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Opportunities for Technology Startups in the Patent System

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Keys to creating opportunities for technology-based start ups

■ Patents

- Only effective way to create barrier to entry for technology-based companies
 - Reverse engineering
- Need to protect the investment
- An enforceable right to prevent copying by competitors

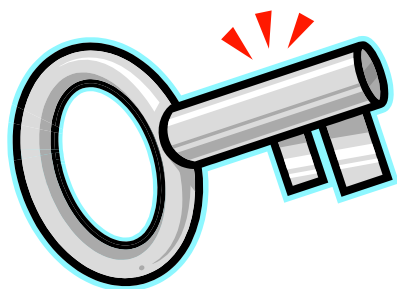
■ Government support

- Incentivize innovation

■ Funding

Role of the Government

- Strong patent system



- Government assistance
 - Proactive
 - Laissez-faire

Both are needed for start-ups to succeed!

What can government do to help?

- Tax incentives to promote innovation
- Government grants
 - Small businesses
 - NIH
 - NFS
- Incubators



- University tech transfer offices
- Small-entity fees
- Orphan drug programs
- Crowdfunding

What hurts?



- Cronyism
- Social policies outweighing economic concerns
 - Taxes
 - Regulations
 - Nationalization programs
- Allocations not rewarding marketplace forces

"The best view of government is seen on a rear view mirror as one is driving away from it."



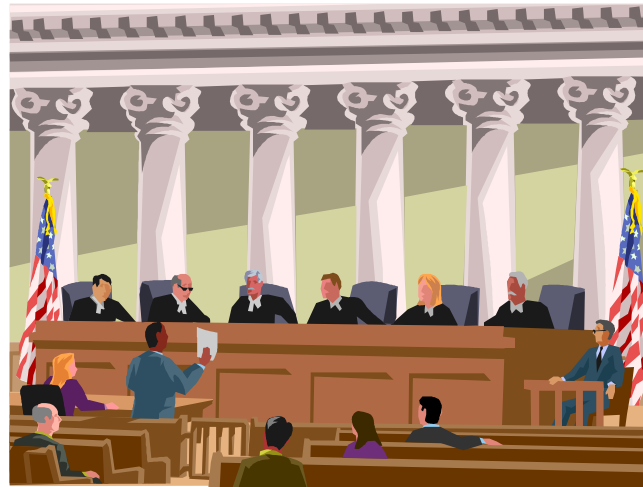
Ira Schwarz, AP

"Look, if you've been successful, you didn't get there on your own...If you've got a business, you didn't build that. Somebody else made that happen."



Role of the Judiciary

- Judges needs to:
 - Properly construe claims
 - Assess appropriate damages when infringement occurs
- Not an easy task!

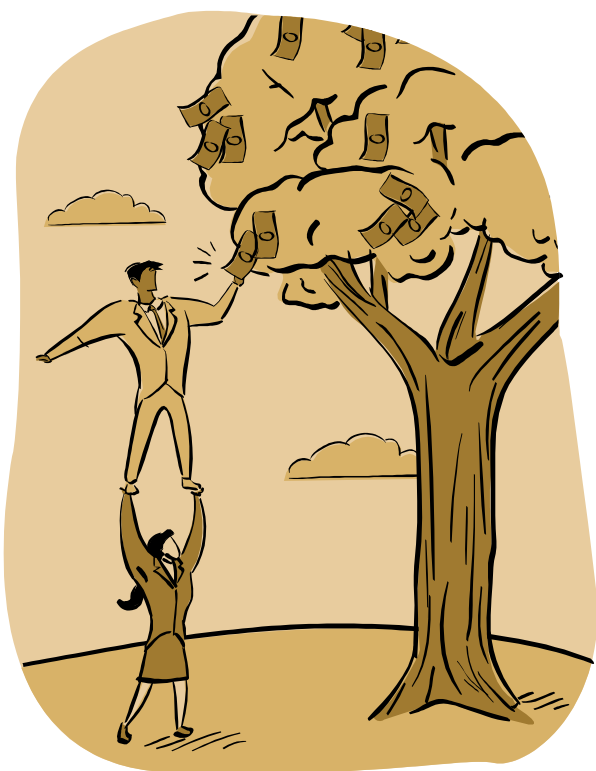


Money: What sources are available?

