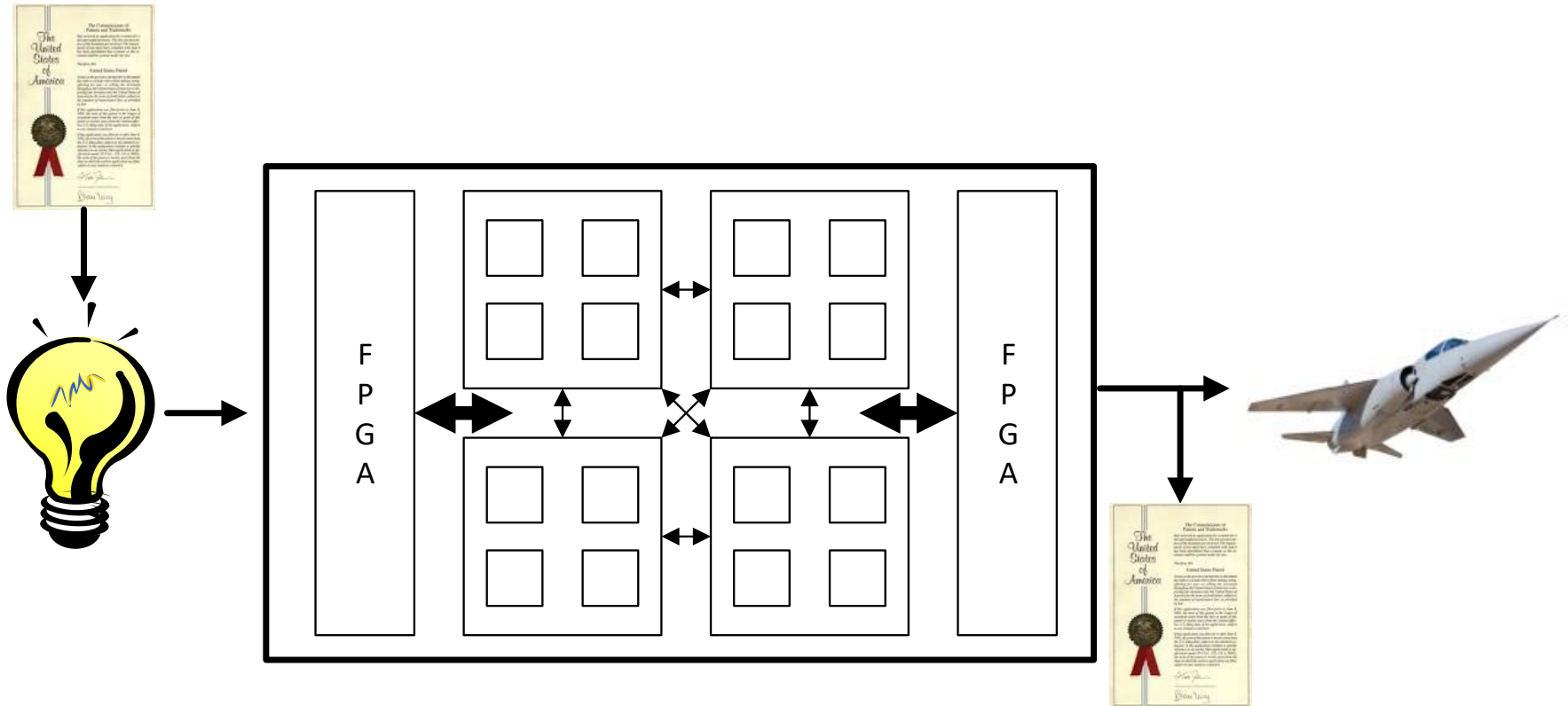
- Trade secrets
- Copyrights
- Trademarks
- Patents
- Licensing



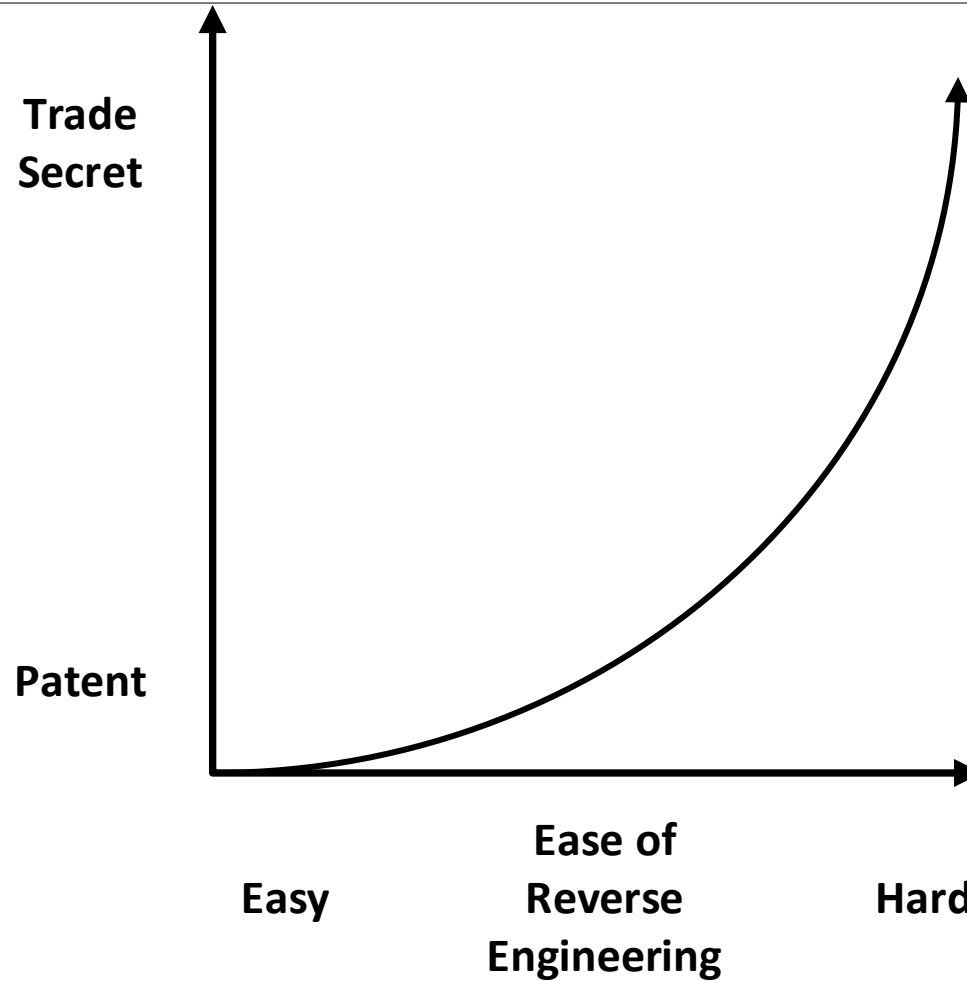
IPR Review Process



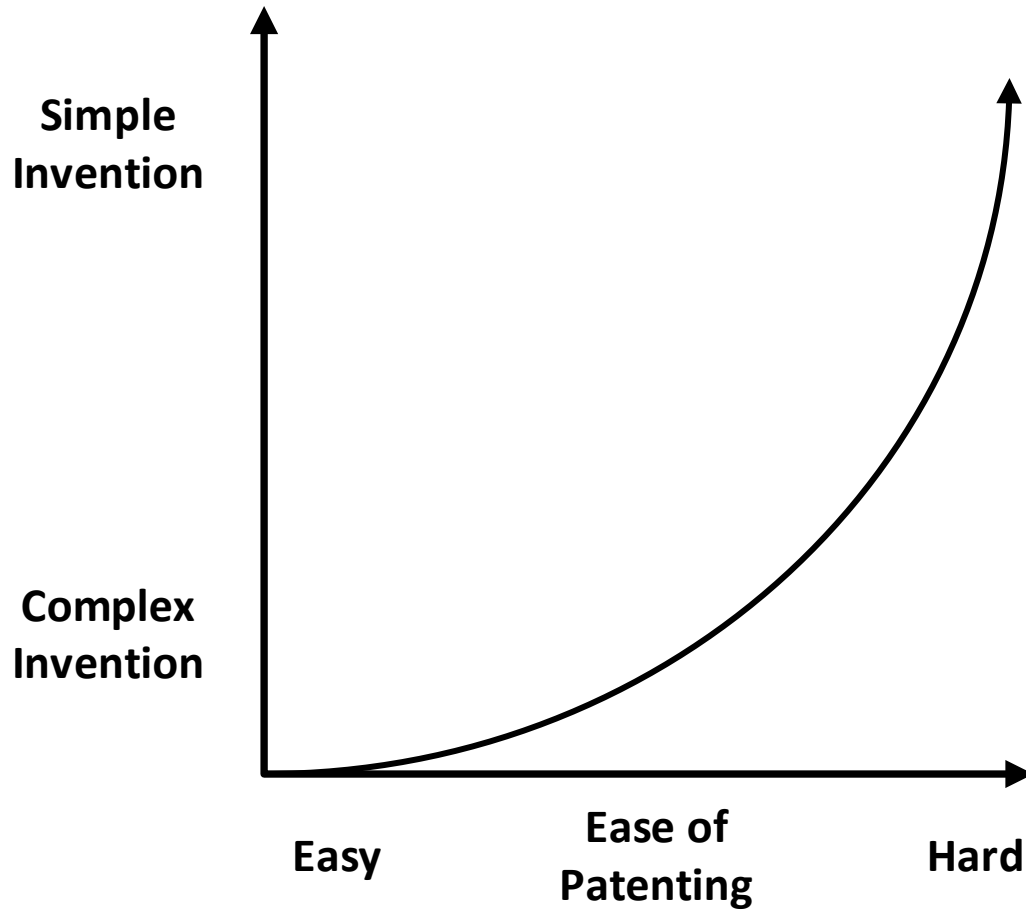
Innovation Process: From Napkin to Airplane



