

ACHIEVING COMPETITIVE
ADVANTAGE
BY
PATENTING YOUR INVENTIONS

Pat Bhatt

About Me

- Currently Founder and CEO of SkyAccountant™
- Background in Engineering and Business
- Specialize in:
 - Product Innovation
 - Evaluating and identifying patentable technologies
 - Designing and implementing patent programs
- 15 patents/pending
- Dad, Musician, Marathoner

Executive Summary

- Organizations depend on product managers to create a “Differential Advantage” for sustaining growth
 - Innovation is the most direct means to an advantage
- Protecting innovation is overlooked by many organizations:
 - Gap in actual vs. assessed value of innovation
 - Lack of IP know-how and expertise
- Organizations expose themselves to theft (by competitors) and litigation

1. What you need to know about IP and Patents
2. What are the key decisions you need to make
3. What can you take back to your organization

Types of Protection for Intellectual Property



Copyright



Trademark



Patent

What is a Patent?



Exclusive Right

to benefit from

An Invention

for

A Limited Term

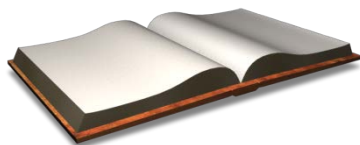
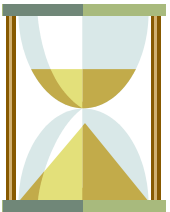
in return for

granted by

A Sovereign Nation



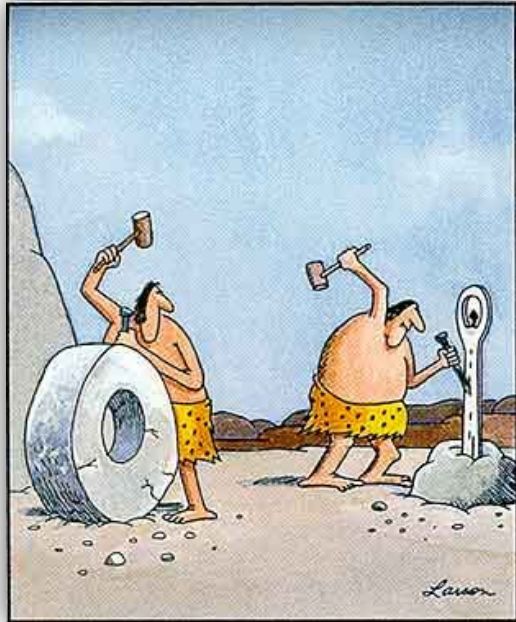
to an inventor or assignee



Full Disclosure

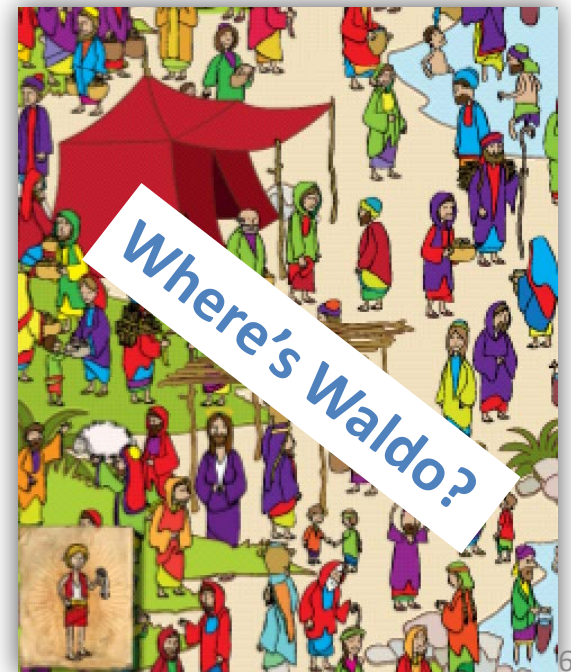
about the invention and its implementation

What is an Invention?



New to the world
(not in “Public Domain”)

Not “obvious”



Some Examples

- Light bulb
- Gramophone
- Telephone
- New Font
- High-yield Corn
- Cholesterol reducing compound
- Internal Combustion Engine

- One-click purchase
- Matrimonial matching
- Sales reporting
- Bank reconciliation
- Optimization



Shock-absorber that prevents glass breakage in iPhone



Location-based search using mobile GPS

Types of Patents



Utility

- Useful process, machine, method, or composition of matter.
- **New uses for previous inventions (in public domain)**



Design

- Ornamental design for a manufactured item
- Functionality not covered by patent



Plant

- Discovery or invention of a new plant (mutants, hybrids, seedlings)
- Asexually reproduced (graft, cutting, or other; not from seed or tuber)

Pop Quiz

Patentable? Utility, Design, or Plant?

