







# PATENTS, COPYRIGHT & TRADEMARKS: A SURVEY OF INTELLECTUAL PROPERTY

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INTELLECTUAL PROPERTY LAW & POLICY  
PROFESSOR WAGNER





A glowing lightbulb is centered in a dark, textured background. The lightbulb is illuminated from within, creating a bright, circular glow that fades into the surrounding dark grey and black tones. The background has a subtle, grainy texture. The text 'Goals of the Course' is overlaid on the lightbulb's glow.

# Goals of the Course



# Introduction to IP

An entry into the world of intellectual property law

A compact, unbiased look at the modern law

A exploration of the policies underling the law

A look at the current debates





**An Overview, Not a Complete Course**





# Course Coverage

## Issues, not (just) Subjects

[ The key IP issues of the day ]



# Module 1: An Overview of Intellectual Property

1. Survey of IP Forms: Patents, Copyrights, Trademarks
  - Others: trade secrets, rights of publicity
2. Intellectual Property Law Theory
  - What problem are these laws trying to solve
  - How they (try) to solve them



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1. A Users' Guide to the Patent System
  - What patents are, how to get them
  - Basic rules of patentability
2. What do You Get with a Patent?
  - Patent scope and claim construction
  - Patent infringement
3. Exploring the Trade-Offs
  - The Subject Matter Requirement & Patent Policy



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# Module 5: The Future of IP

## 1. Intellectual Property Reform Debates

- Legislative Proposals
- Current Major Court Cases

## 2. Alternatives to IP

- Can we do better than intellectual property law?