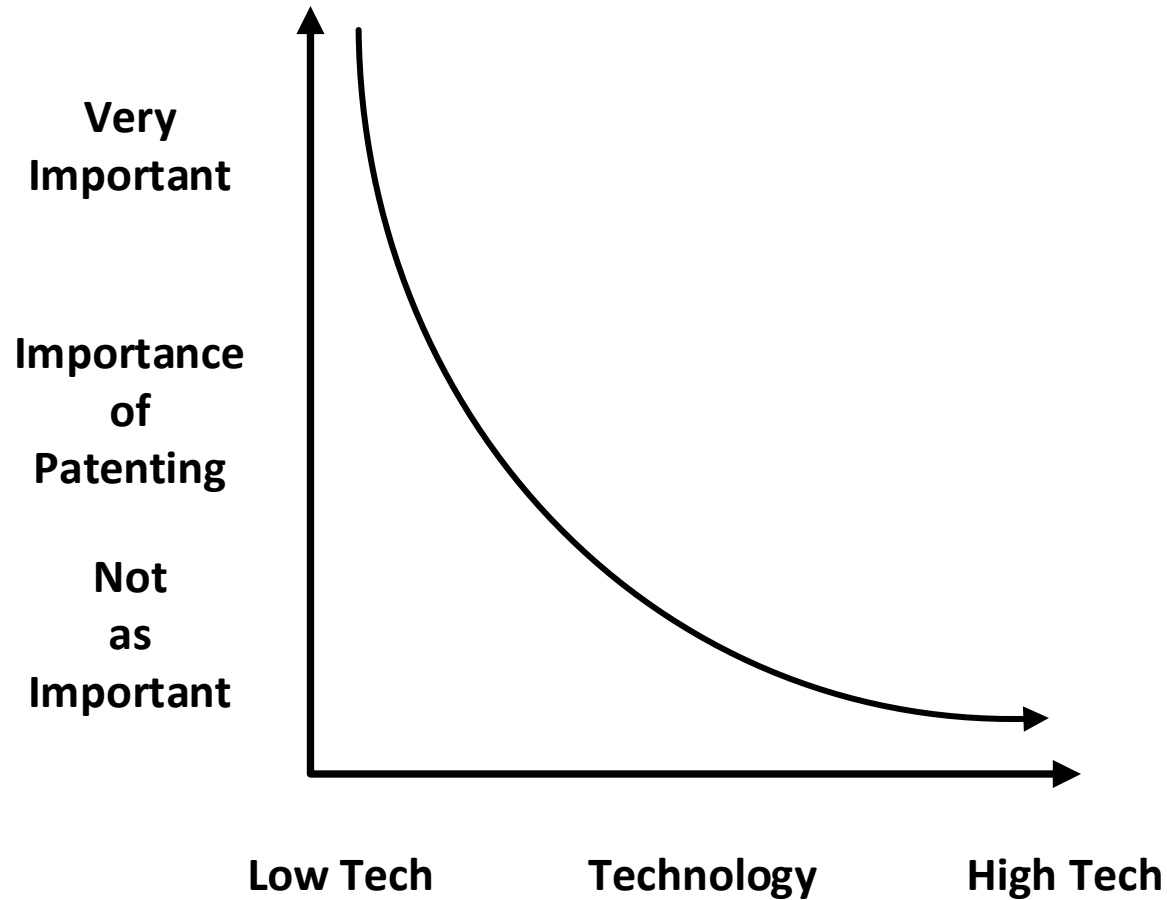
Patenting versus Trade Secrets



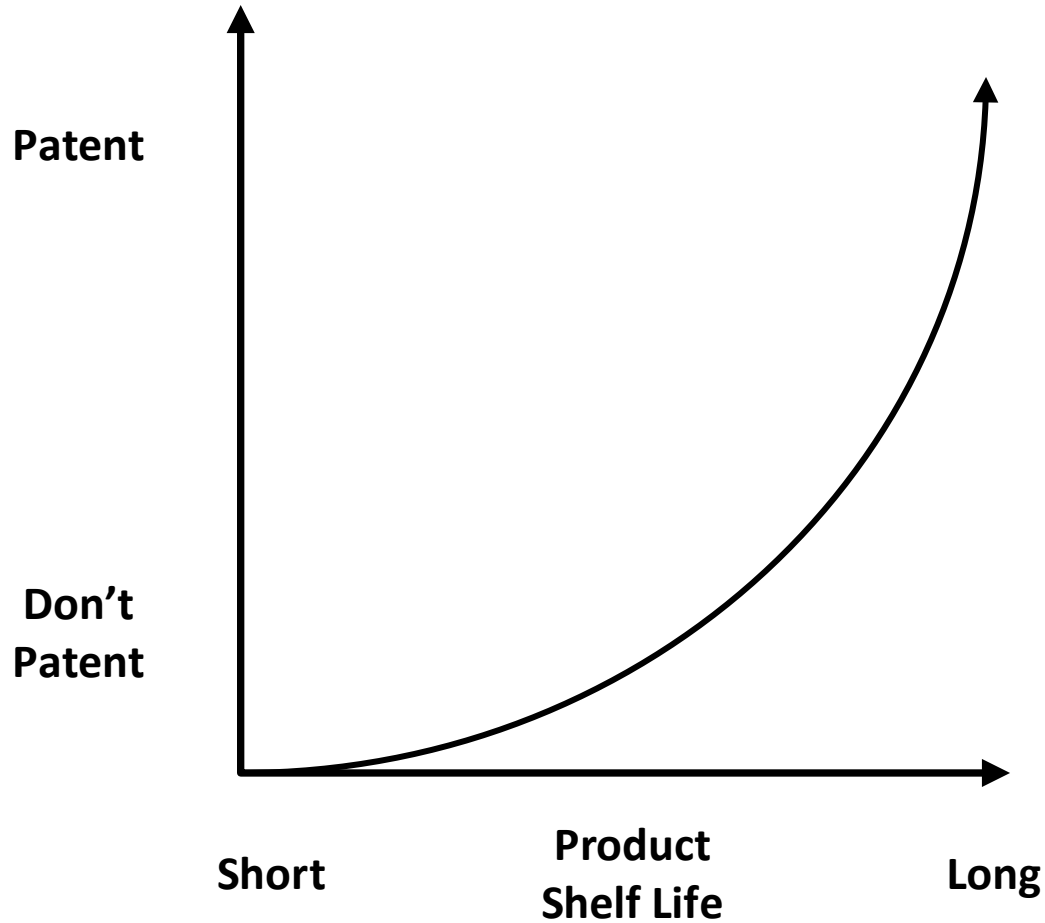
Ease of Patenting versus Complexity of Invention



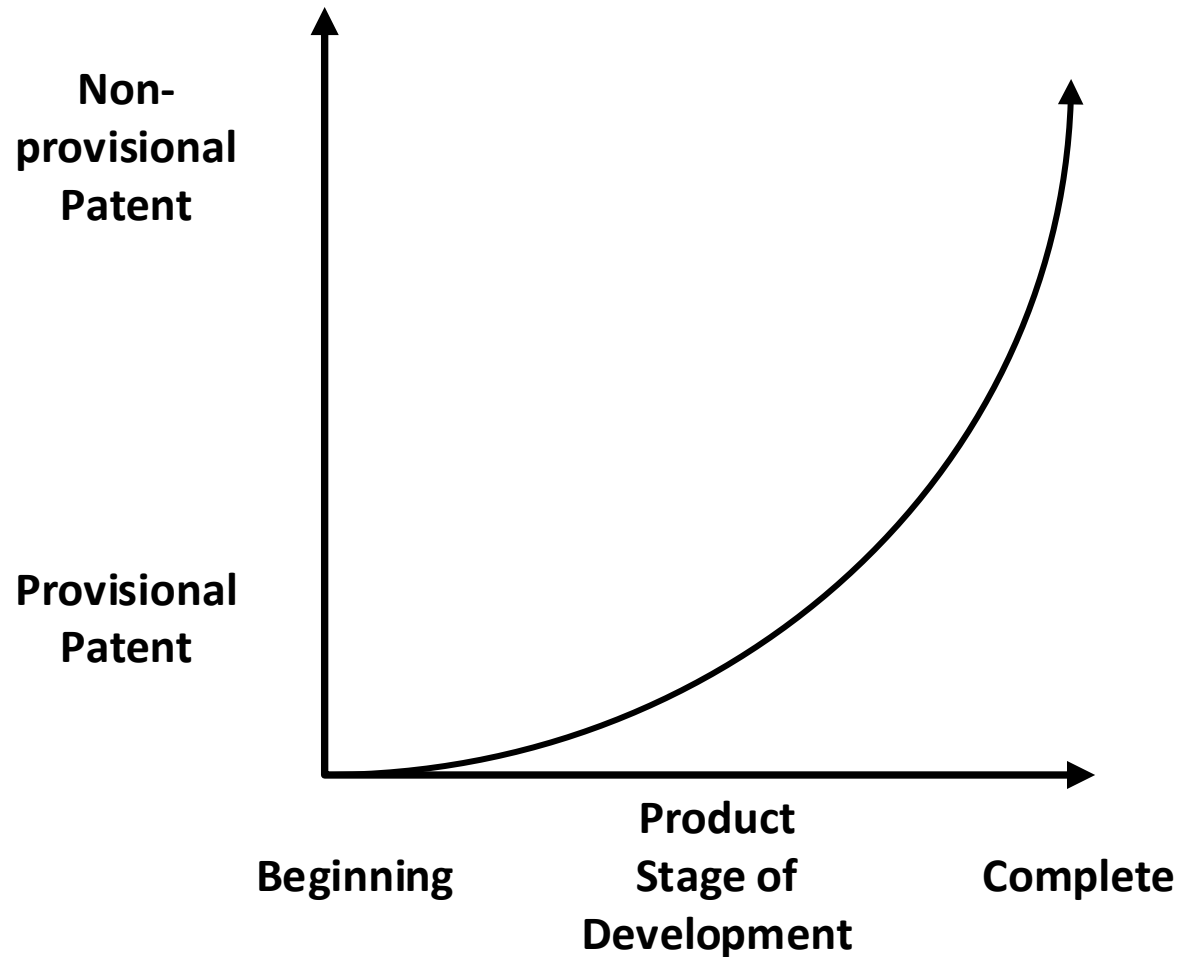
Importance of Patenting versus Level of Technology