Airplane

Chewing gum

Peach

Statue of Liberty

Strategy for tax reduction

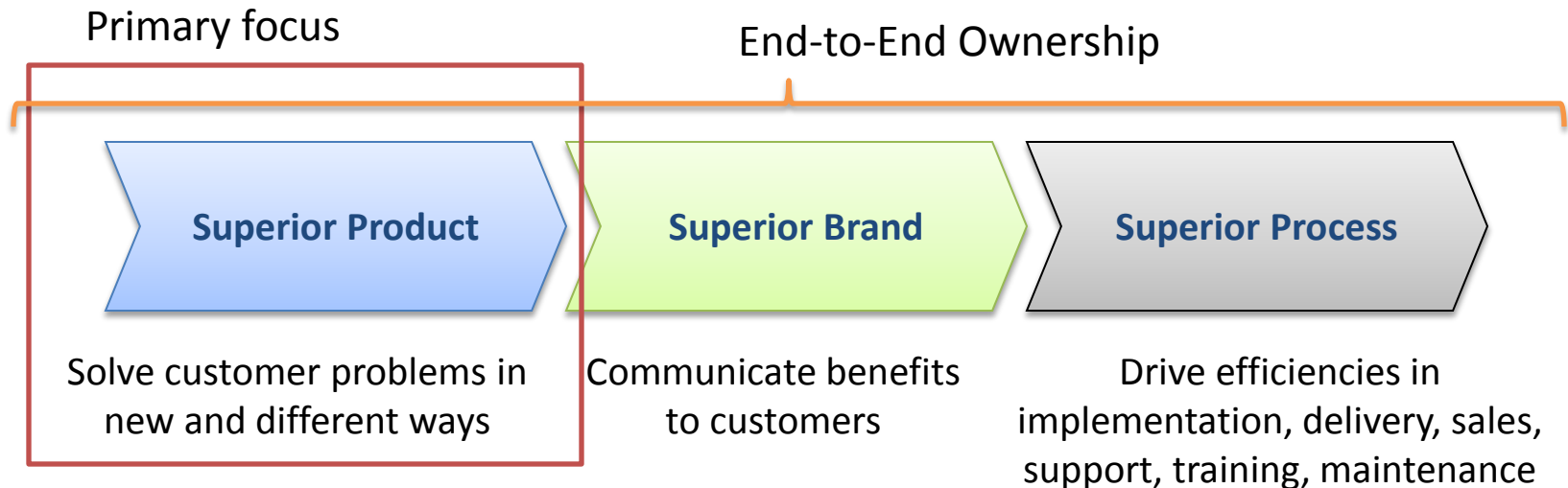
Fix round-off errors in financial statements

A molecule that can reduce inflammation

OCR check images into accounting software

Role of Product Manager

Product Manager's Role in creating "Differential Advantage"



The Product Manager Must Facilitate Innovation in All Functional Areas

Innovation and Returns

Source of Functionality

Obvious

Public Domain

- Open source, academia, expired patents, “me too” solutions, consulting

Innovative and truly new to the world

“Prior Art” not in public domain but owned by another party

Return on Investment

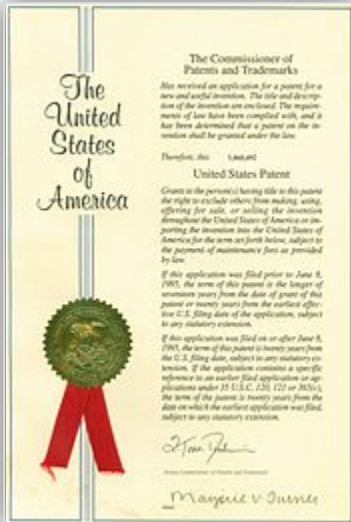
None, or negative return

Possible short-term returns

Potential for long-term returns but competitors sure to move in (or worse – claim your innovation as theirs)

Potential lawsuit

Patent or Trade-Secret?



Disclose and file for a patent?

OR

Maintain as trade secret?



Patent vs. Trade-Secret: Considerations



- Is protection needed for 20 years?
 - Will technology last? Will business last?
 - *Which industries does this apply to?*



- Will brand-strength carry the product?
 - Microsoft, Intuit, Twitter, Facebook did not file patents
 - *When will brand-strength alone not help?*



