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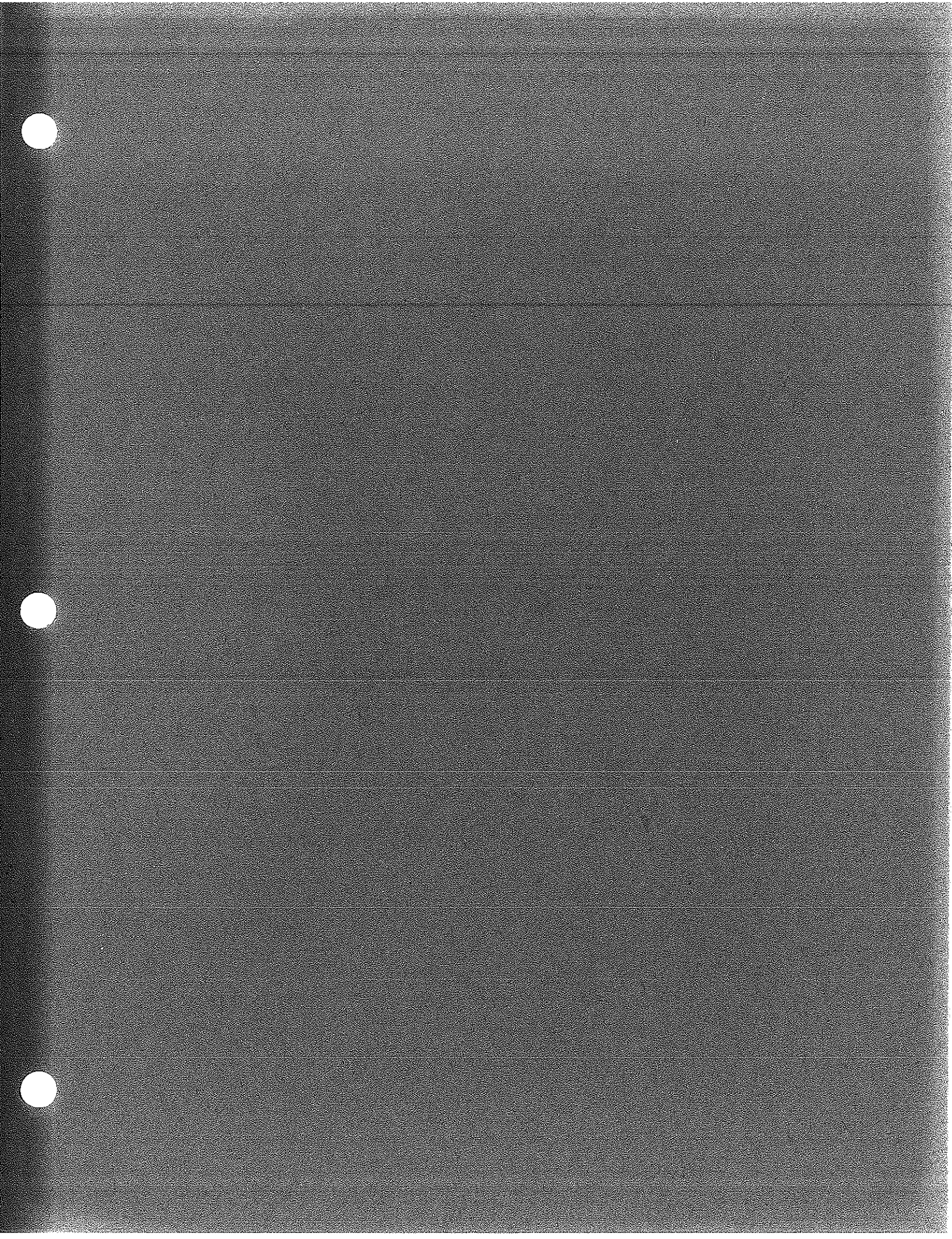
Davis Klaila has over 15 years experience as a consultant and an executive bringing together people and ideas to produce results. Davis developed a unique set of tools to measure and manage intangible assets. He has worked directly with life science research groups to resolve various intellectual property (IP) issues and has completed strategic IP work for pharmacological, consumer product, healthcare providers and medical device firms. As an executive with consulting firms like Celemi, Mercer, and Wyatt he implemented intangible asset programs significantly improving performance for these organizations. Davis has over 50 publications on the subject of intangible asset management.

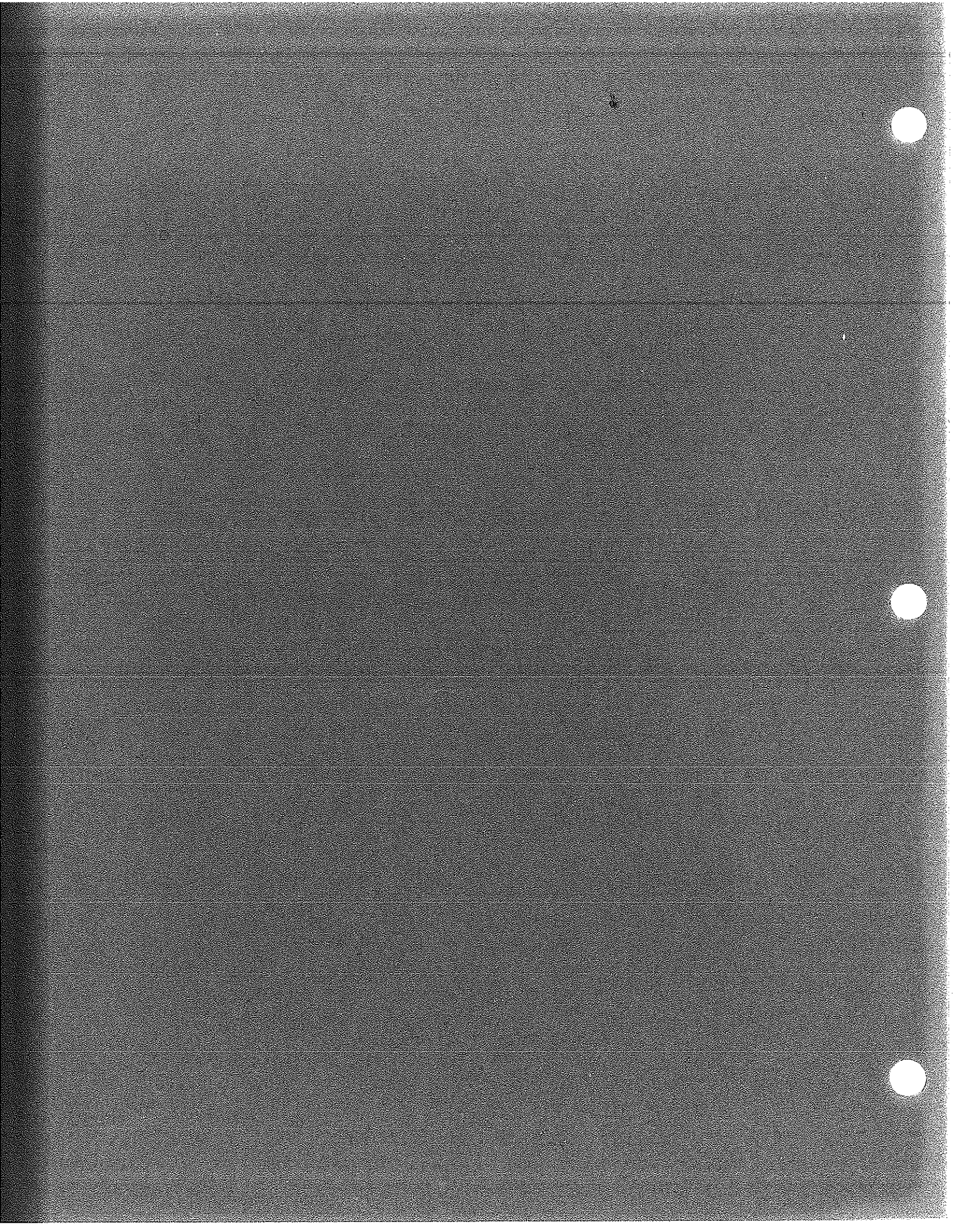
Davis holds an MA in Psychology and Bio-Sciences from Hamline University; and a Master of Arts from Claremont Graduate School. Davis is completing his Doctorate degree, is a licensed Psychologist and a member of the American Psychological Association.

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Case Studies

Linking Strategy and IP

Management

Primary Strategic Goals

● Sustained Uniqueness

- Differentiate or die

● Value Creation

- Customers

- Shareholders

- Stakeholders

**A strategy defines what is important and screens out “unwise” actions.
A strategy may be offensive or defensive.**

Offensive Strategy Types (Examples)

● Opportunity Strategy:

- Based on knowledge of the market, your capability, and the competition.

● Innovation Strategy:

- Moving ideas to the market.