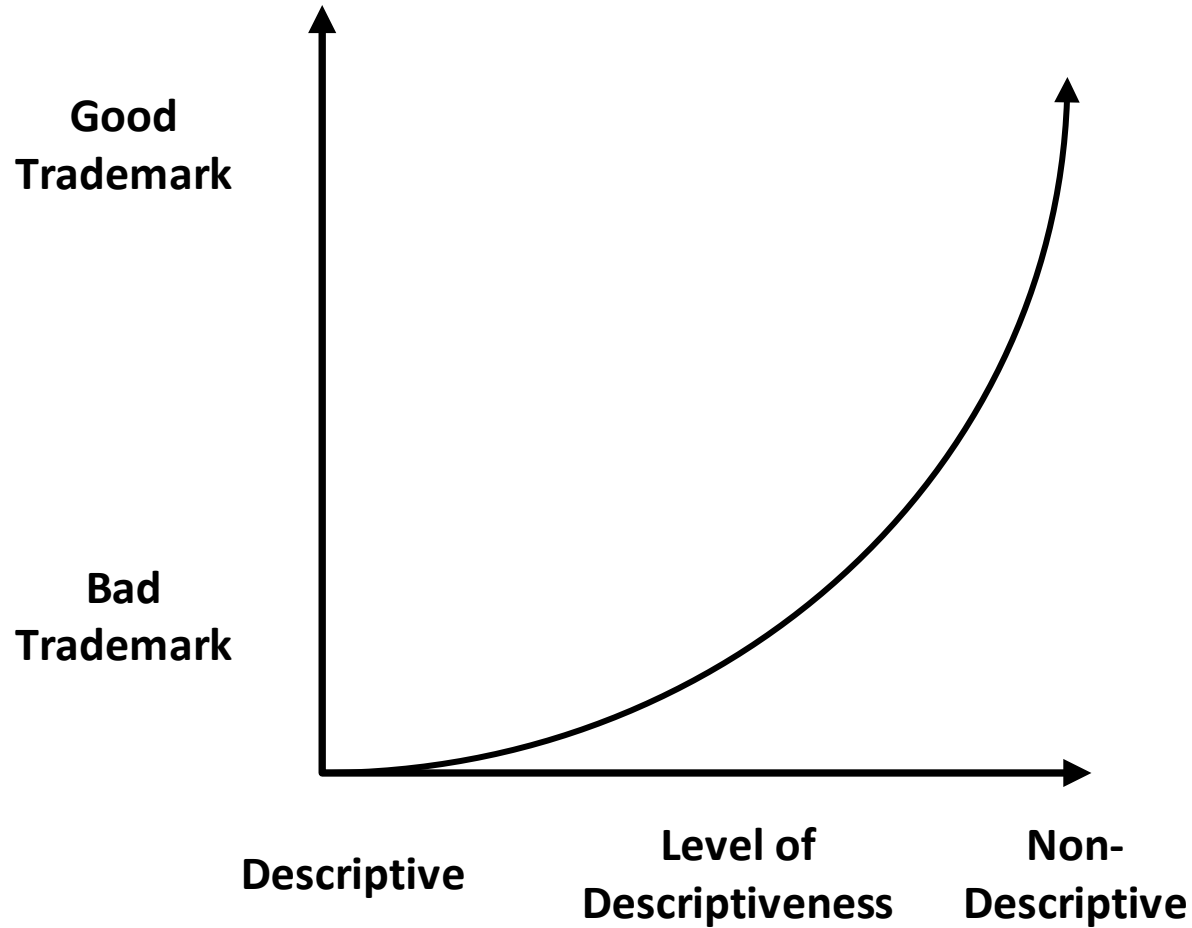
Patenting versus Product Shelf Life



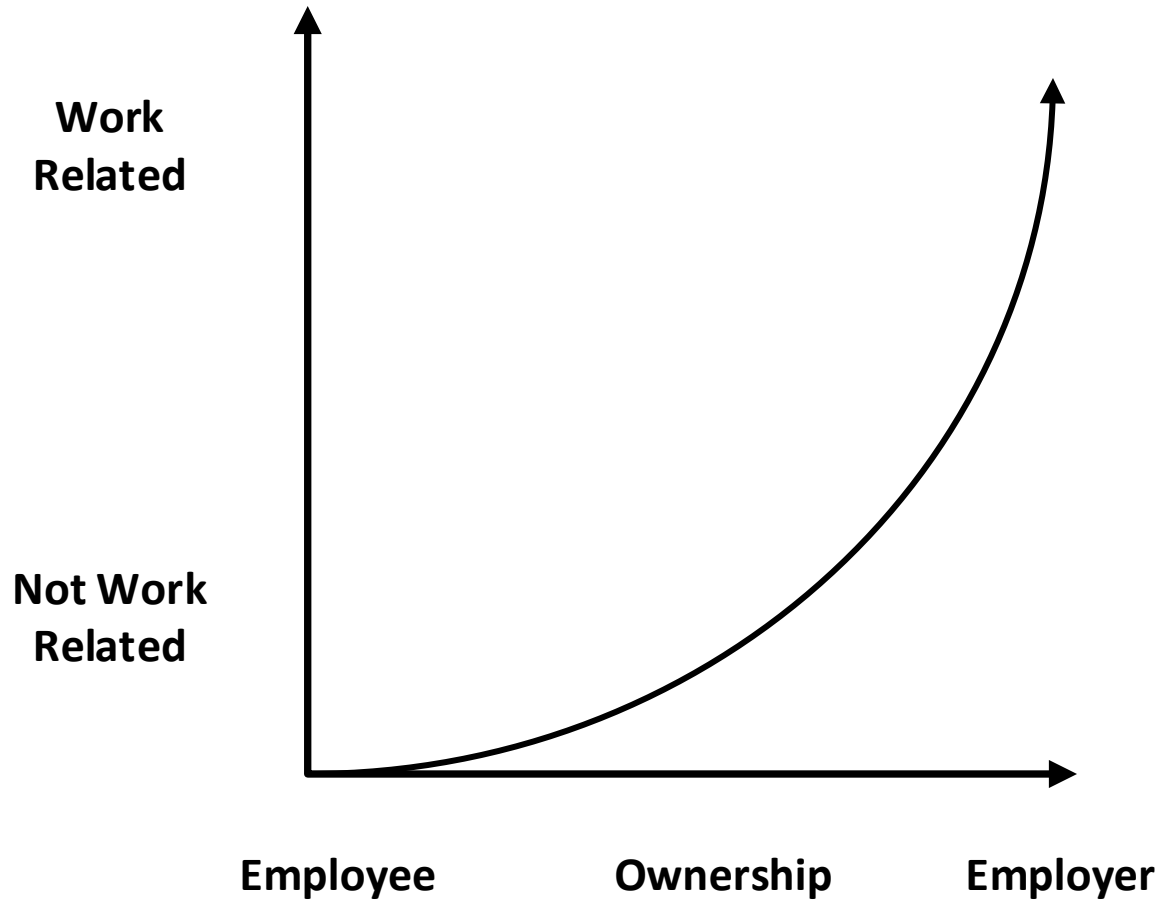
Provisional versus Non-Provisional



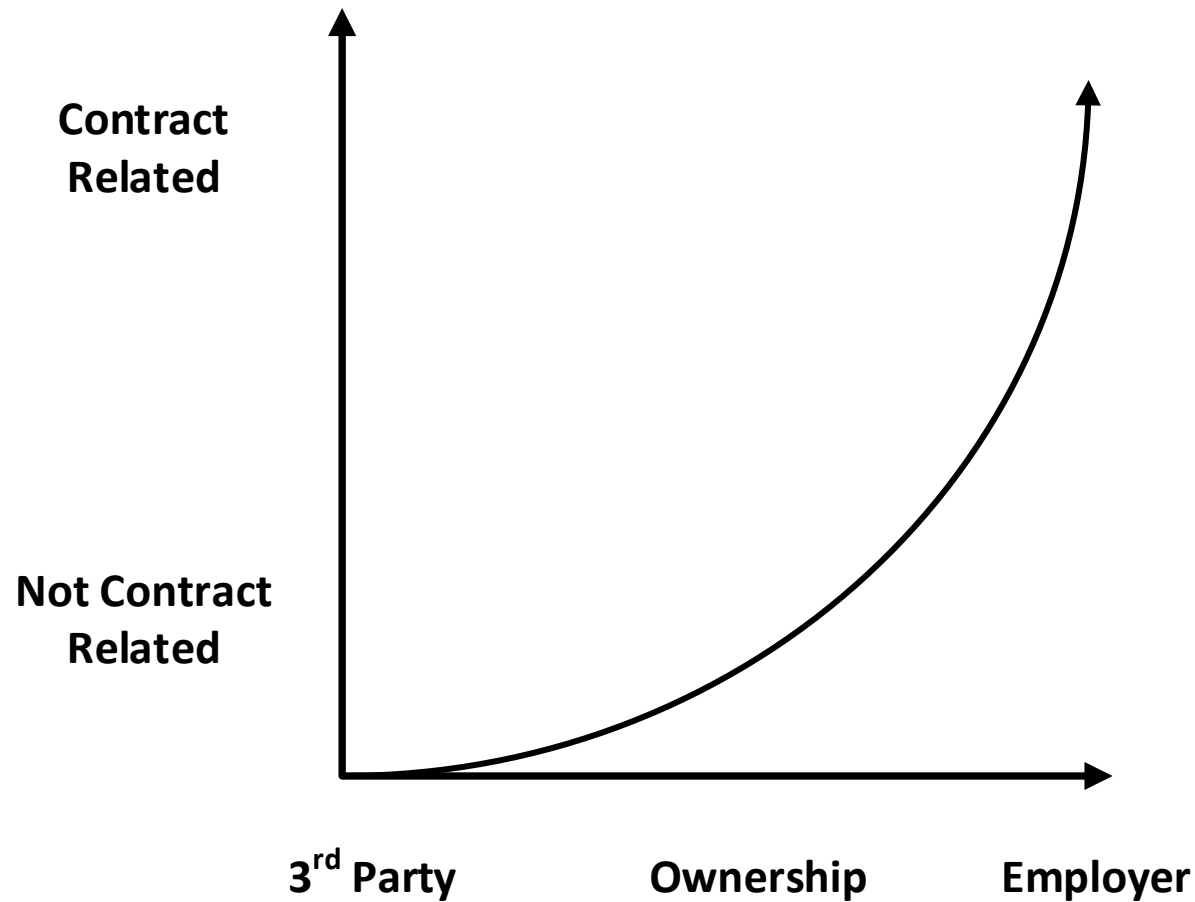
Good versus Bad Trademarks



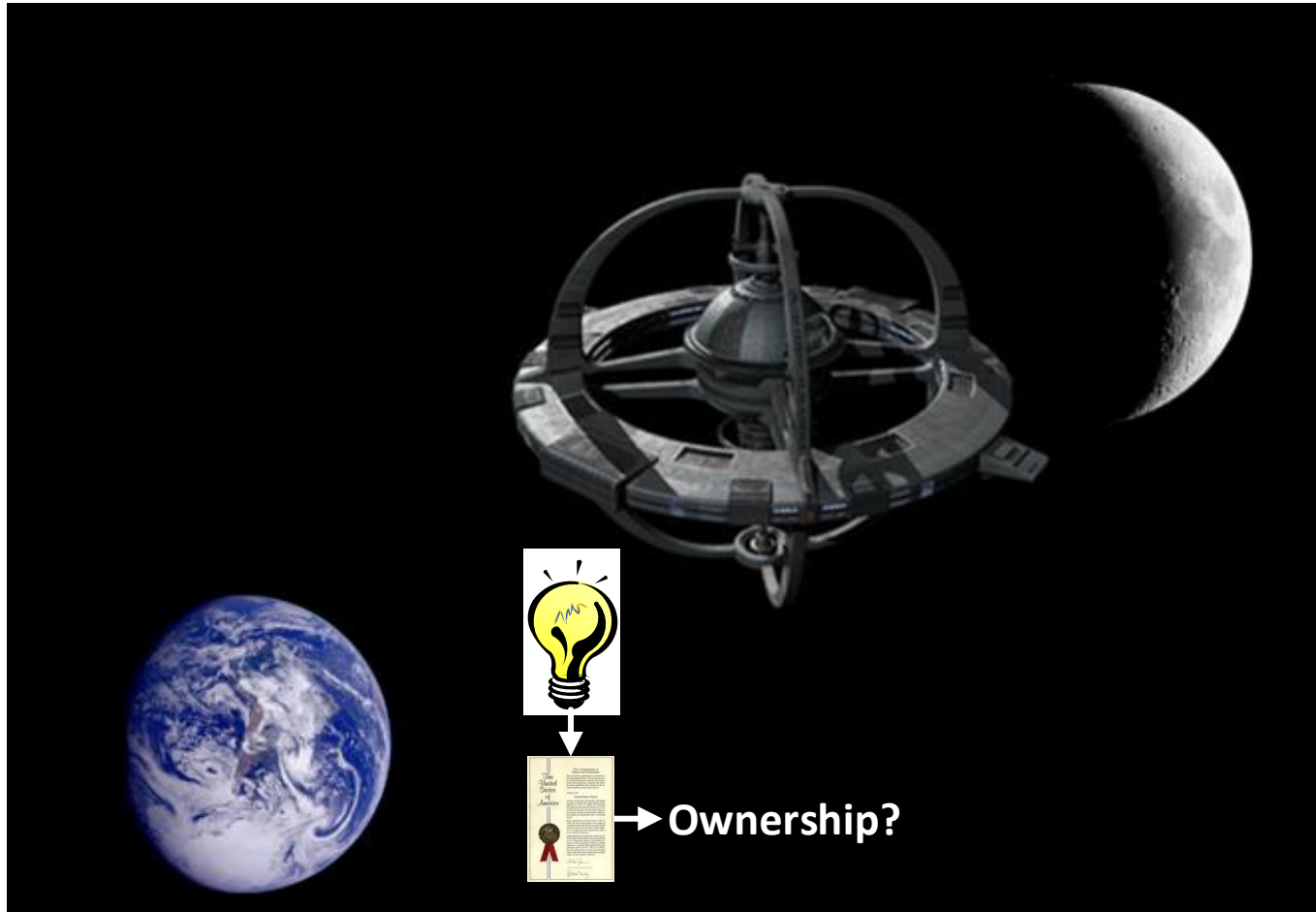
Employer versus Employee Ownership



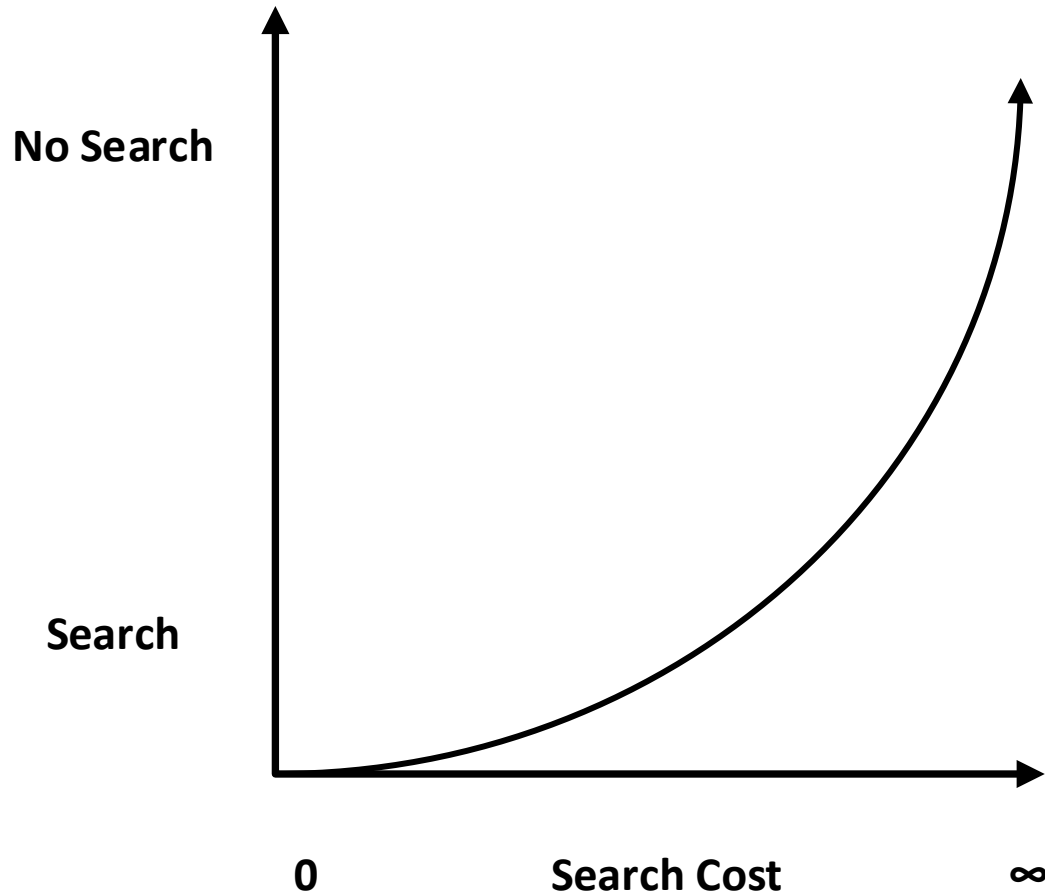
Employer versus Third Party Ownership



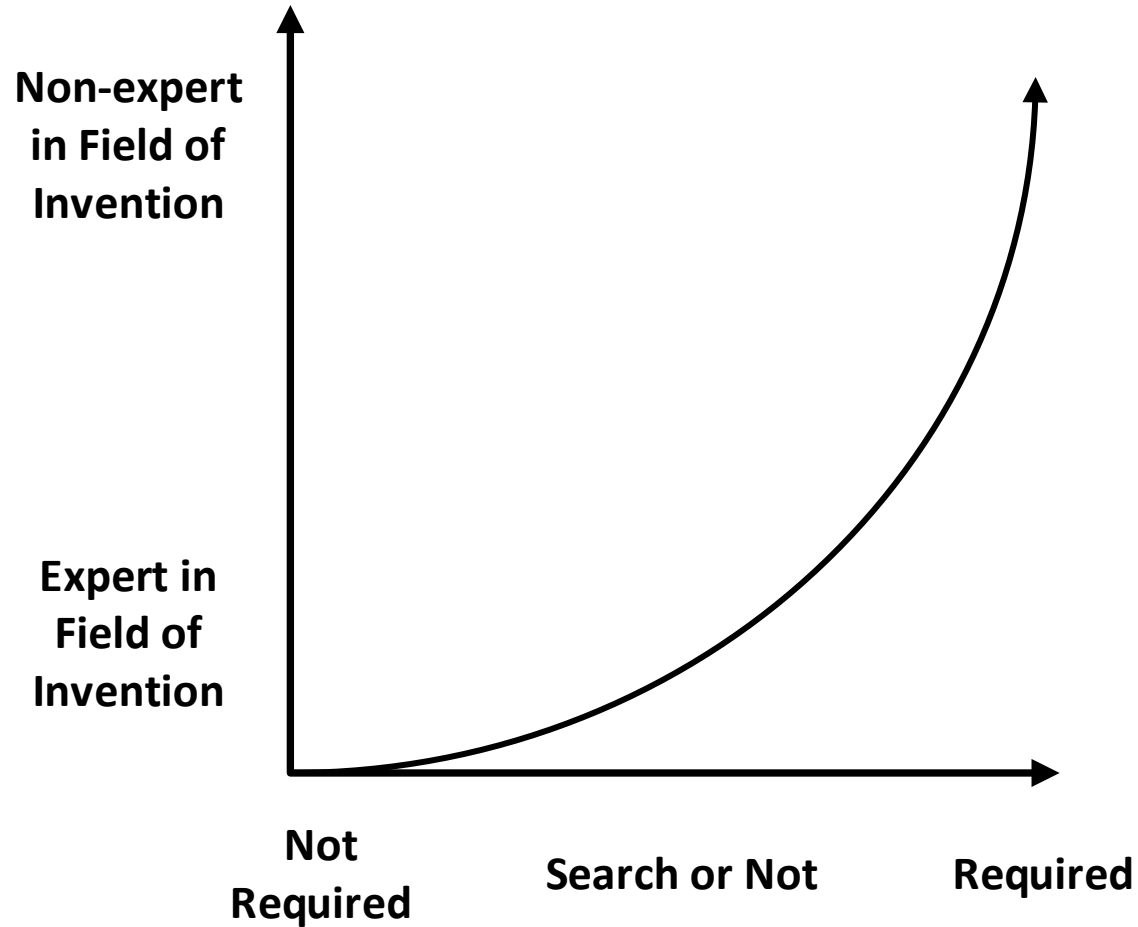
IPR Ownership in Space



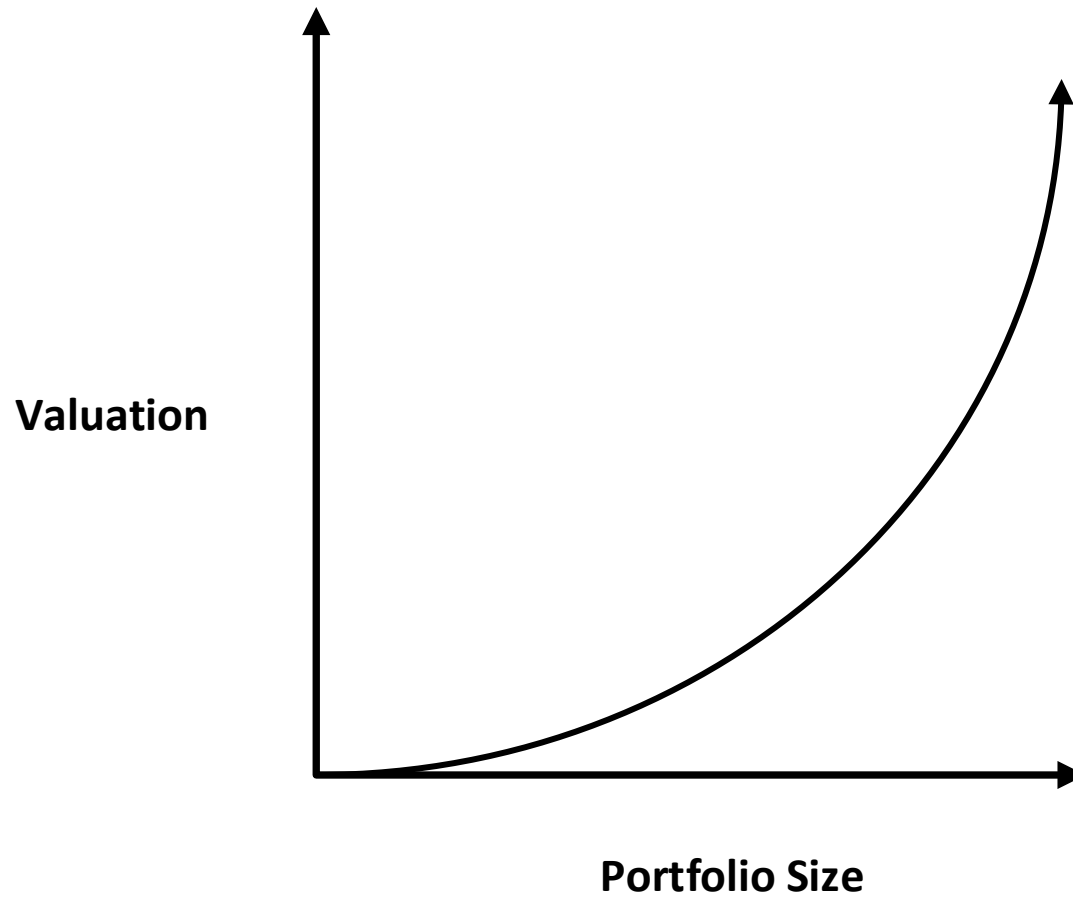
Search Cost versus Search Decision



To Search or Not to Search

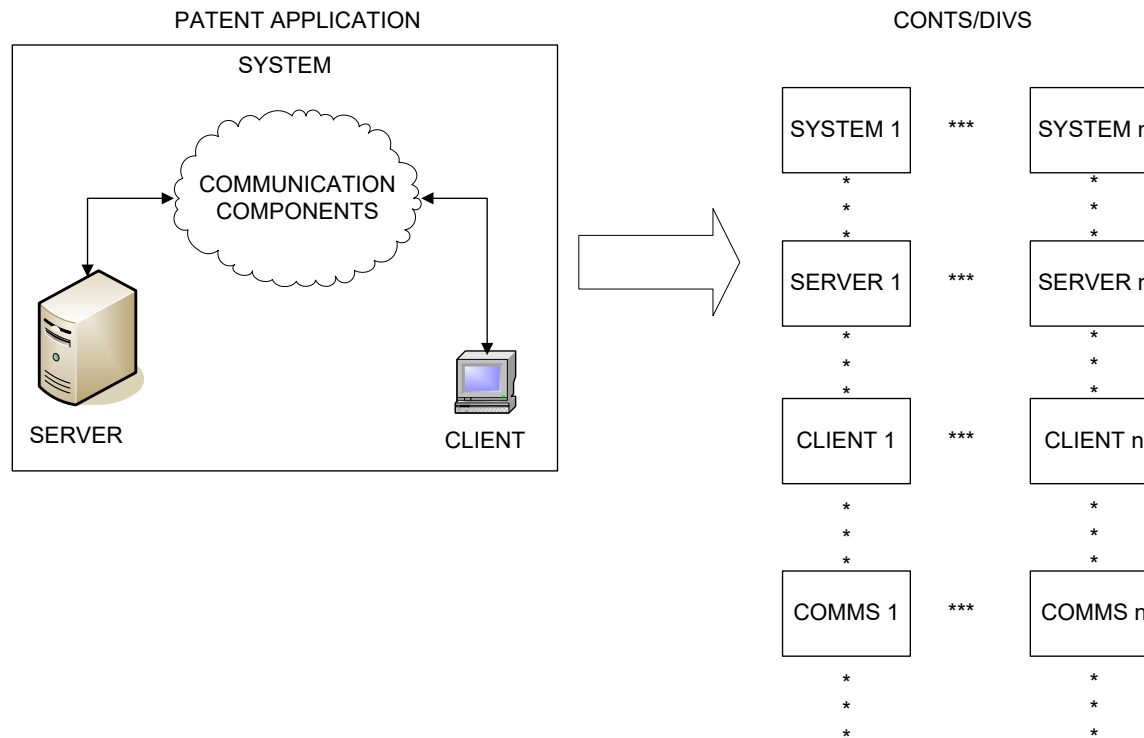


IP Portfolio Size versus Valuation



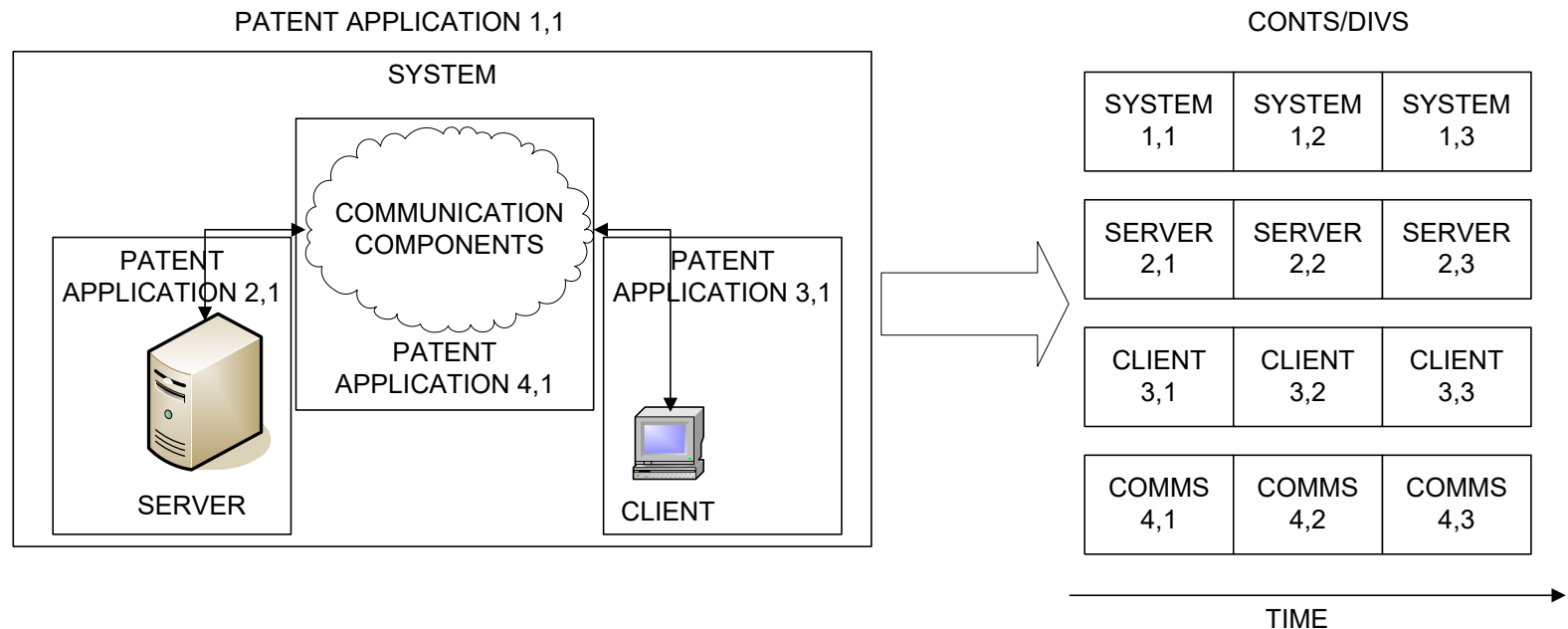
Maximizing IP