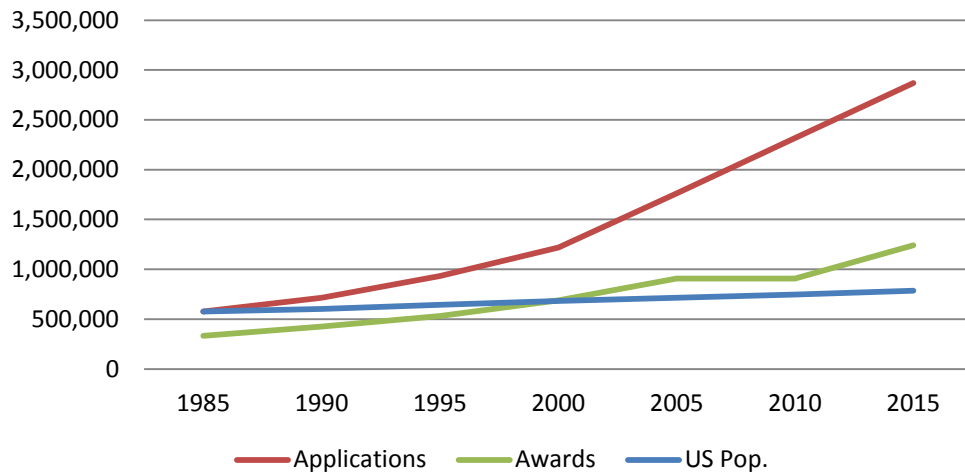
- Can competitors reverse-engineer product?
 - *What type of products cannot be reverse-engineered?*



- Are there other benefits?
 - *R&D Tax Credits, Intangible Asset Value*
 - *Risk mitigation*

Patent Trends

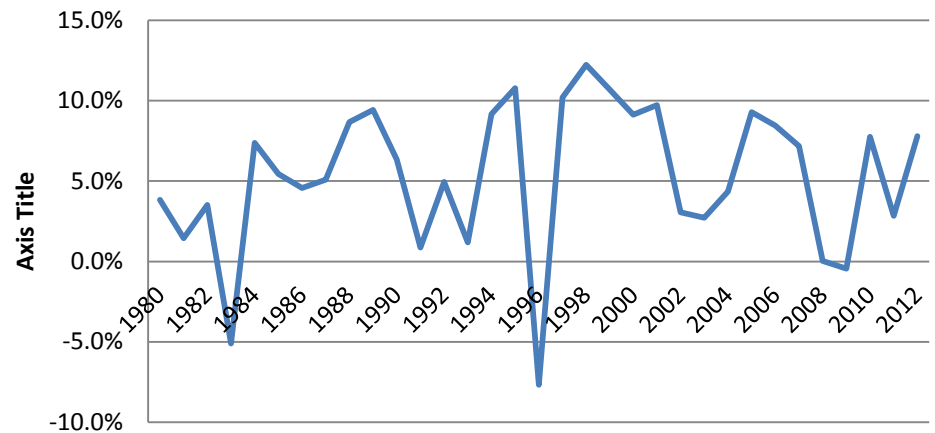
Applications Vs. Awards



1. Continued rapid increase in applications and awards
2. No five-year period of static or negative growth
3. Innovation far exceeds US population growth
4. Rest of dev world: 10%
5. Developing countries: 1%

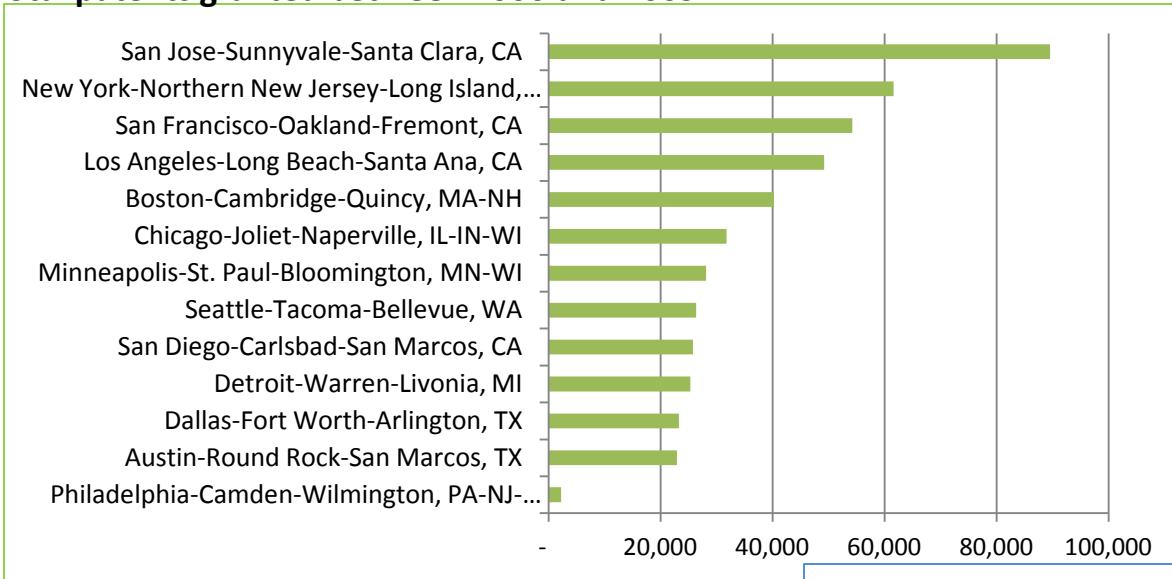
1. Mostly positive YOY trends
2. Drops correspond to recessions
3. CAGR at 5%
4. Applies to all industries