● Invention Strategy:

- Solving novel or difficult problems or using novel resources (elements) or both

● Neutralizing Strategy:

- Eliminating the competitive threat (e.g. zero cross license)

Defensive Strategy Types

(Examples)

● **Containment Strategy:**

- Lock in customers and suppliers

● **Absorption Strategy:**

- Bring competitive threat inside

● **Avoidance Strategy:**

- Create the freedom to operate (e.g., avoid infringement)

● **Shaping Strategy:**

- Co-opt competitor (e.g., invent around)

Case 1: IBM

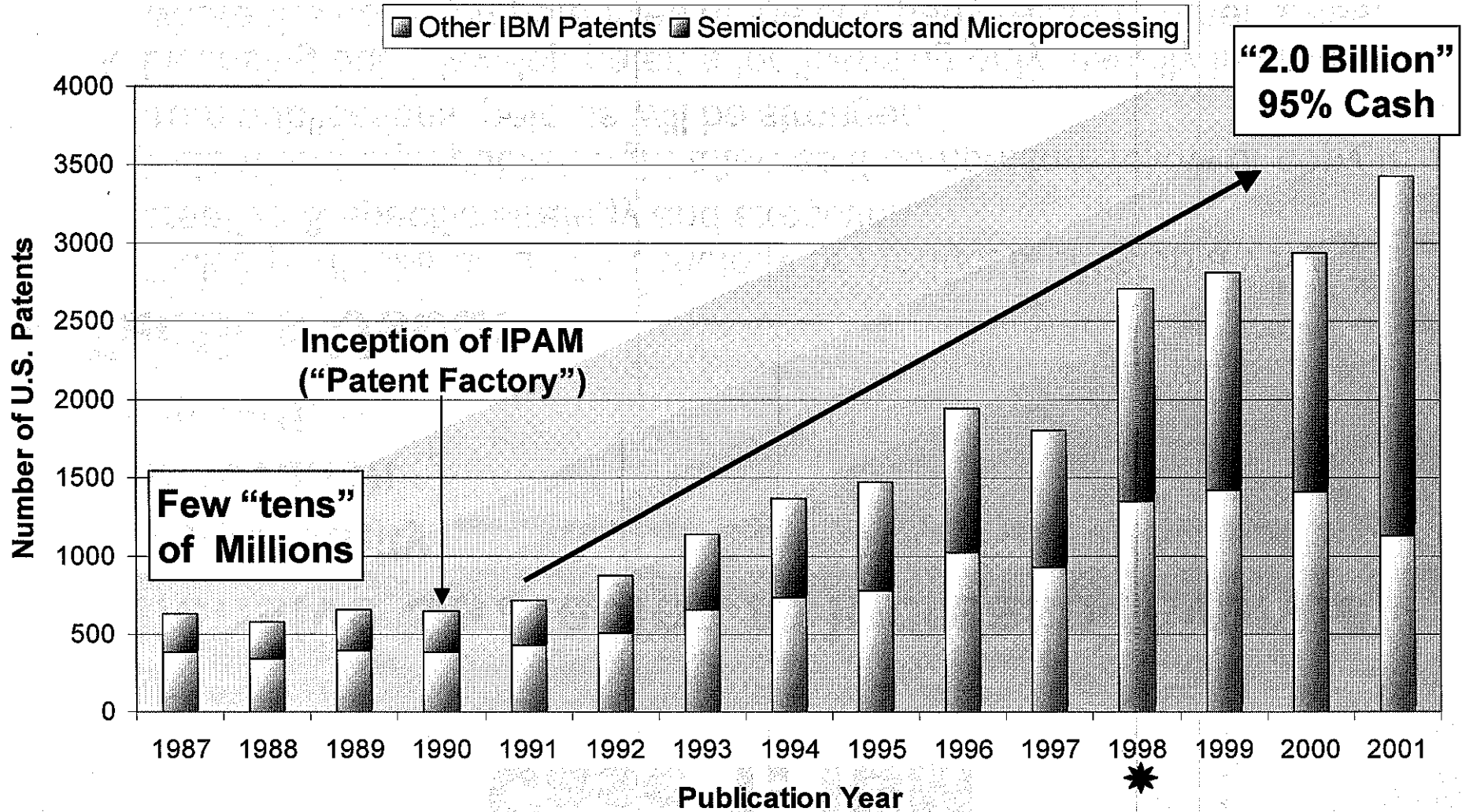
● Offensive Strategies to Increase revenue:

- Opportunity
- Innovation
- Invention

● Tactics Used:

- Pick a particular area of technology or product & develop a very creative & specific strategy and execution.
- Patent and then publish right after, so if competitors follow or copy IP from publications, patents will be stronger.
- Licensing out - develop patents for licensing only, usually in areas where the core competencies of the company relate to other areas.
- Licensing out - actively license patents that exist in the portfolio and do match business objectives.
- Licensing out - license out to non-competitors for use in other fields.

Outcome: IBM Patent Factory



Case 2: Procter and Gamble

● Offensive Strategies to Build Brand and Gain a Competitive Advantage:

- Opportunity

- Invention

● Tactics Used:

- Pick a particular area of manufacturing, technology or product & develop a very creative & specific strategy and execution.

- Licensing out - license out to competitors and non-competitors for use in other fields.

- Licensing in - actively find others patents that are needed to speed building portfolio.

Procter and Gamble Decision Factors

- 90% of P&G's 27,000 patents were not commercialized
- Increasing cost of technology
 - 3-5 years for development
 - 10 million dollars
 - 10 year payback
 - 20 years of patent protection to build a global brand
- Shorter product life cycles created a need to acquire technology
- Growing opportunity to reapply technology

P&G's External Business Development and Global Licensing Organization (EBD&GL)

P&G/EBD&GL

Examples and Outcomes

- 300 oz self dispensing bottle was under performing as it sat next to competitors' 200 oz bottles. Licensed 300 oz technology to competitors. Levelled the playing field and generated additional revenue.
- Developed Nodex (biodegradable plastic) for diapers – out-licensed to non-competitive areas (trash bags, bottles, plates)
- Licensees build brand equity (Pamper brand licensed to clothier)
- Underutilized brands are out-licensed (Old spice fragrance to Universal Group for shaving cream)
- Technology donation (water softening) to Universities to further research and development

Case 3: Gaming

Defensive Strategy

Customer Containment

Tactics Used:

- Create IP in vendor related spaces to get cross-license strength
- Patent Mapping of an area to understand IP related issues
- Obtain marketing and competitive analysis data
- Patent higher up on the value/user experience chain

Gaming

Decision Factors

- **High growth and profit**
- **Slowdown in machine sales as focus was on replacement sales**
- **Patents were focused on mechanical elements**
 - **Longevity**
 - **Reliability**
 - **Lower maintenance**
- **Greater value placed on player attention & novel solutions (games)**

Gaming

Examples and Outcomes

- Moved up the “game” value chain with a focus on the experience.
 - 1975: 100% of the patents were mechanically-oriented
 - 2000: 80% of patents were consumer oriented
- Patents now focus on meeting customer need
 - Team play
 - Bonuses for particular types of play
- Emerging IP looks addresses why:
 - Players pick one machine over another and one casino over another
 - They voluntarily end one a gambling session
 - Aspects of the experience are frustrating

Case 4: Heinz

Defensive Strategy:

- Containment

- Shaping

Tactics Used:

- Use volumes of patents to have stronger stories
- Keep trade secret key technologies by patent sub pieces to ensure if trade secret is discovered that some protection exists.
- Create IP of competitor's customer use to stop customers from using competitor's products.

Heinz

Decision Factors

- Core products had become a commodity and additional cost savings opportunities were limited
- Real value was in the Brand and its ability to simplify customer decision making
- Existing patents covered recipes and were easy to invent around
- Needed to explore other ways to increase revenue and co-opt competitors