- Not splitting up system and subsystems into separate applications:



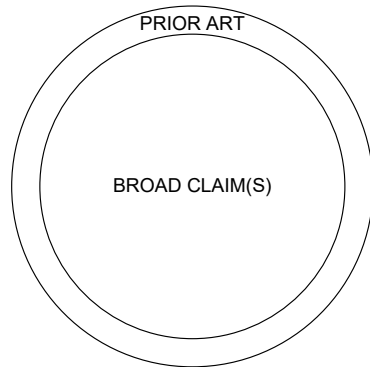
Maximizing IP (cont.)

- Splitting up system and subsystems into separate applications:

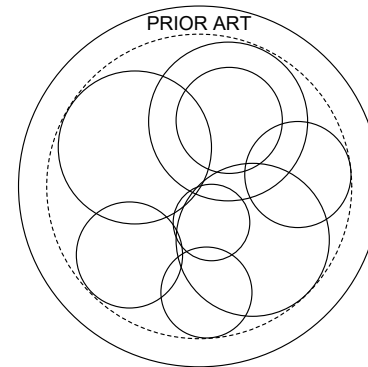


Maximizing IP (cont.)

•Picket fence approach to IP protection:



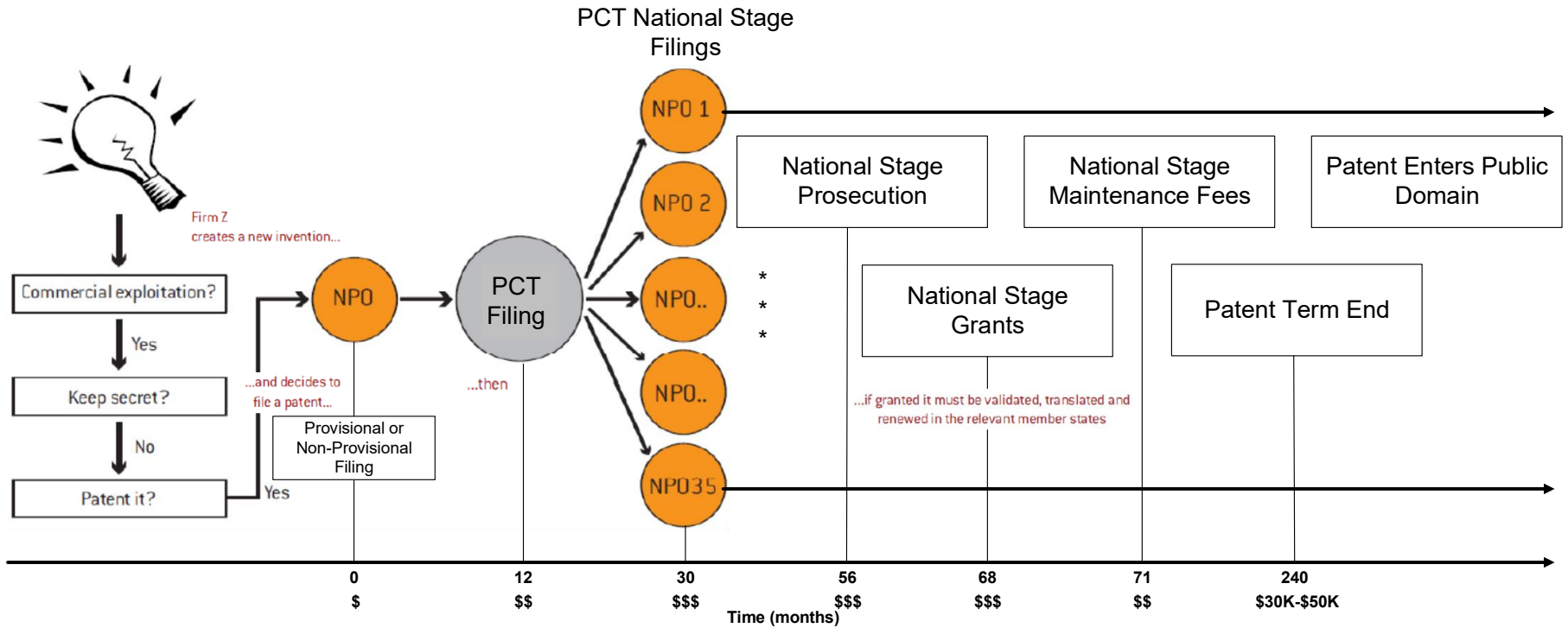
- Pros:
 - Captures more infringers
 - Reduces costs
 - Favors high tech
- Cons:
 - Easier to invalidate
 - Harder to prosecute
 - Disfavors low tech



- Pros:
 - Harder to invalidate
 - Easier to prosecute
 - Favors low tech
- Cons:
 - Easier to design around
 - Increases costs
 - Disfavors high tech



Worldwide Patenting Overview



"Lost property: The European patent system and why it doesn't work," Bruno Van Pottelsberghe, BRUEGEL BLUEPRINT SERIES, Volume IX



Minimizing IP Costs

- **Prepare patent-like disclosures to minimize attorney time:**

- Use patent application and drawing templates:

- Don't pay a patent attorney rate to write "the server 20 is connected to the client 10 via communications network 5."

- Use patent application in similar technologies as samples

- Have patent attorney provide feedback to enable a learning process

- Develop an in-house patent preparation capability and use patent attorney only for "value add" tasks, like claim drafting, word smithing, legal and technical analysis, etc.

- This depends on whether or not you have "more time than money or more money than time"



Minimizing IP Costs (cont.)

- **Work with an experienced attorney:**

- Work with a competent patent attorney who understands your business and technology, can help you navigate the IP landscape, and can help you protect your IP assets nationally and globally:



- Factors to consider:

- The cost-effectiveness the patent attorney provides
 - It is no secret that the most expensive piece of the IP protection puzzle is usually the patent attorney
 - Find a patent attorney that takes the time to understand your technology, revenue model, and work processes to make sure that an IP strategy is executed in a focused and efficient manner



Minimizing IP Costs (cont.)