Change from Previous Year



Demographics

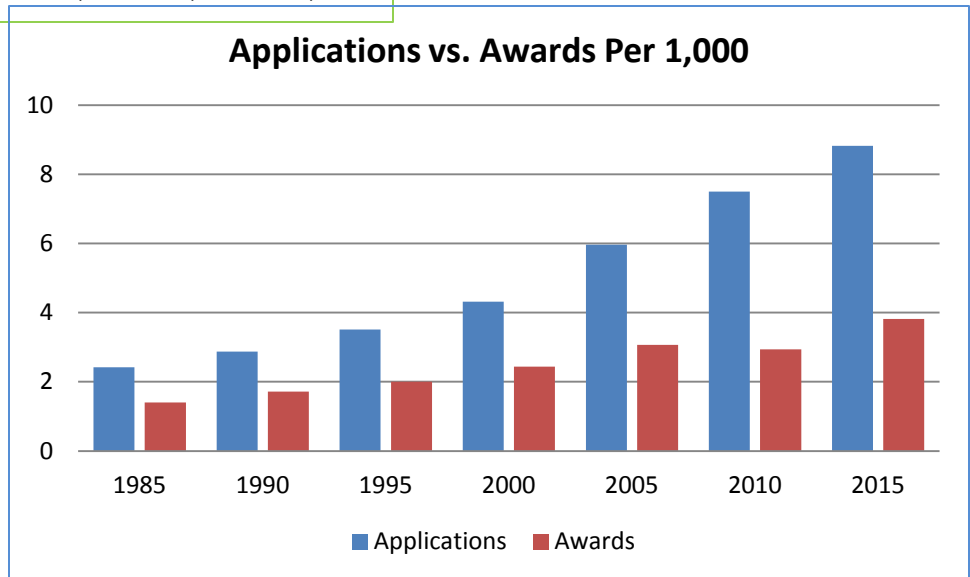
Total patents granted between 2000 and 2009



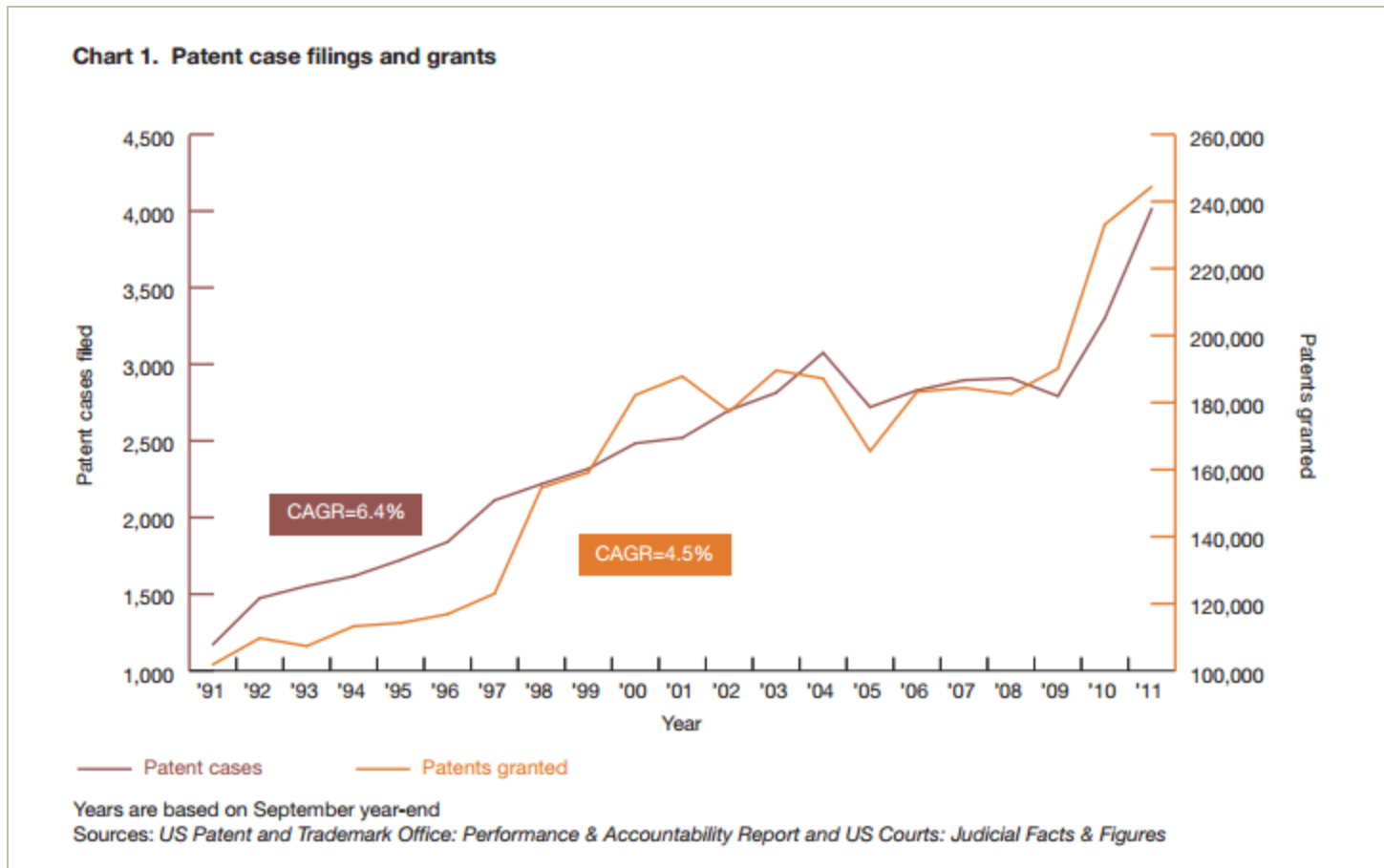
Silicon Valley has led innovation for 10+ years in