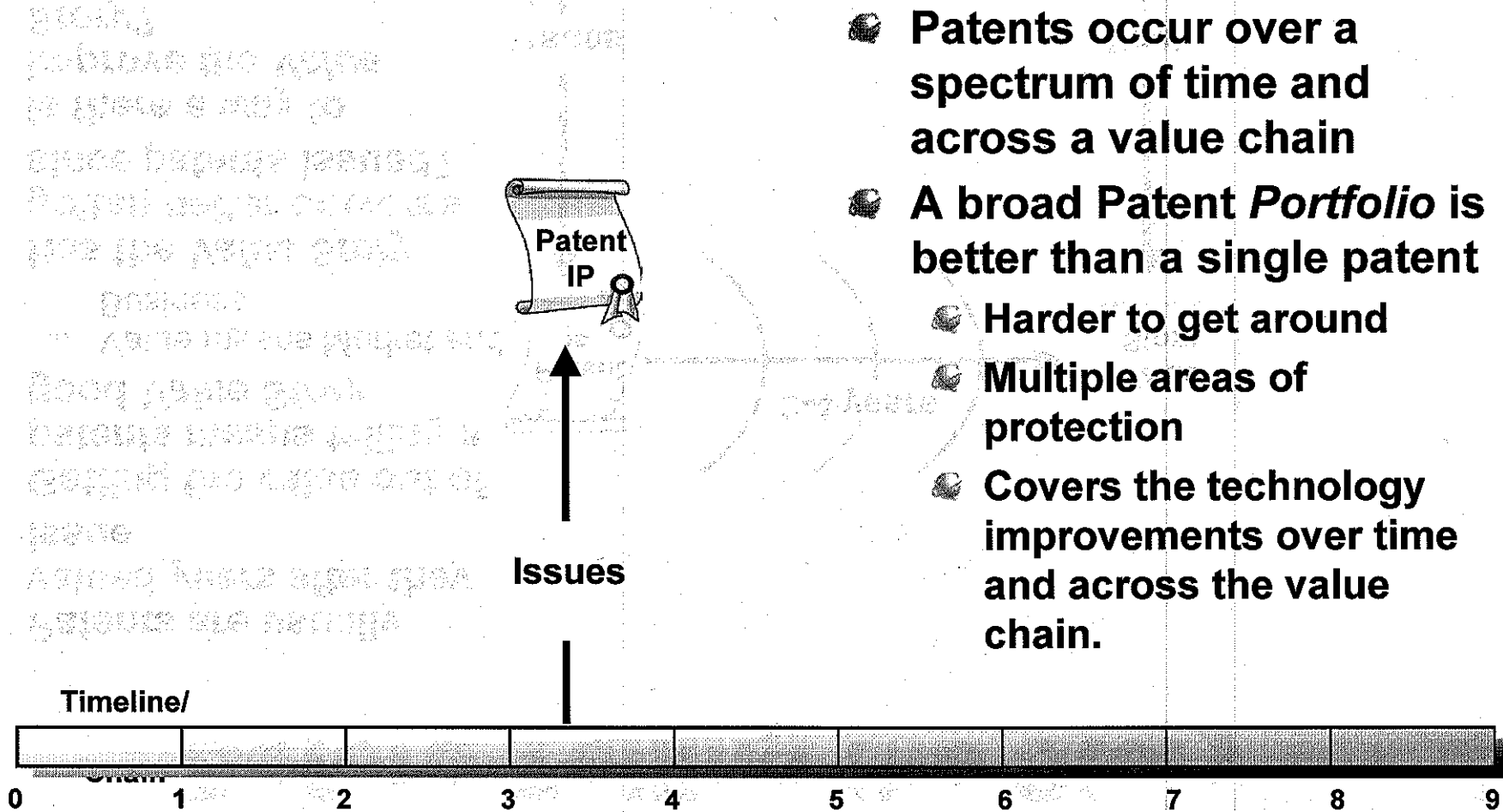
Heinz

Examples and Outcomes

- **Patented the production process**
 - Developed unique methods
- **Created an industry standard**
- **Established a high cost entry barrier shutting out many competitors**
- **Replaced a product commodity with a unique method**
- **Today there are only 2 ketchup firms and Heinz has the premier brand and market position**

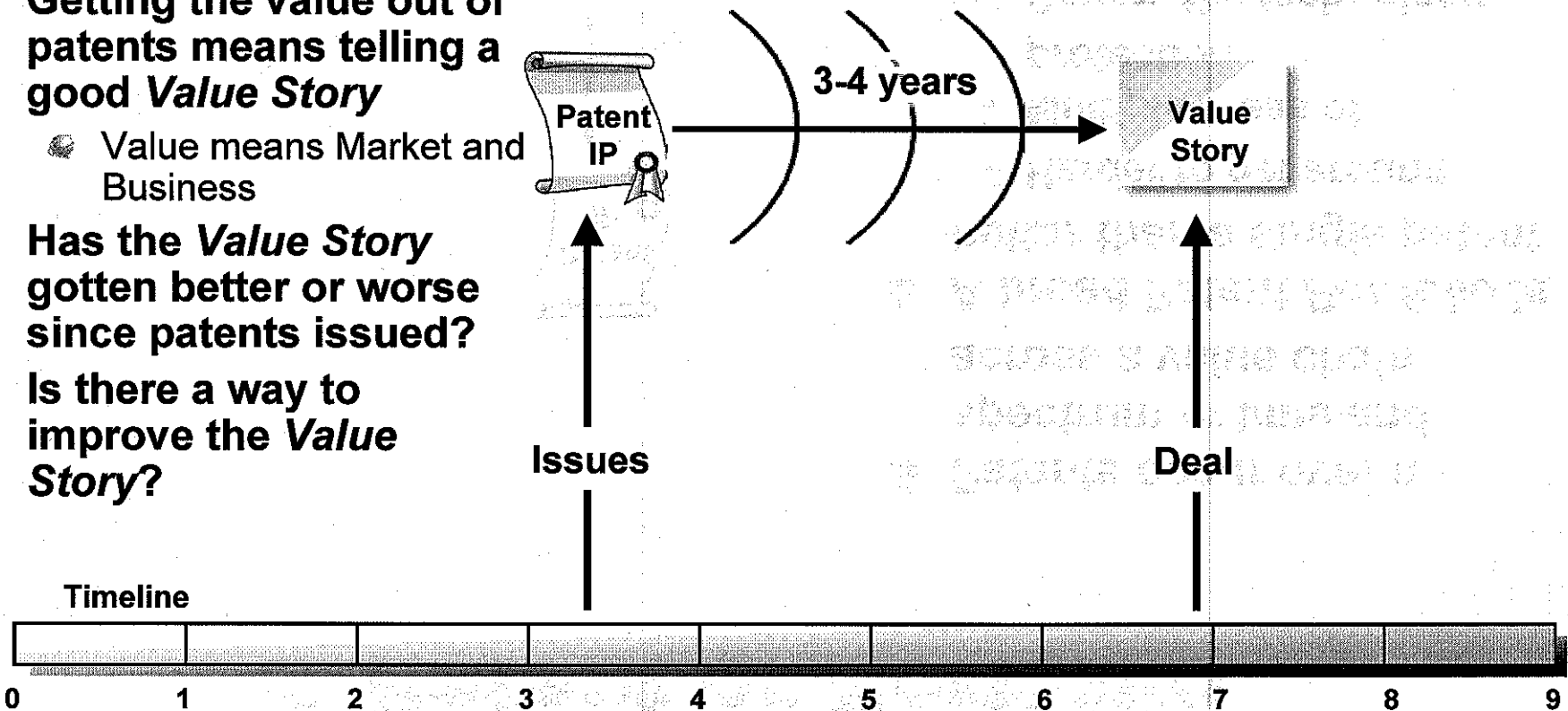
Building a Licensing Portfolio

A Patent or Portfolio



Finding Value Before Telling the Story

- Patents are usually valued years after they issue
- Getting the value out of patents means telling a good *Value Story*
 - Value means Market and Business
- Has the *Value Story* gotten better or worse since patents issued?
- Is there a way to improve the *Value Story*?

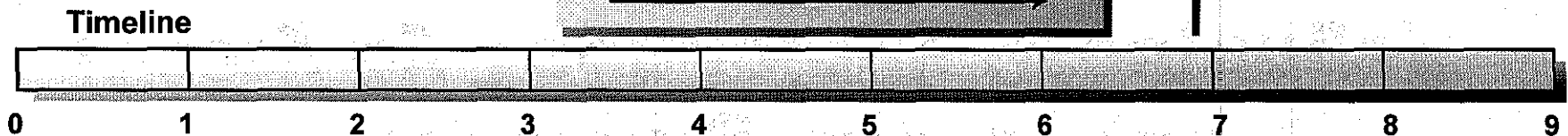
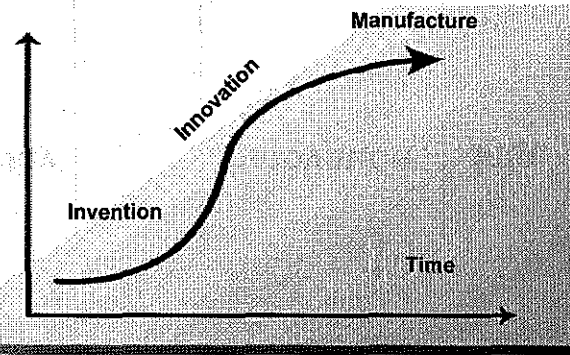
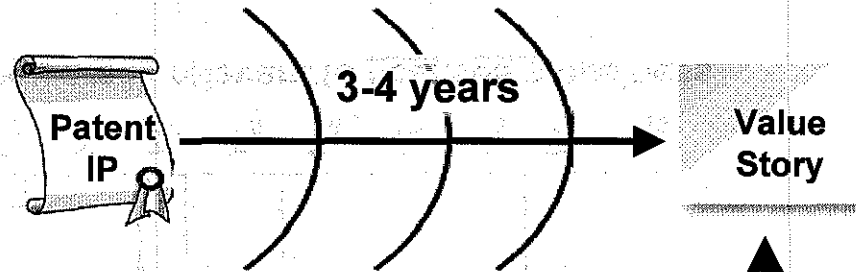