- **Interview patent cases with examiner early and often:**

- Personal interviews help expedite prosecution:

- In the US, granted as a matter of right for a first office action, :

- After a final office action, granted on a discretionary basis

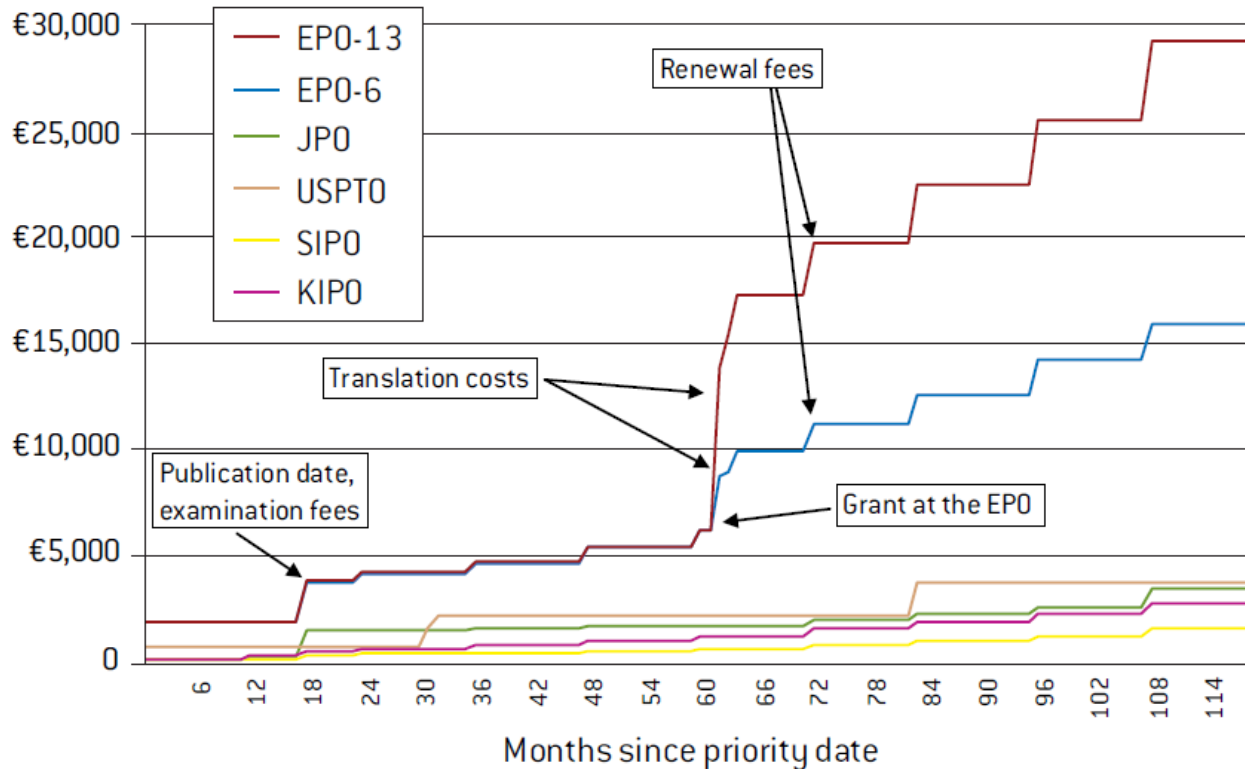
- Help avoid “prosecution history estoppel”

- Attorney’s rapport with examiners is very important:

- Attorney should “play well” with examiners and be highly prepared and knowledgeable about the invention and prior art



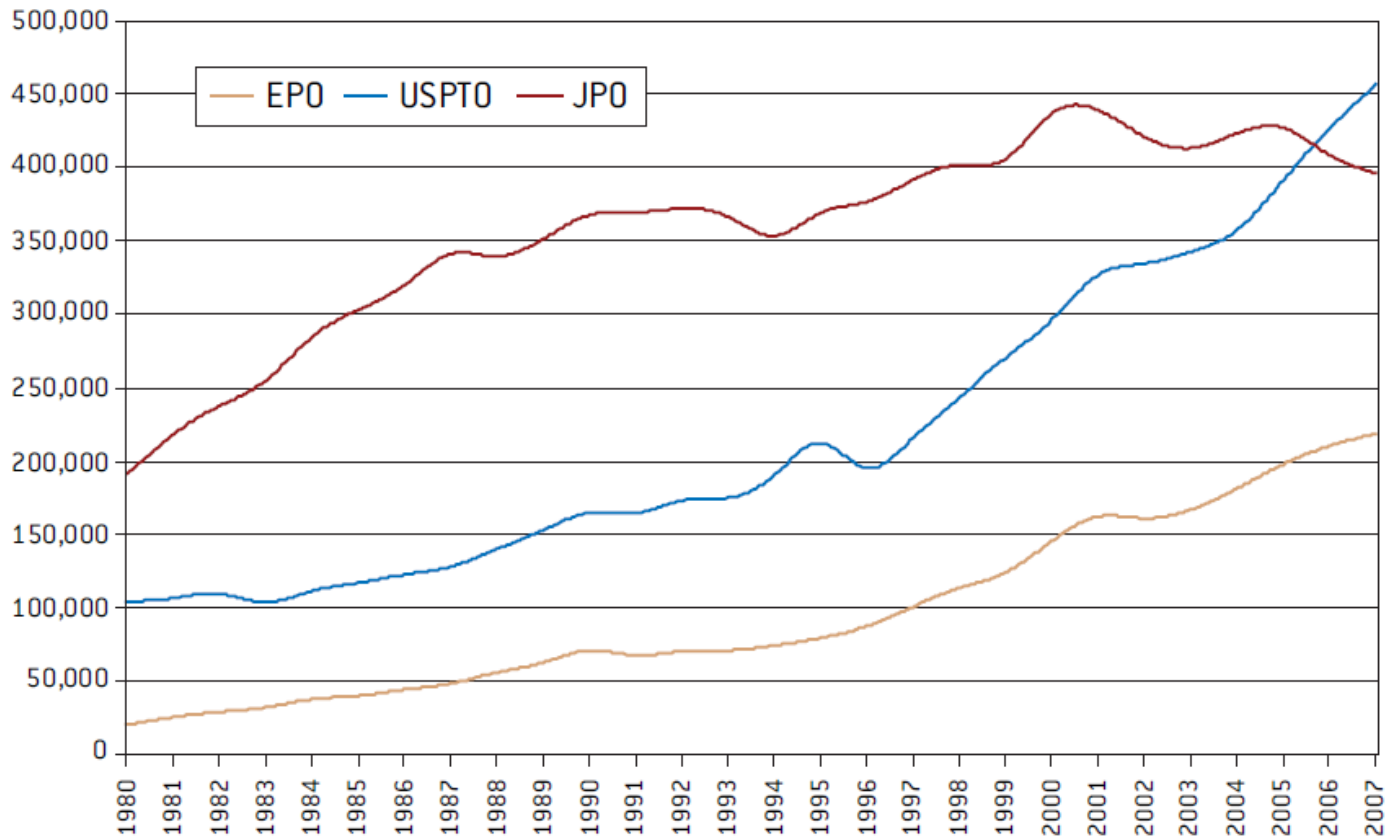
Minimizing IP Costs (cont.)



“Lost property: The European patent system and why it doesn’t work,” Bruno Van Pottelsberghe, **BRUEGEL BLUEPRINT SERIES**, Volume IX



Minimizing IP Costs (cont.)



“Lost property: The European patent system and why it doesn’t work,” Bruno Van Pottelsberghe, **BRUEGEL BLUEPRINT SERIES**, Volume IX



Minimizing IP Costs (cont.)

Country/Region	US/Multi Agent	US/Single Agent
US	\$2,500.00	\$5,400.00
UAE	\$5,000.00	\$9,200.00
UAE	\$1,000.00	\$1,000.00
SI	\$1,500.00	\$4,400.00
SI	\$1,000.00	\$1,000.00
PH	\$1,000.00	\$1,000.00
PH	\$1,500.00	\$3,500.00
OA	\$8,000.00	\$13,600.00
OA	\$1,000.00	\$1,000.00
IN	\$1,500.00	\$4,000.00
IN	\$1,000.00	\$1,000.00
EP	\$8,000.00	\$10,100.00
EP	\$1,000.00	\$1,000.00
EA	\$8,000.00	\$13,950.00
EA	\$1,000.00	\$1,000.00
CN	\$5,600.00	\$8,300.00
CN	\$1,000.00	\$1,000.00
CA	\$2,500.00	\$5,400.00
CA	\$1,000.00	\$1,000.00
BR	\$4,000.00	\$8,900.00
BR	\$1,000.00	\$1,000.00
AU	\$1,000.00	\$1,000.00
AU	\$3,000.00	\$6,500.00
AP	\$1,000.00	\$1,000.00
AP	\$4,500.00	\$8,300.00
	\$67,600.00	\$113,550.00



The EP Unitary Patent: A New World Order?



Case Study: SyncDocs

SyncDocs



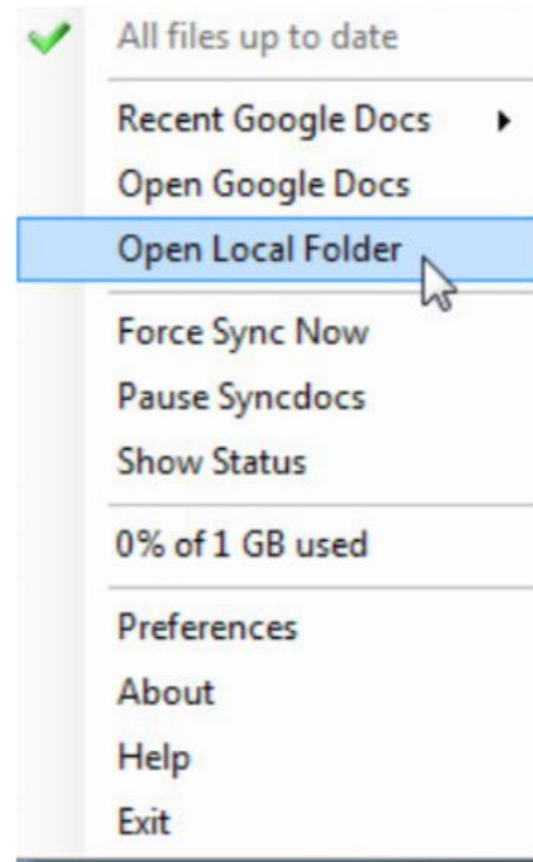
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Results of Search in US Patents Text Collection db for:
AN/syncdocs: 0 patents.