Patents per 1,000 people continues to grow

Applications vs. Awards Per 1,000



Risks of Not Patenting



Patent Litigation is on the Rise

Litigation Benchmarks

Chart 3b. Bench vs. jury trials: success rates

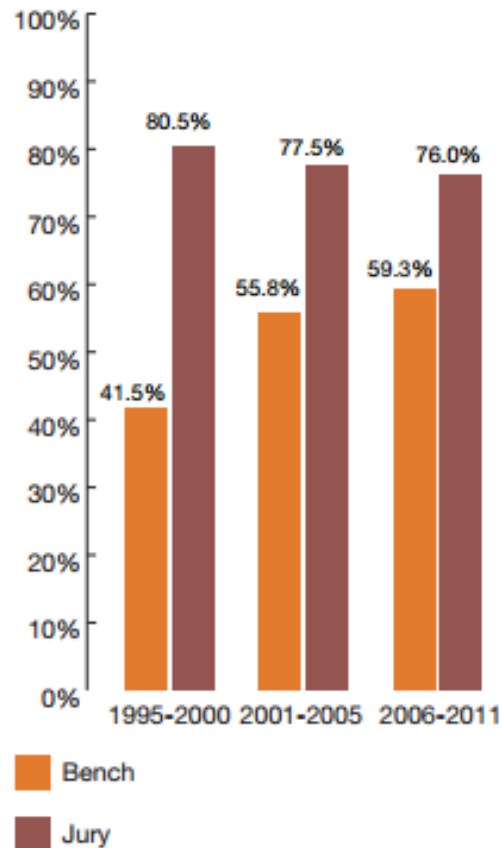
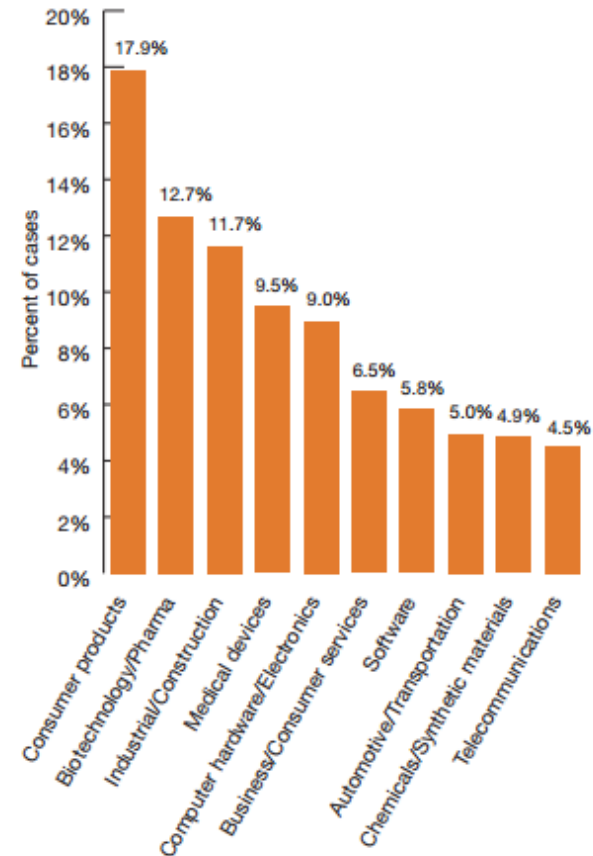