Value Increases Over Time

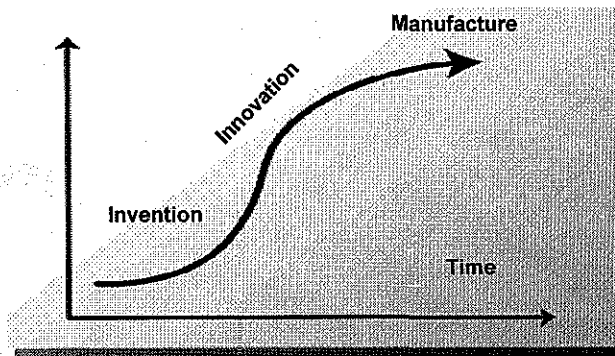
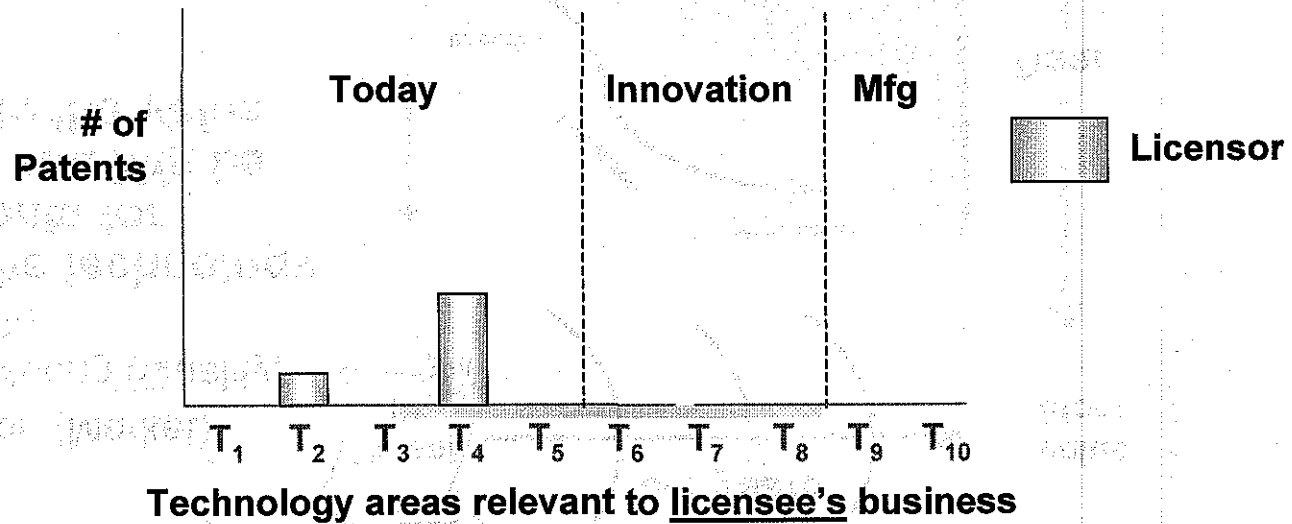
- At the time of the deal the early inventions have “possibly” matured with more application (market) inventions

- Innovation (Market)
- Manufacturing (Quality, Cost, etc.)

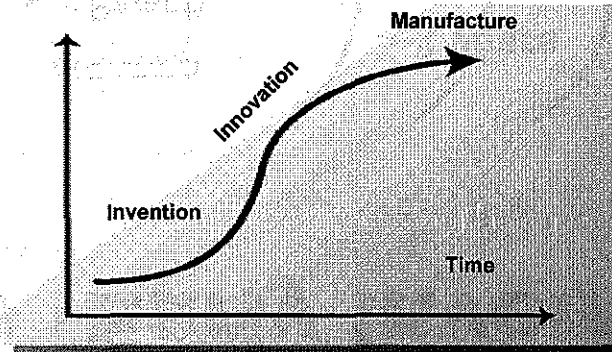
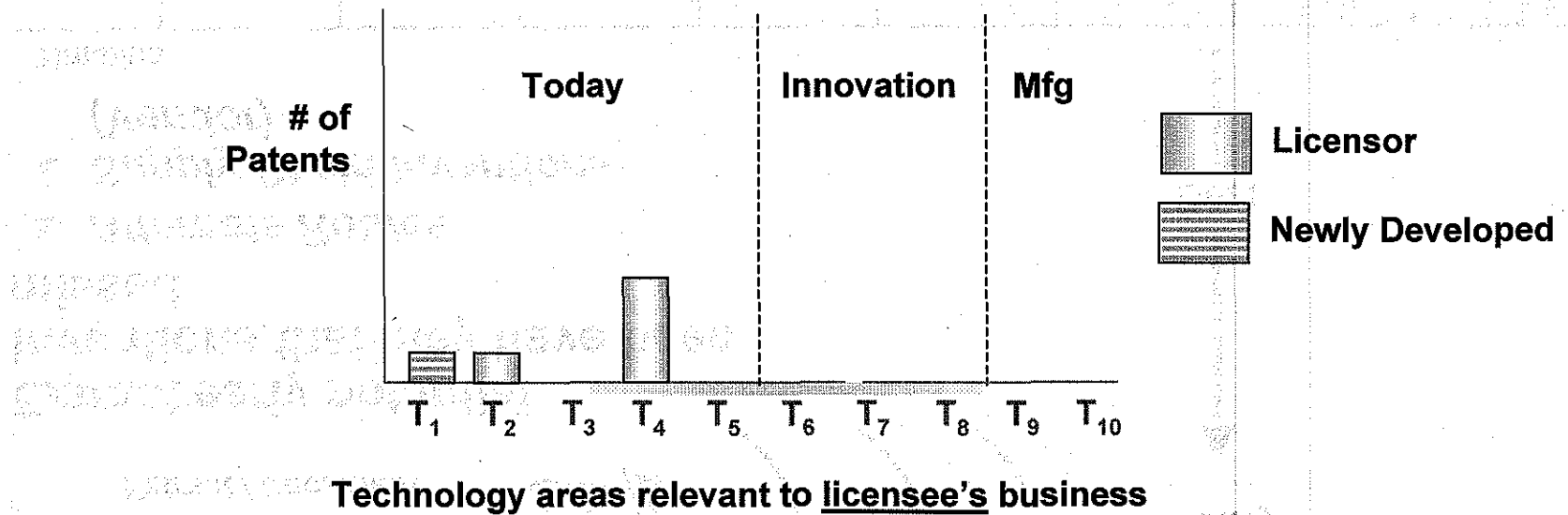
- Wouldn't the technology improvements for Innovation and Mfg be important to the *Value Story*?



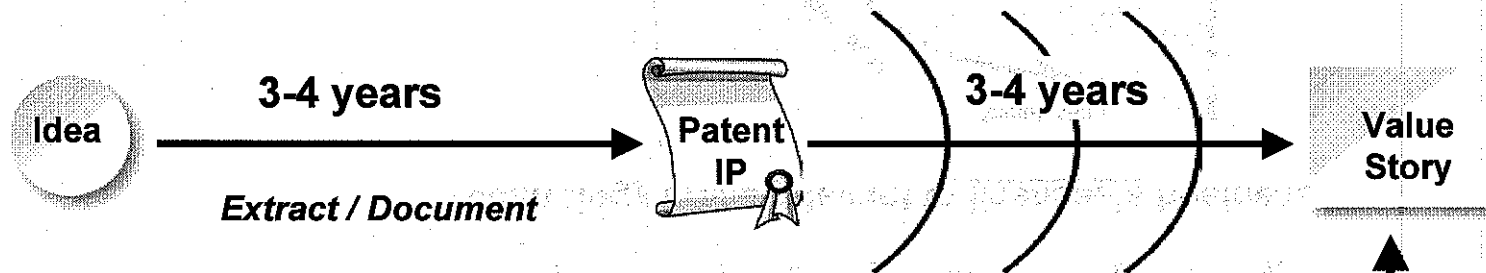
Increasing the Value (Story by Technology Groupings)



Increasing the Value (Story by Technology Groupings)



Extracting and Codifying More Value (Early Inventions)