No patents have matched your query

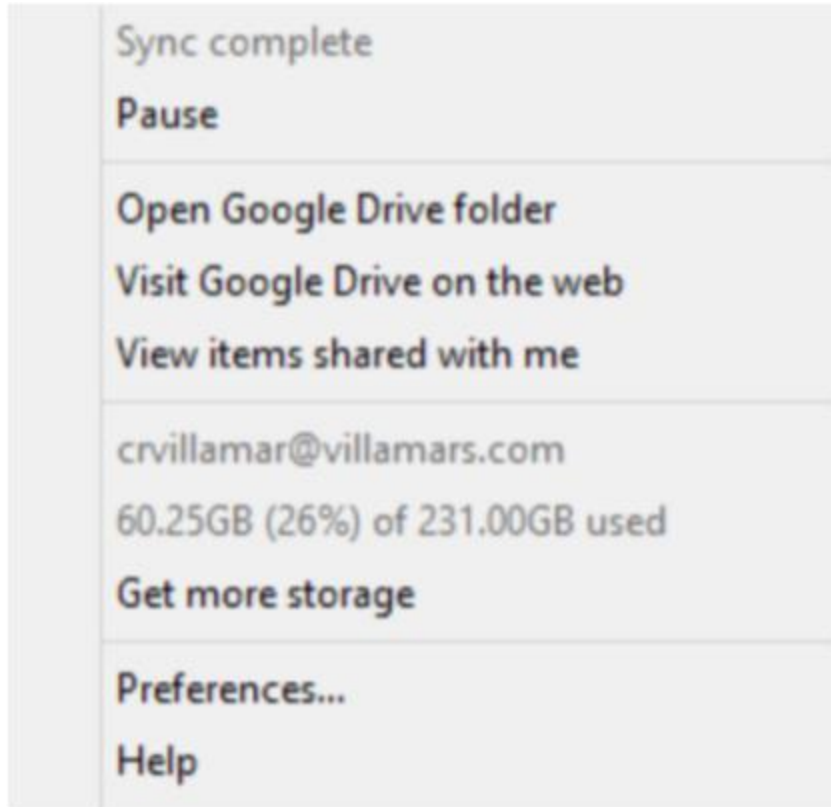
Refine Search

an/syncdocs



Case Study: Google Drive

Google Drive



Case Study: Postini



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Results of Search in US Patent Collection db for:
AN/postini: 6 patents.
Hits 1 through 6 out of 6

Jump To

Refine Search

PAT. NO.	Title
1 7,277,695	E-mail policy compliance techniques
2 7,272,378	E-mail filtering services using Internet protocol routing information
3 7,236,769	Value-added electronic messaging services and transparent implementation thereof using intermediate server
4 7,133,660	E-mail filtering services and e-mail service enrollment techniques
5 6,941,348	Systems and methods for managing the transmission of electronic messages through active message date updating
6 6,650,890	Value-added electronic messaging services and transparent implementation thereof using intermediate server



The US/Worldwide Anti-Patent Movement: A New World Order?



Defend Innovation
a project of the Electronic Frontier Foundation

The patent system is in crisis, and it endangers the future of software development in the United States. Let's create a system that defends innovation, instead of hindering it.

Act Now!
We'll compile signatures and comments into a whitepaper to take to Congress

1 A patent covering software should be shorter, no more than five years from the application date.

2 If the patent is invalid or there's no infringement, the trolls

First * Last *
Email Address *
Job Title:
Comments:





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Attorneys at Law



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The Villamar Firm is a Professional Limited Liability Company (PLLC) law firm based in Virginia with easy access to the [United States Patent and Trademark Office](#). The Villamar Firm specializes in the practice of Intellectual Property Law, including [patents](#), [trademarks](#), [copyrights](#), [trade secrets](#) and [computer and internet law](#).

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Carlos R. Villamar, J.D., M.S.E.E., B.S.E.E.

attorneys



Carlos R. Villamar is a founding partner of **The Villamar Firm**.*

Areas of Practice: Patents, Trademarks, Copyrights, Licensing.

Mr. Villamar is a patent attorney with broad experience assisting clients with foreign and domestic patent application preparation and prosecution, opinion work, litigation, and IP counseling.

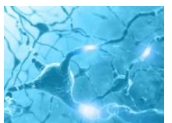
*Mr. Villamar is licensed to practice US state law in Virginia and the District of Columbia.



Mr. Villamar's expertise covers a wide variety of technologies, including wired, wireless, optical, terrestrial broadcast and satellite communications, neural networks, fuzzy logic and artificial intelligence, encryption, digital signal processing, speech recognition and language understanding, sound and image processing, video processing, medical imaging, video games, on-line gaming, gaming engines, physics engines, 3D graphics, virtual worlds, Digital Rights Management, e-commerce, military technologies, radar, sonar, fighter aircraft, missiles, ground guidance, heads-up displays, computers and architectures, computer networks and security, semiconductors, device manufacturing, nanotechnology, oil and gas exploration, renewable energy, electrical, solar, thermal and wind power, automotive technologies, and electromechanical technologies.

Prior to founding **The Villamar Firm**, Carlos gained extensive experience in numerous aspects of intellectual property law as an attorney in large, national general practice and IP boutique law firms and as a patent examiner in the Speech Signal Processing Group of the [U.S. Patent Trademark Office](#).

As an electrical engineer, Mr. Villamar has over nine years of commercial experience, including production design and testing for the [Standard Missile](#) Program at the [General Dynamics Corporation](#) Missile Systems Group (purchased by [Raytheon](#)), high-speed digital logic and computer design for the [Advanced Tactical Fighter](#) Program at the [Hughes Aircraft Company](#) Radar Systems Group (purchased by Raytheon), and IR&D and design of high-speed digital signal processing and communications systems at the Hughes Aircraft Company Advanced Circuits Technology Center (purchased by Raytheon, spun off as TelASIC and then purchased by [MTI](#)).



Education: J.D., The George Washington University Law School (1998); M.S.E.E., California State University, Long Beach, emphasis in Digital Signal Processing & Neural Networks, (1992); and B.S.E.E., California State Polytechnic University, Pomona, emphasis in Digital Signal Processing, (1987).

Admitted: Virginia, the District of Columbia, the United States Supreme Court, the Court of Appeals for the Fourth Circuit, the Court of Appeals for the Federal Circuit, the Virginia Supreme Court, and the District Court for the Eastern District of Virginia. Served on the Board of Directors of the Federal Circuit Bar Association.

Carlos R. Villamar may be reached by email at cvillamar@villamars.com or by telephone at (703) 623-4122.



Barbara Villamar, S.J.D., LL.M.

attorneys

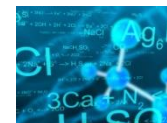


Dr. Barbara Villamar is Of Counsel to **The Villamar Firm**.*

Areas of Practice: International Business Transactions, Corporate, International Trademark Law.**

*Dr. Villamar is only licensed to practice US state law in the District of Columbia.

**Dr. Villamar's practice will be limited to Trademark Law while licensed in the District of Columbia.



Dr. Villamar is licensed to practice law in [Germany](#) and the United States and specializes in international and domestic corporate and business issues and trademark law. She is also available to serve in a liaison capacity between German and U.S. counterparts. Before joining the firm, Dr. Villamar worked on both sides of the Atlantic advising and representing clients in corporate, regulatory and transactional matters. She has broad experience guiding clients through the evaluation, negotiation and closing process of commercial arrangements, specifically pertaining to Internet service providers. She has assisted in the formation and restructuring of corporations and joint ventures, execution of domestic and cross-border transactional agreements, and formulation of internal and external corporate policies.

Dr. Barbara Villamar ist für **The Villamar Firm** als freie Mitarbeiterin tätig.*

Schwerpunkte: Internationales Handels- und Gesellschaftsrecht, Internationales Markenrecht. Dr. Villamar ist in Deutschland und in den Vereinigten Staaten als Rechtsanwältin zugelassen und konzentriert sich in ihrer Tätigkeit auf nationales und internationales Handels - und Gesellschaftsrecht und Markenrecht. Darüberhinaus steht sie als Verbindungsperson zwischen deutschen und US-amerikanischen Partnern zur Verfügung. Dr. Villamar hat sowohl in Deutschland als auch in den USA Mandanten im Unternehmensrecht beraten und vertreten. Sie hat, u.a. im Bereich der Telekommunikation tätige, Klienten während des Evaluierungs - und Verhandlungsprozesses unterstützt, z.B. bei der Gründung und Umstrukturierung von Unternehmen und Joint Ventures, im Zusammenhang mit nationalen und internationalen Handelsverträgen und bei der Formulierung von internen und externen Unternehmenspraktiken.



Education/Ausbildung:

[Johannes-Gutenberg-Universität](#), Mainz (1. State Bar Exam 1989).

[Landgericht Frankfurt am Main](#) (2. State Bar Exam 1992).

[The George Washington University Law School](#) (LL.M. 1994).

[The George Washington University Law School](#) (S.J.D. 2005).

Bar Admissions/Zulassungen:

[Landgericht Frankfurt am Main, Germany](#) (1992) (presently dormant)

*[District of Columbia Court of Appeals, Washington, D.C.](#) (2002).

Dr. Barbara Villamar may be reached by email at bevillamar@villamars.com or by telephone at (703) 973-9566.