Chart 6a. Distribution of cases: top ten industries, 1995-2011



Chance of losing in litigation remains high. Average award = \$8M

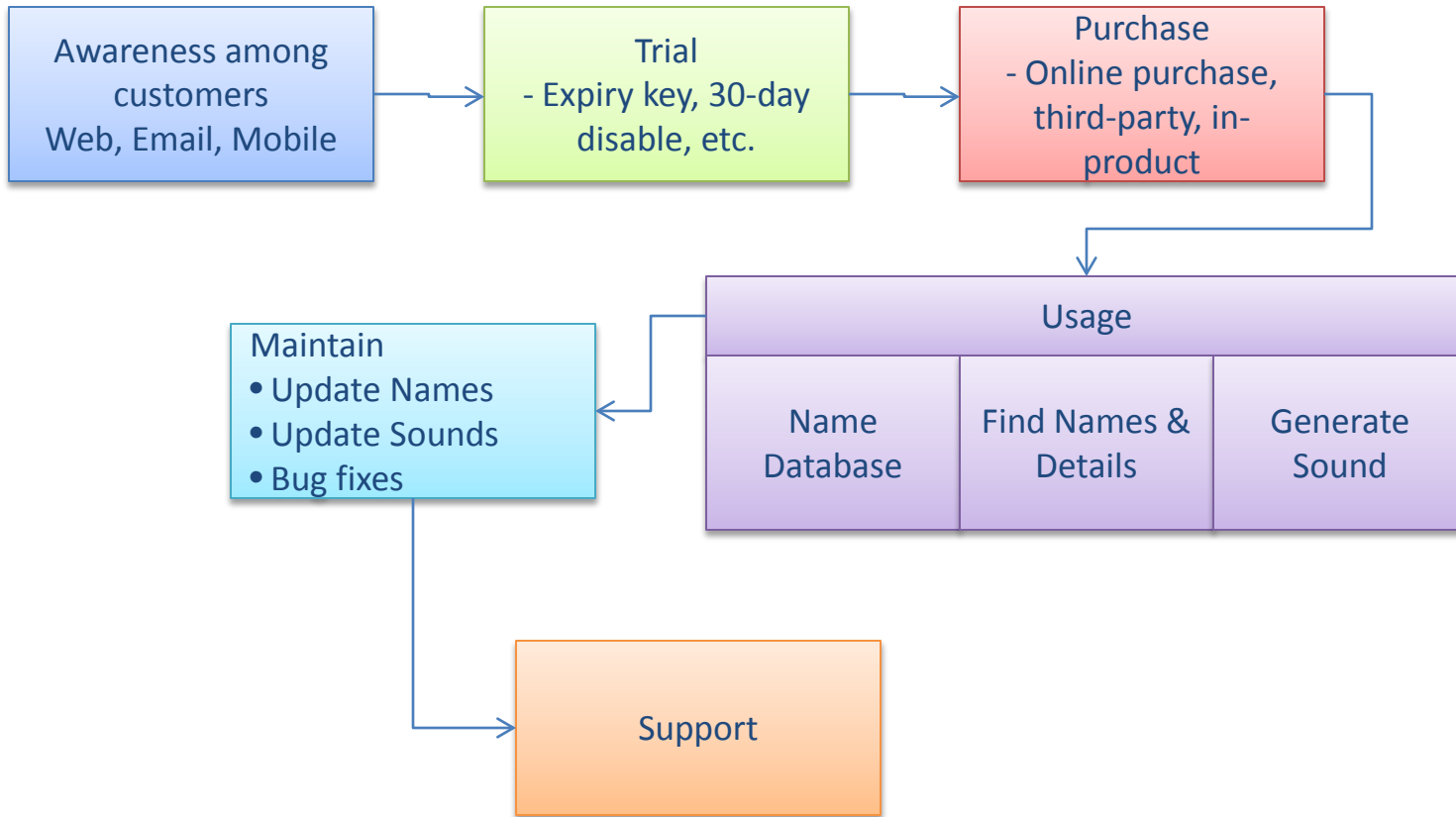
Largest Awards/Settlements

Year	Plaintiff	Defendant	Technology	Award (in MM)
2009	Centocor Ortho Biotech Inc.	Abbott Laboratories	Arthritis drugs	\$1,848
2007	Lucent Technologies Inc.	Microsoft Corp.	MP3 technology	\$1,538
2010	Mirror Worlds LLC	Apple Inc.	Operating system	\$626
2011	Bruce N. Saffran M.D.	Johnson & Johnson	Drug-eluting stents	\$593
2003	Eolas Technologies Inc.	Microsoft Corp.	Internet browser	\$521