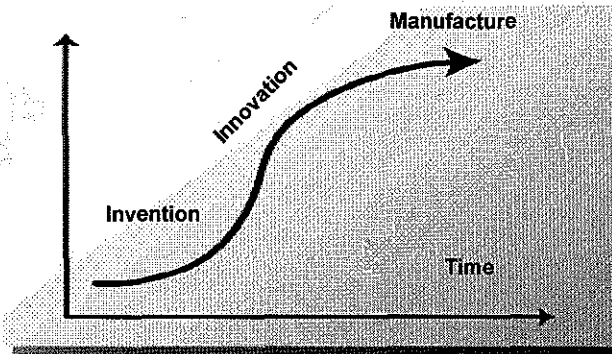
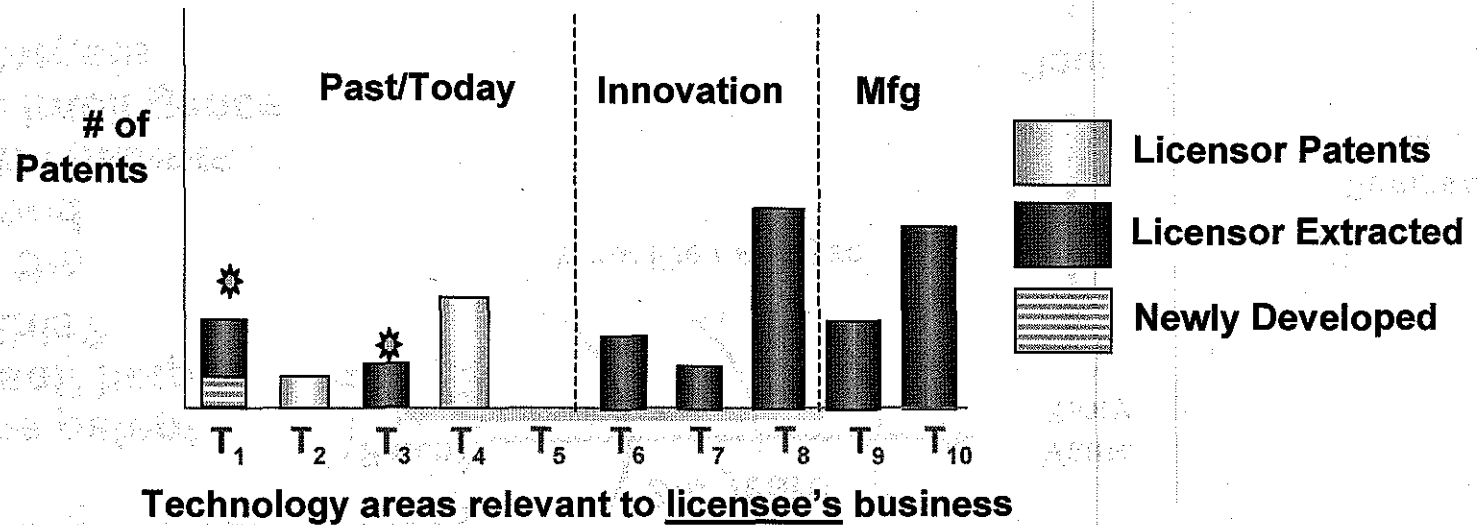
- Extract early potential inventions that may have been missed

- *Alternate Routes*
- *Supply Chain Inventions (Vendor)*

Timeline

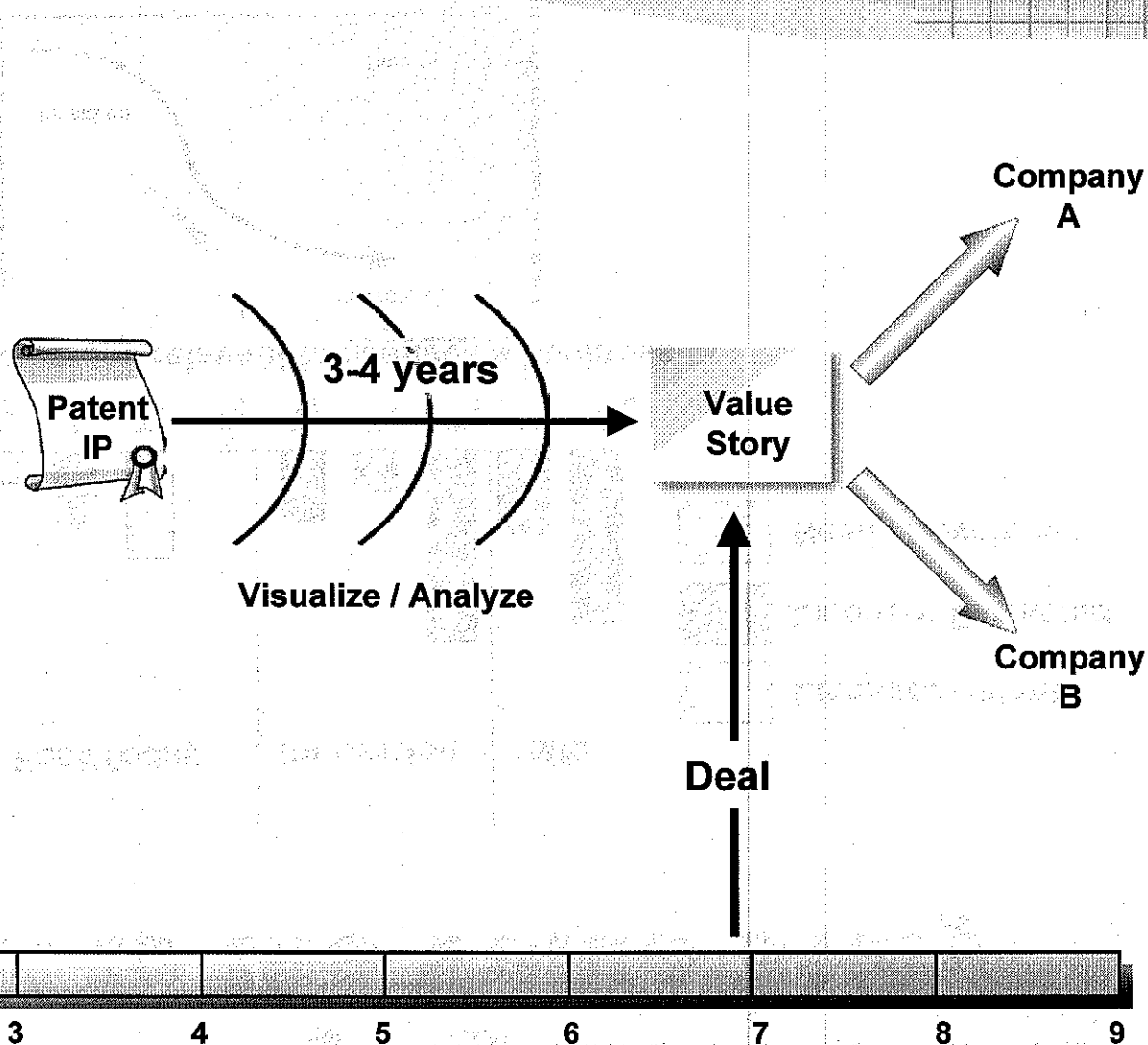


Extracting & Codifying More Value & Adding it to the Value Story

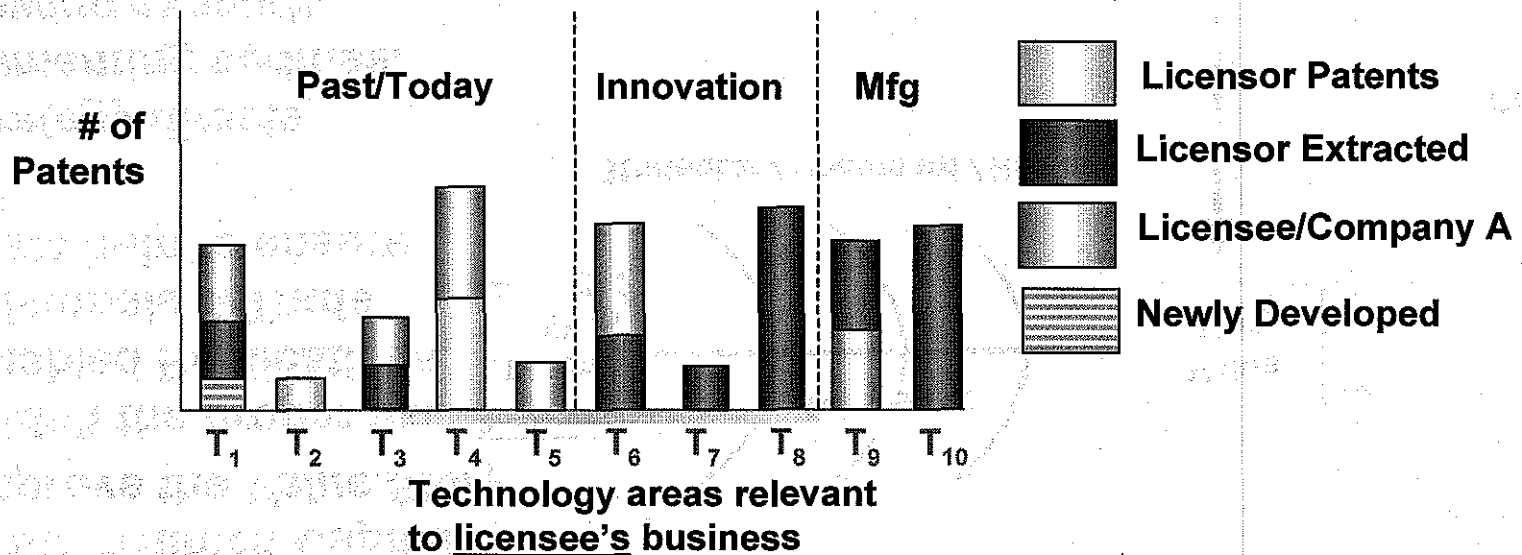


Targeting to Enhance Value

- Finding “Targeted Value” by determining who would need “our IP Portfolio”
 - This will improve our story
- Wouldn't the patent literature itself help to determine this?
- *Visualizing* the landscape and *analyzing* the patents provide the intelligence to identify targets