- Funding always needed
- Sources
 - Government grants
 - Personal/Friends and Family
 - Seed funding
 - Venture Capital
 - Private equity funds



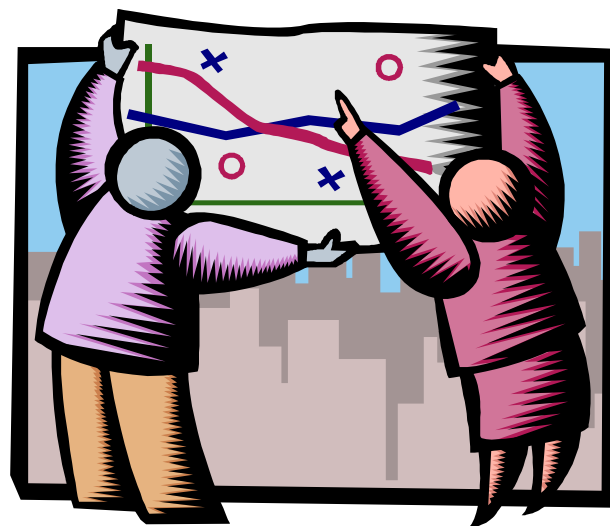
How do technology-based start ups secure private funds?



- Most important factors:
 1. People
 2. Patents
- Patent portfolio must survive due diligence

Strategic patenting

- Foundational patents
 - Comprehensive IP blended with trade secrets
- Portfolio of patents around key business ideas
- Planned Innovation: proactively procure patents that align with business strategies

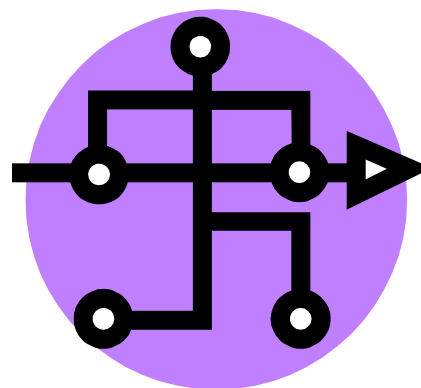


How to effectively patent

- Strong patents that cover the invention
 - Need fall-back positions
 - Various breadths of claims
 - Broad, medium breadth, and picture claims
 - Biotech vs. other technologies: importance of species claims
- Deviations from the invention
 - Avoid design arounds

Competitive Intelligence

- Analyze competitors' products and patents
- Offensive patents
 - Licensing
 - Cross-licensing
 - Force design around
- New procedures in the U.S.



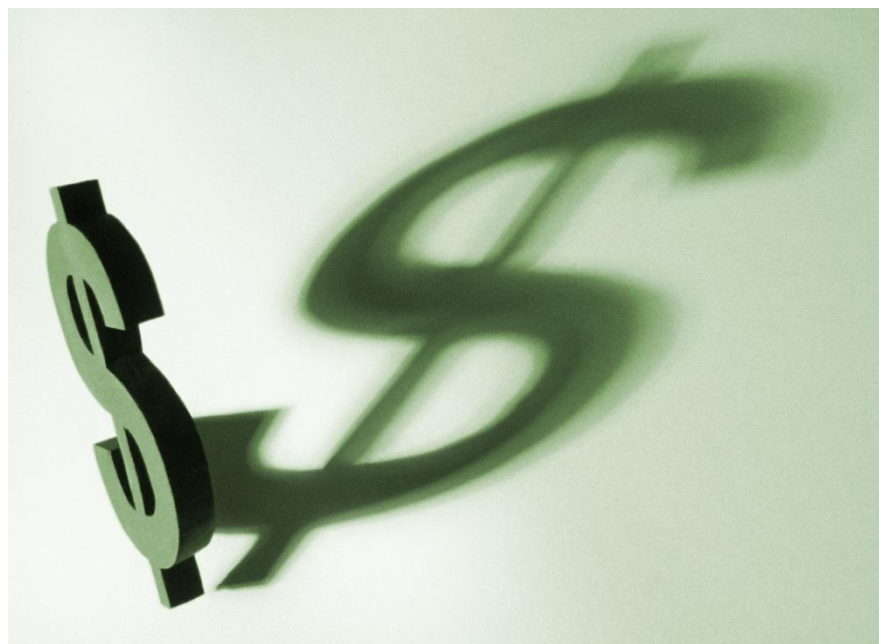
Filing strategies

- Where to patent
- Domestic vs. International
- Key countries: U.S., Europe
- Where would a large business partner want coverage?



Where does the U.S. stand?

- In the U.S., investors are scared
- Millions of dollars waiting to be invested
- U.S. companies very willing to invest overseas



Where are U.S. companies investing?



Thank You



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