2008	Bruce N. Saffran M.D.	Boston Scientific Corp.	Drug-eluting stents	\$432
2009	Uniloc USA Inc.	Microsoft Corp.	Software activation technology	\$388
2008	Lucent Technologies Inc.	Microsoft Corp.	Data entry technology	\$368
2006	Rambus Inc.	Hynix Semiconductor Inc.	Memory chips	\$307
2009	i4i Limited Partnership	Microsoft Corp.	Electronic document manipulation technology	\$277

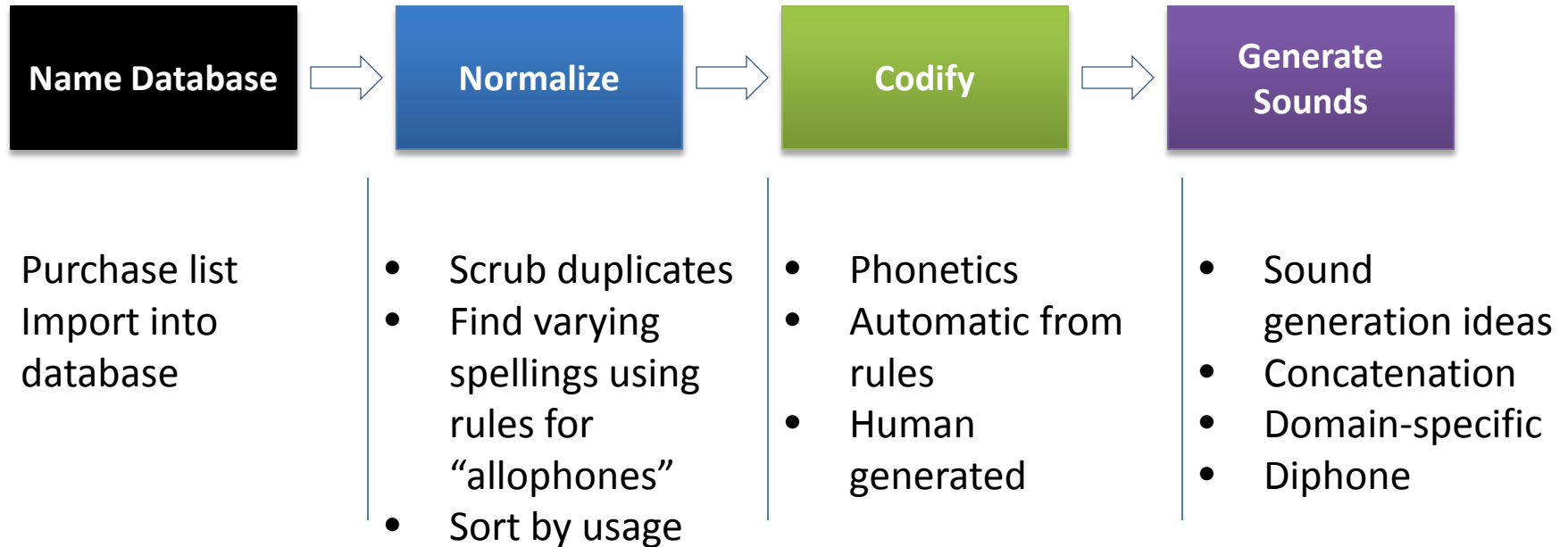
Case Study: Namestasia™

- Problem: Text to speech unable to accurately recognize or speak international names
- Solution: Engine to recognize or generate sounds for names