Targeting to Enhance Value

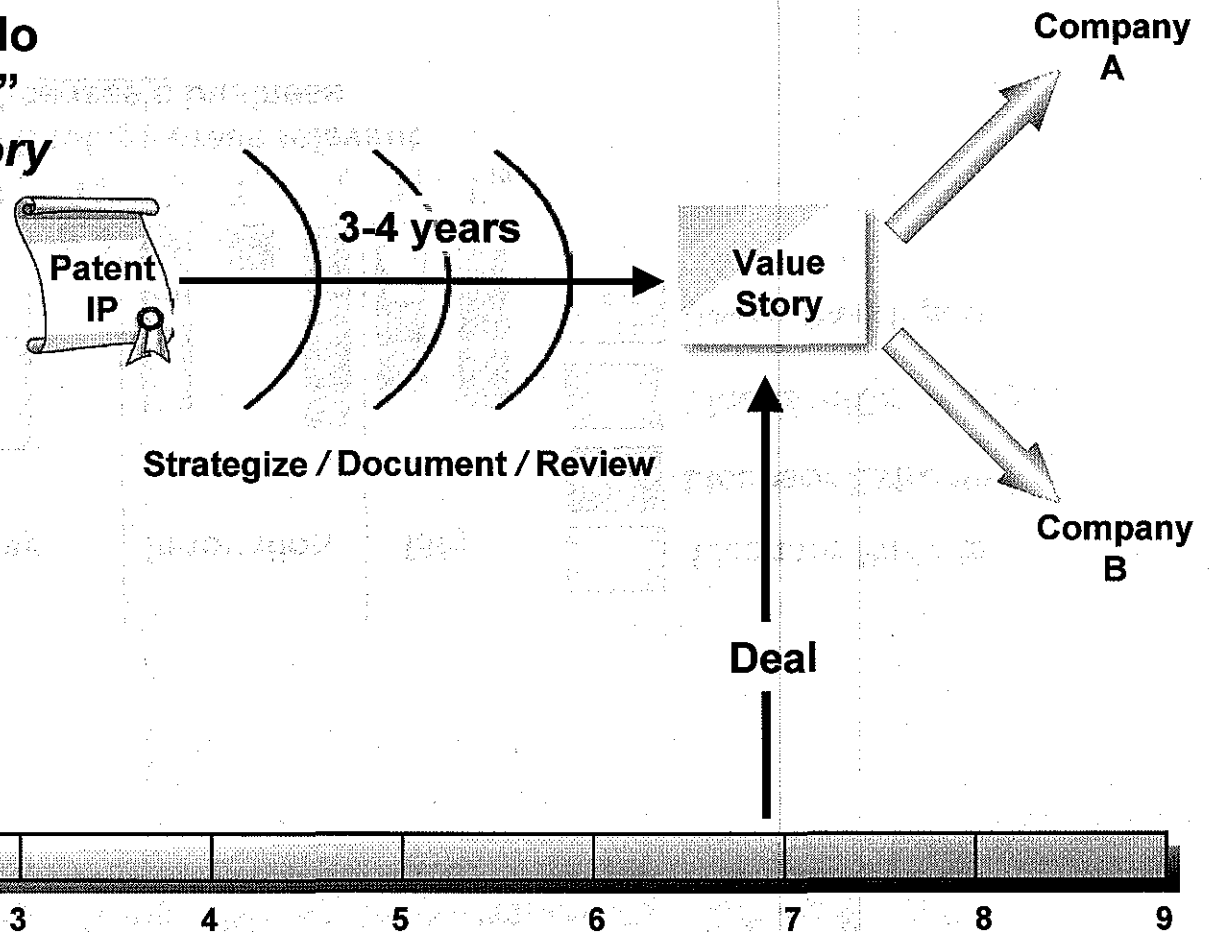


Codifying the Value based upon the Target Direction

- Finding "Targeted Value" by determining what to do with the "Human Capital" to improve the *Value Story*

- Wouldn't the proper use of Enabled Publications, Provisionals & Trade Secrets help to ensure this?

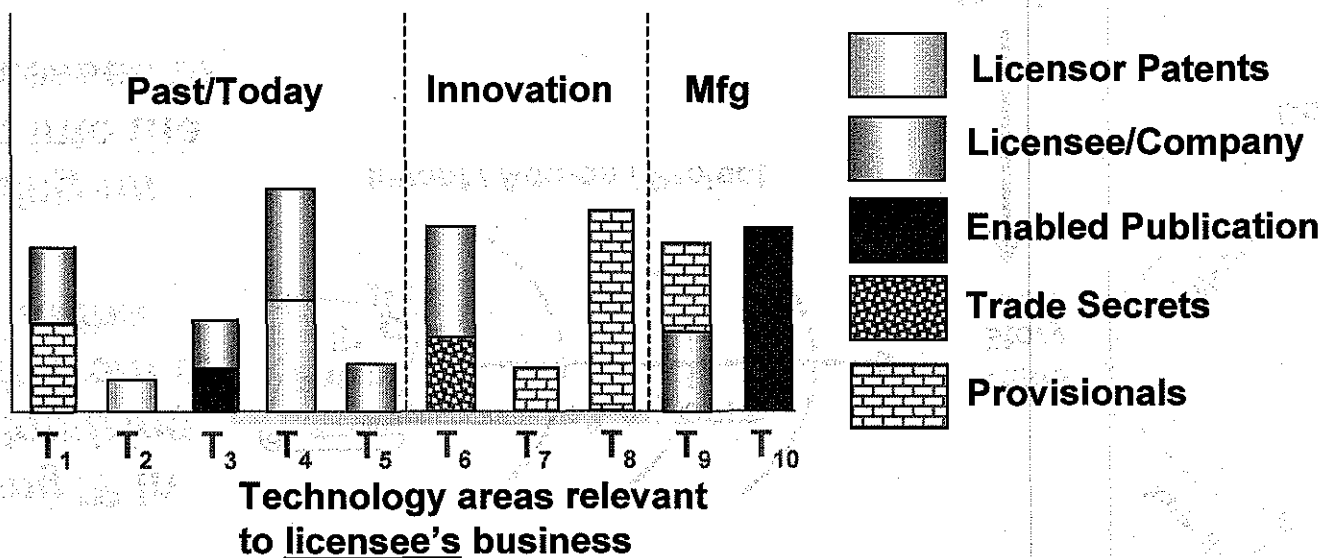
- A *Strategy* directs, *documenting* codifies, *reviewing* expands /dispositions human capital to ensure this.



Timeline

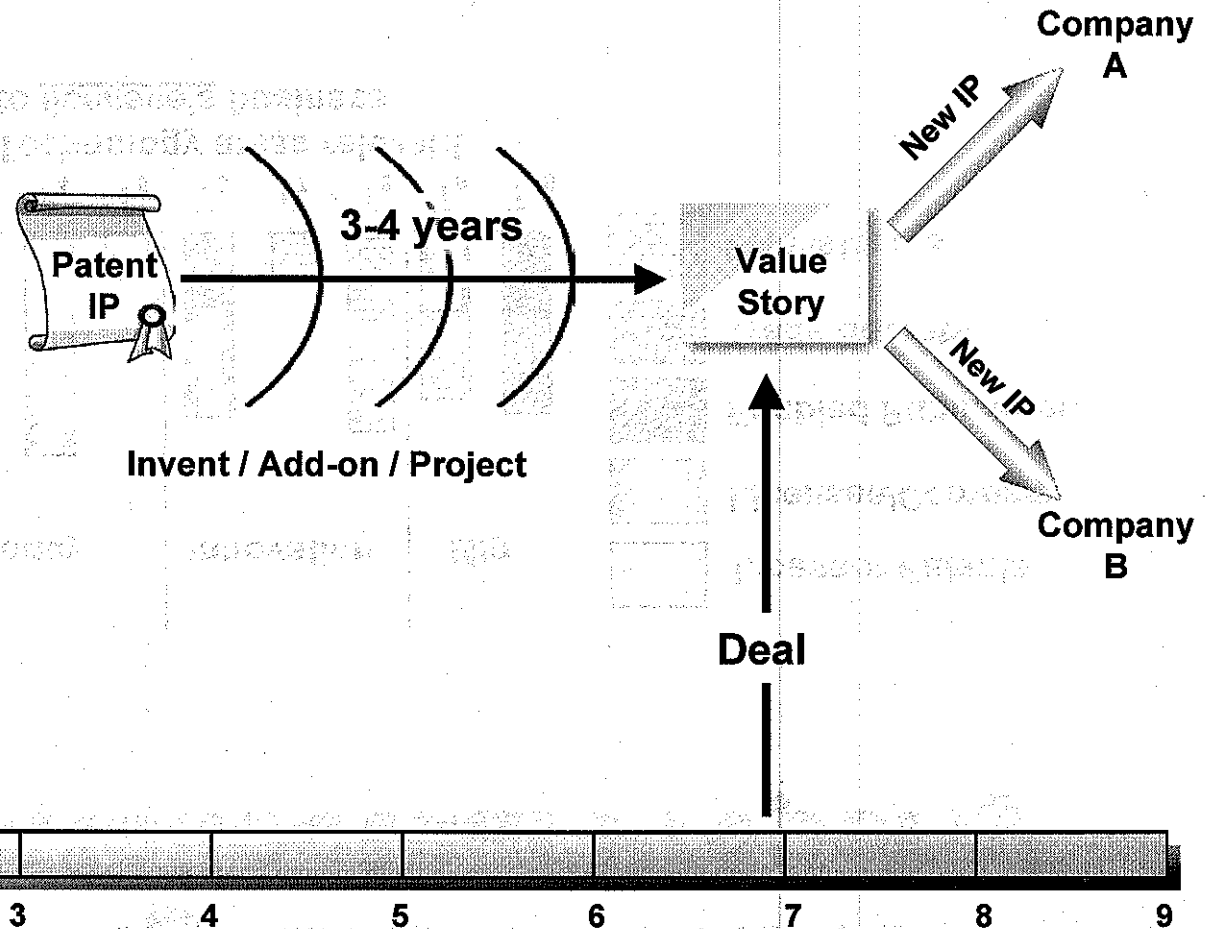
Translating Extraction to Codified Intellectual Property

of Patents,
Publications,
Provisionals,
Trade Secrets



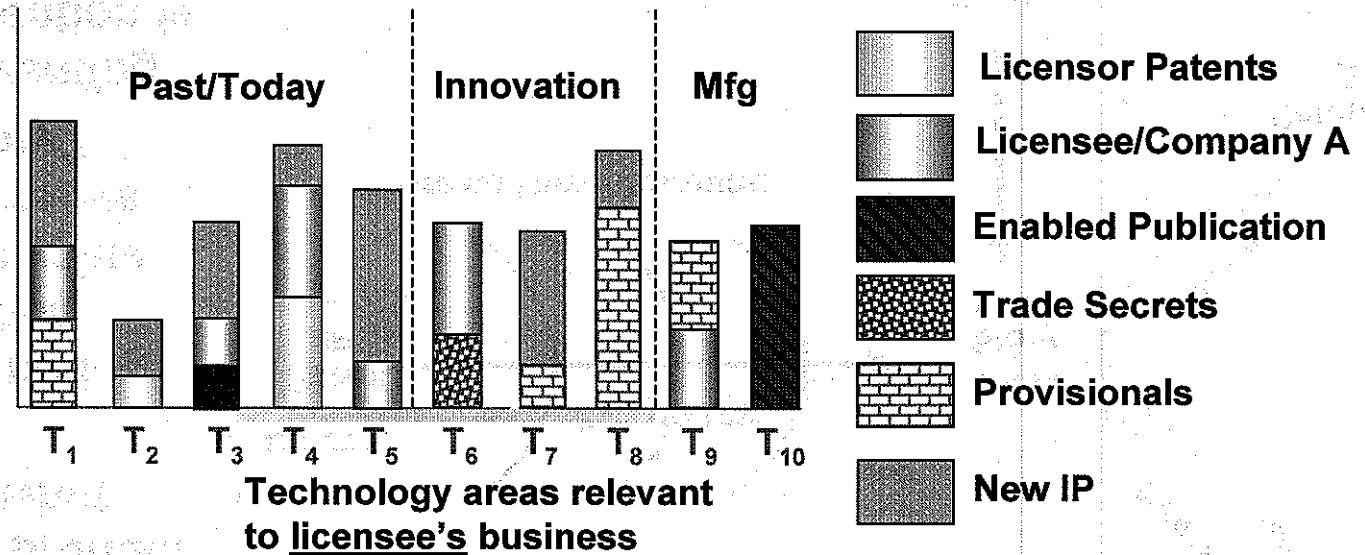
Adding to & Filling in the Gaps to the Value Story

- Adding to the *Value Story* by creating new, targeted IP
- Wouldn't *adding IP* in the gaps; *customizing IP* or *getting in front of others' IP* add to the *Value Story*?
- Inventing, adding-on* and *projecting* into the future are processes to create new IP



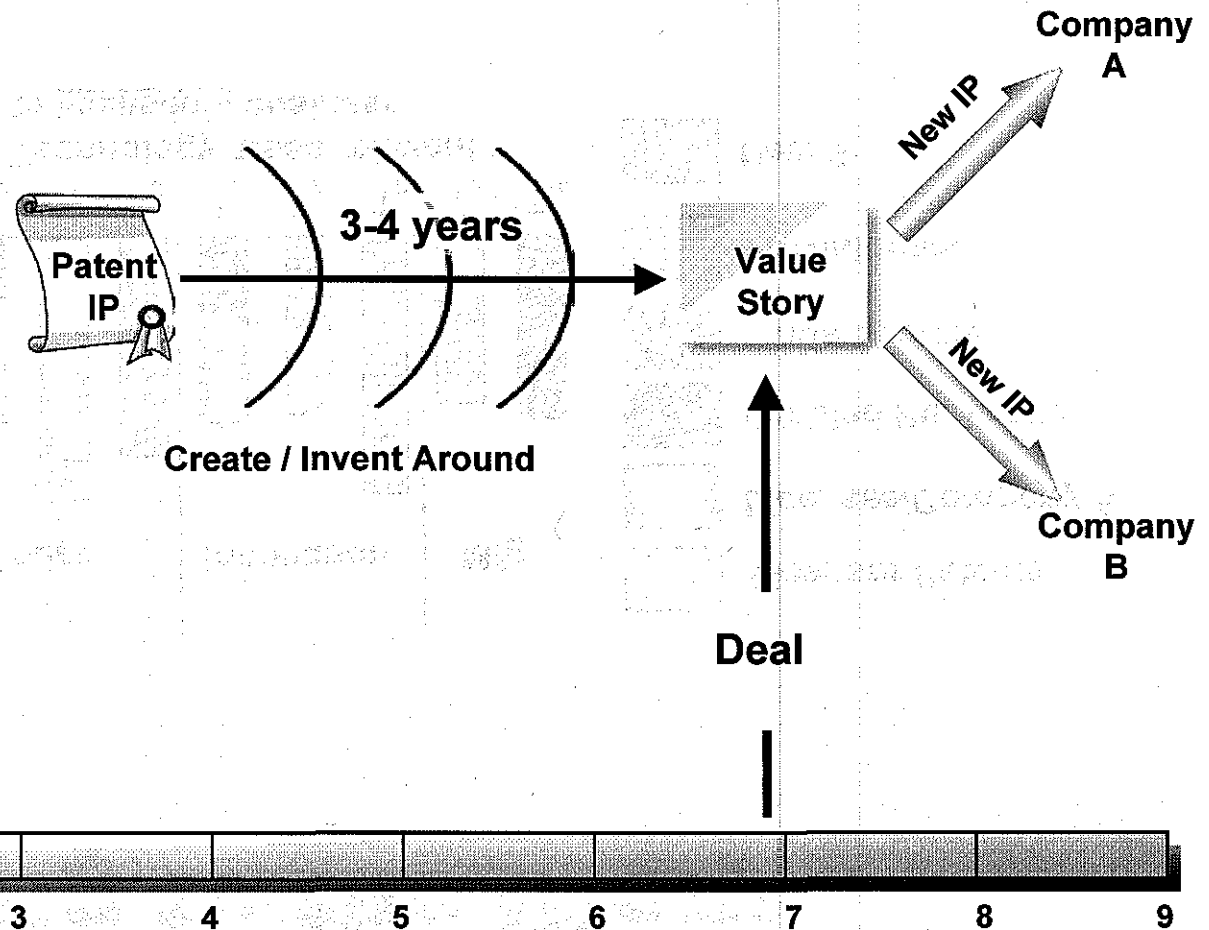
Adding to the Story

of Patents,
Publications,
Provisionals,
Trade Secrets



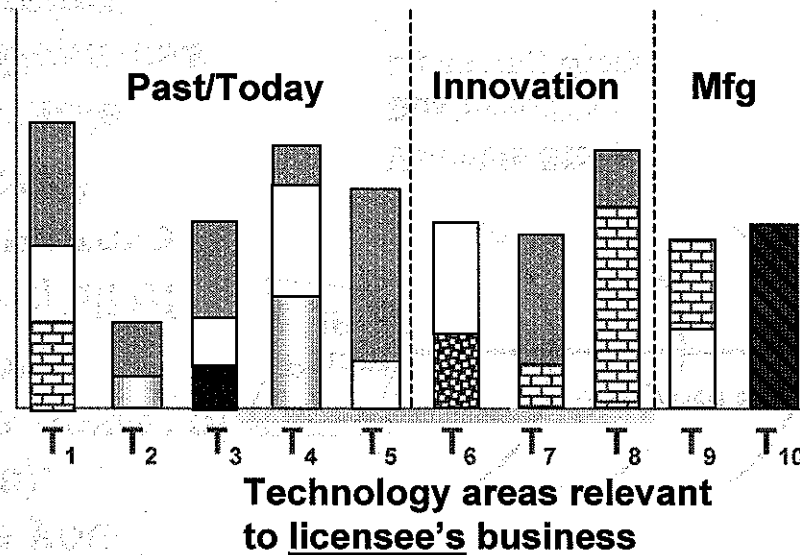
Ensure Maximum Value (Rule Out Others)

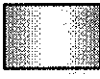




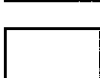
- Your Patents + Others' Patents for the technology or product application is what really matters.
- Wouldn't eliminating the need of other patents for the value proposition improve your *Value Story*?
- *Creating or Inventing Around* an invention is a process to do this.