Start with E2E Flow



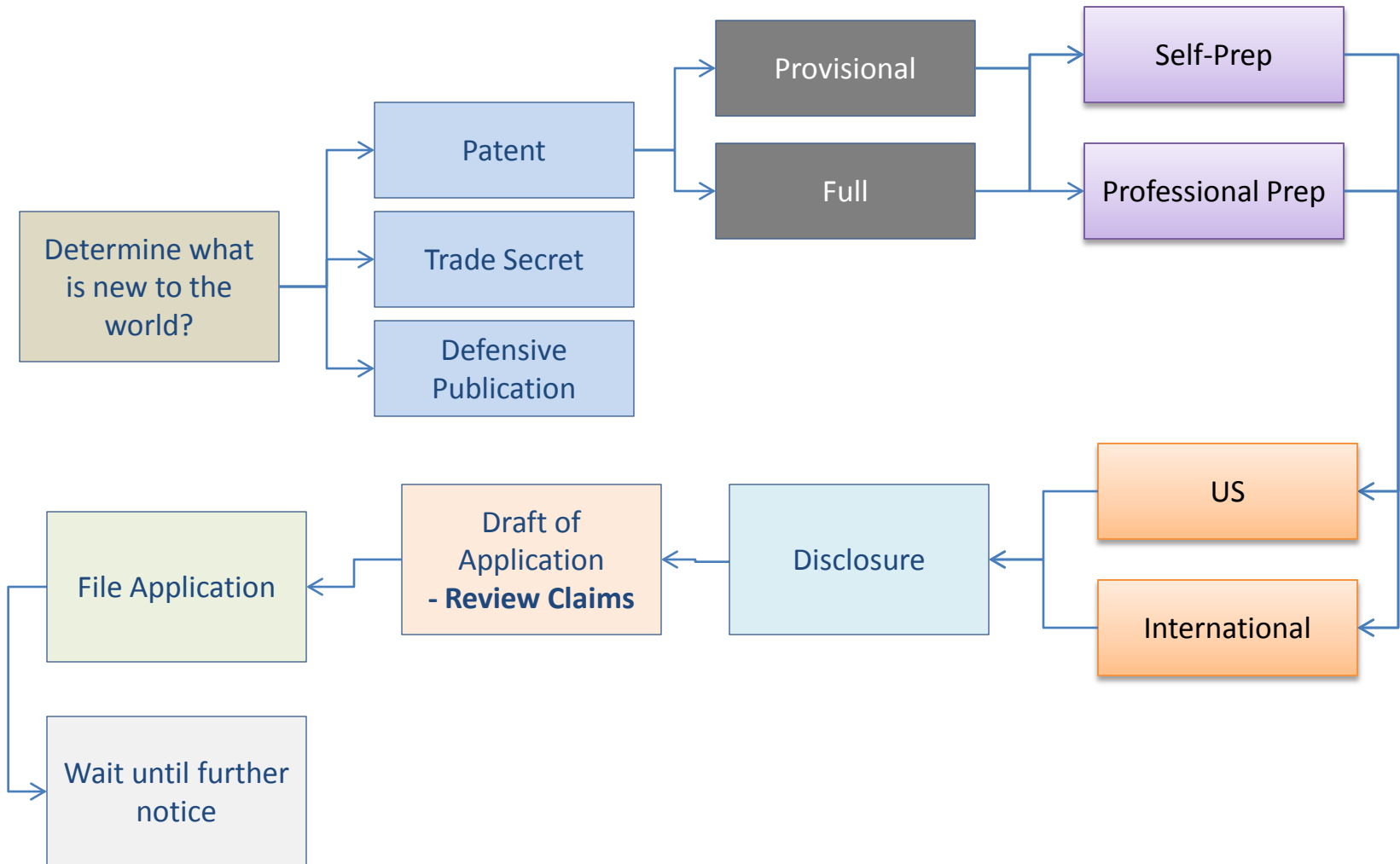
Sample Product Implementation



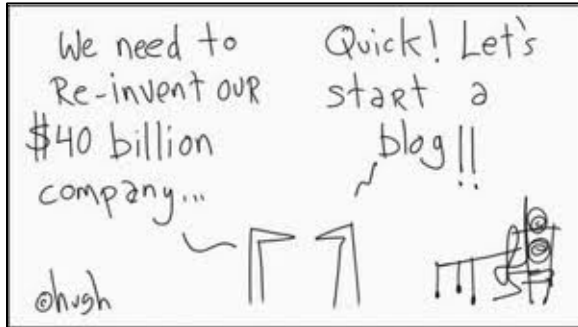
Exercise:

1. What is new to the world?
2. What is non-obvious?

Filing the Patent



Product Managers as Change Agents



1. Create a culture of innovation

- Find a “senior exec” sponsor who is passionate about the benefits of establishing a patent portfolio
- Create buzz and excitement among employees and get their buy-in; give reasons to patent
- Offer incentive, however small
- Make sure every product release goes through a review for inventions

2. Establish an innovation pipeline within your organization

- Encourage employees (inventors) to submit patentable ideas
- Qualified team-members may review to determine if idea is new to the world and non-obvious
- Recruit attorneys to help inventors submit application to USPTO

3. Recognize and celebrate success

- Every inventor gets credit irrespective of accept/reject by reviewers
- Review successes and continually improve innovation processes



What Did We Learn?

- IP and patent terminology, examples
- Implementing a patent strategy offers significant advantage
 - Not filing for patents poses serious risks
- Patent applications and grants are on the rise
 - So is litigation
- Organizational culture is key to innovation
- Product Managers hold pivotal role in delivering innovation and advantage

Q&A