Ensure Maximum Value (Rule Out Others)

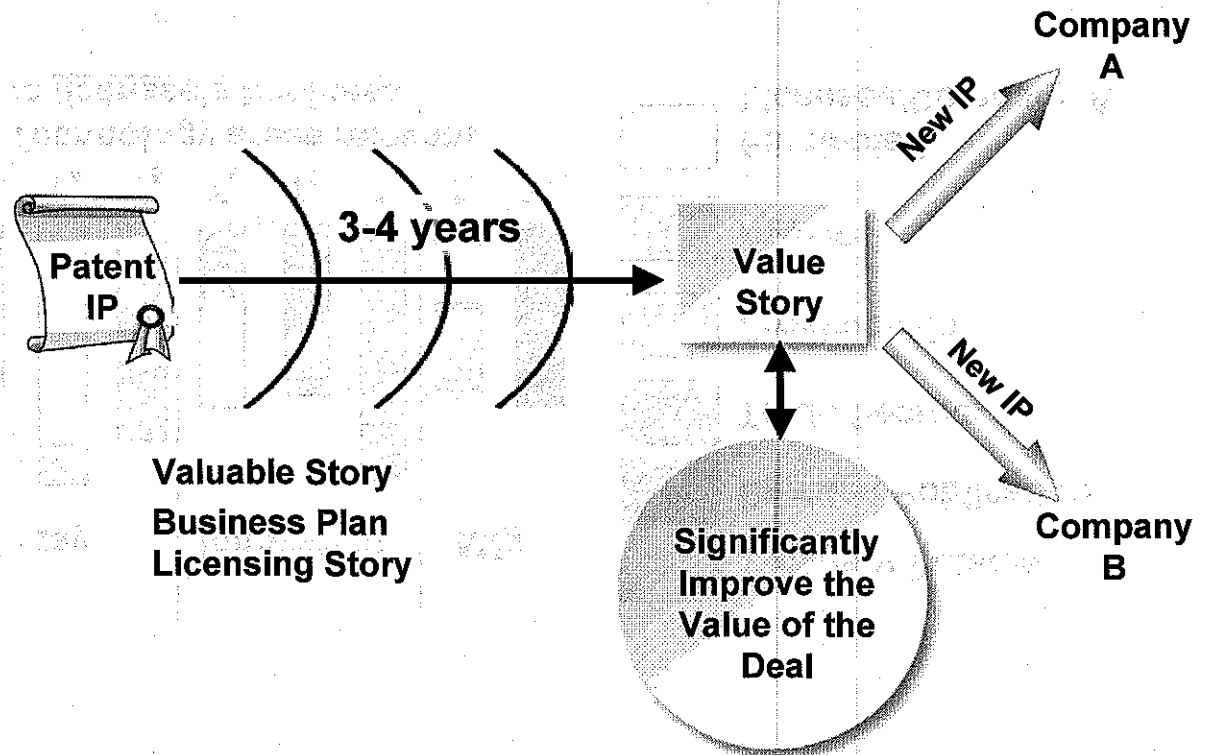
of Patents,
Publications,
Provisionals,
Trade Secrets



-  Licensor Patents
-  Enabled Publication
-  Trade Secrets
-  Provisionals
-  New IP
-  Eliminated Licensee/Company A

Telling the Story

- The way you tell and negotiate the story, using the facts you have (diligence), determines the power of your *Value Story*.
- Wouldn't adding all of these factors improve your *Value Story*?
- Creating a *Valuable Story* using a *Business Plan* and *Licensing Story* are approaches used to tell the story.



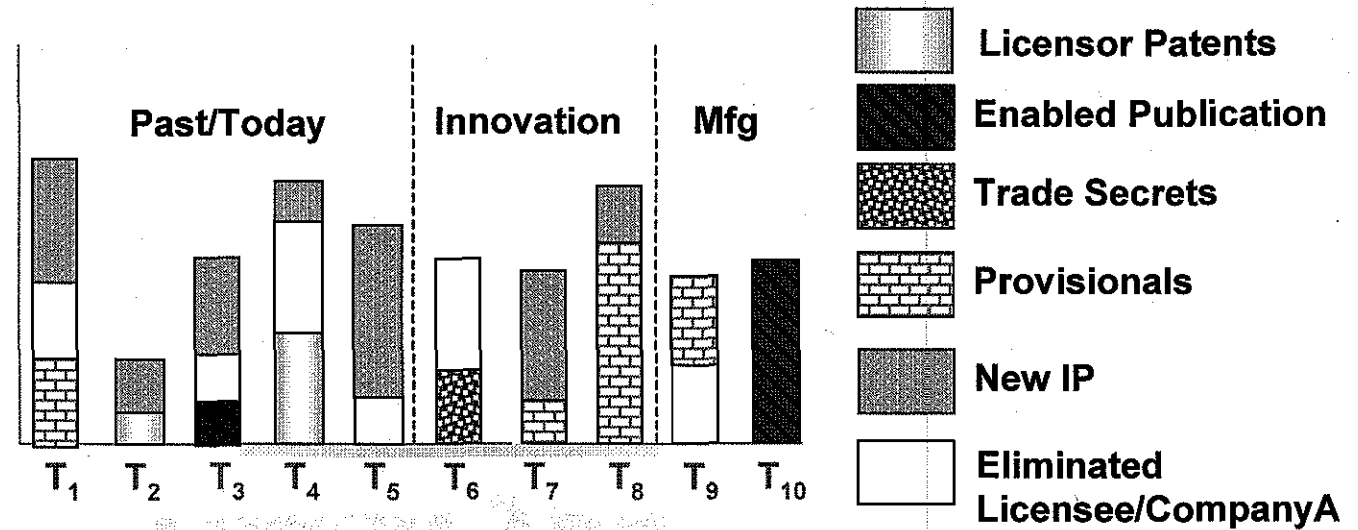
Timeline



Compare the Stories (Which Would You Rather have?)

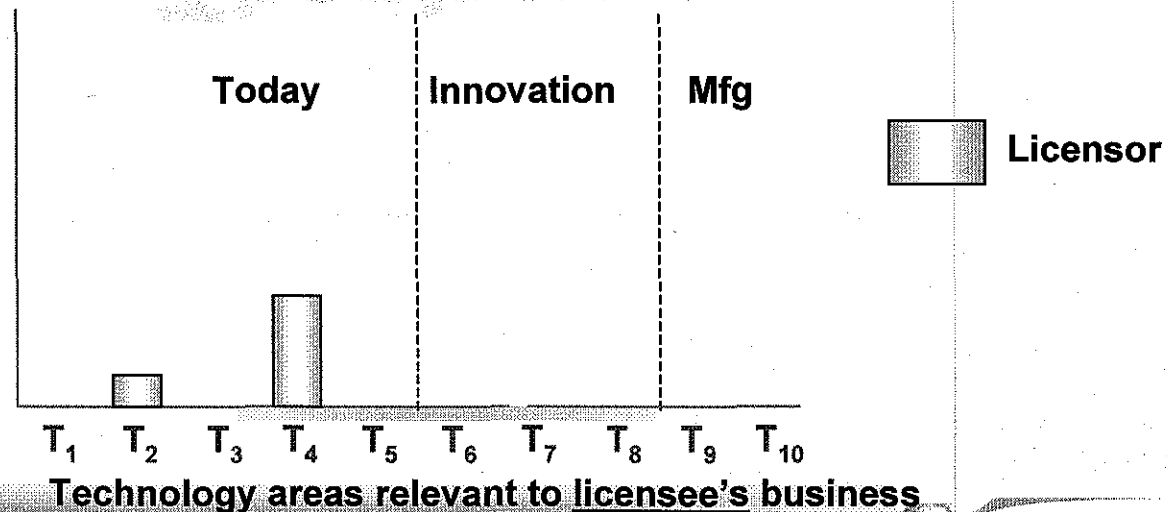
Improved Story

of Patents,
Publications,
Provisionals,
Trade Secrets



Original Story

of
Patents



Technology areas relevant to licensee's business

Thank you