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**Why Study IP?**

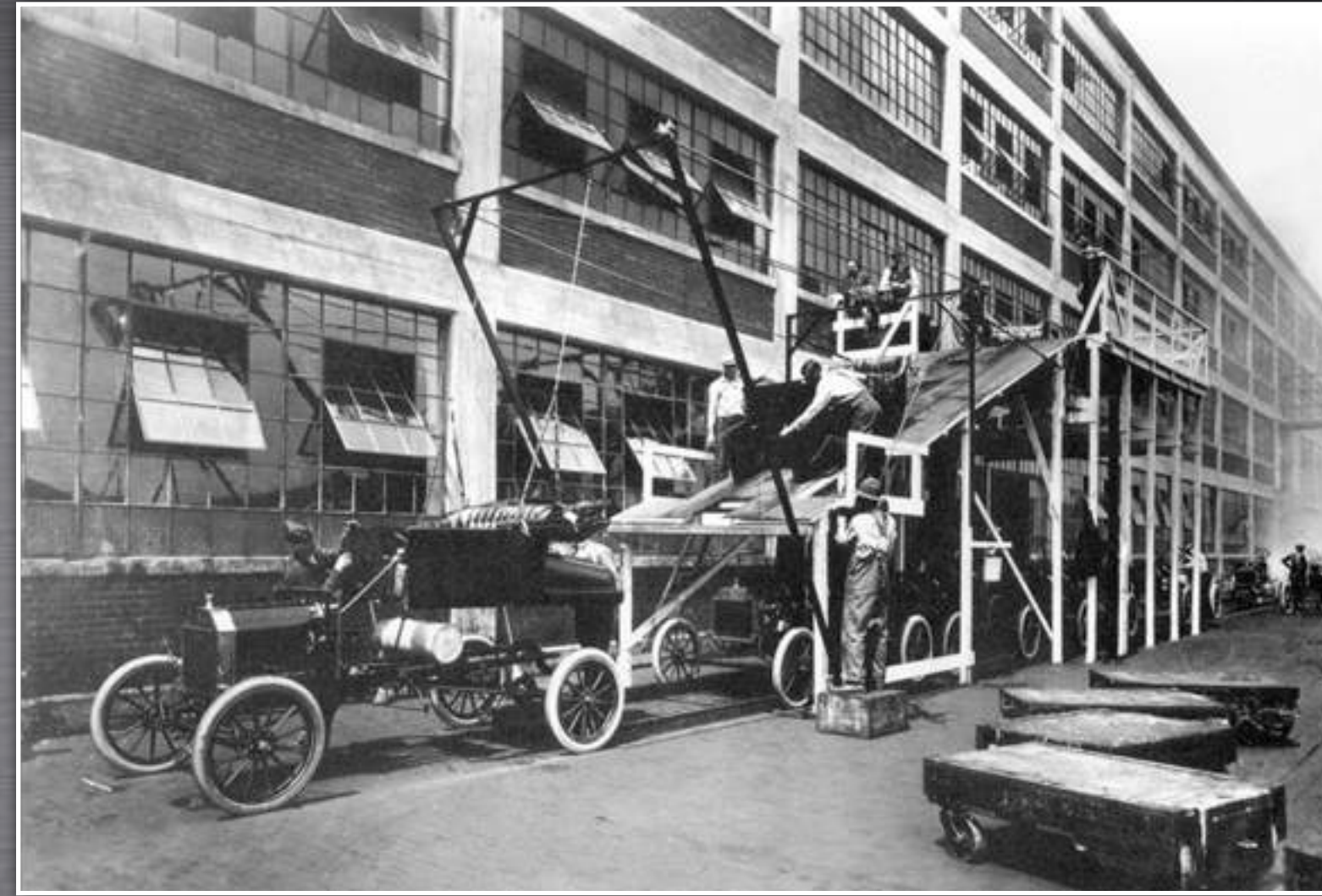


Why Study IP?

**Intellectual Property Rights  
are Critical to National Industrial Policy**



From the industrial age ...

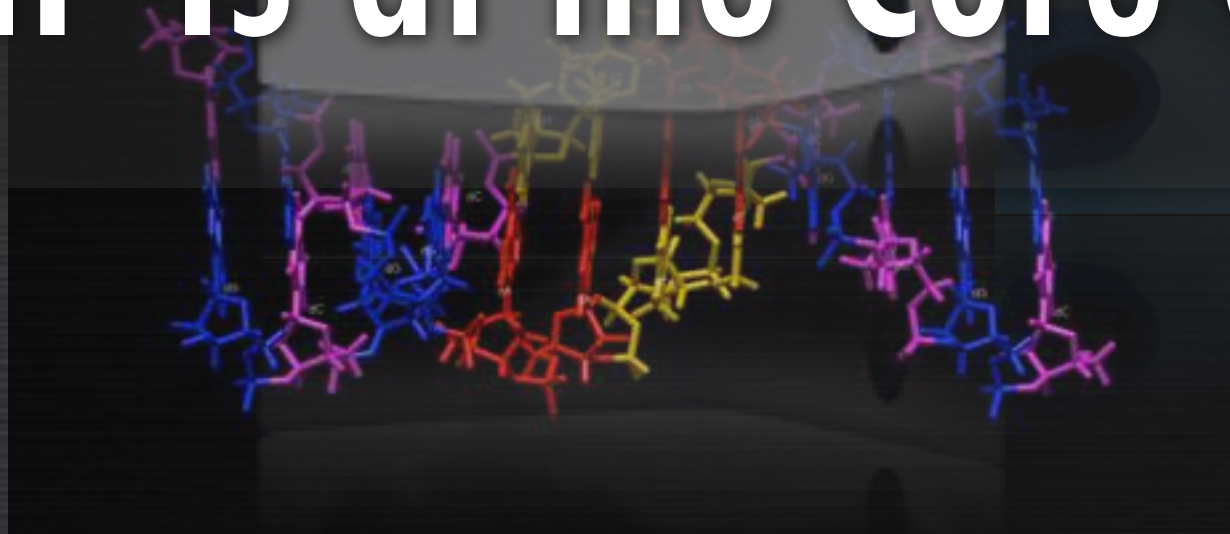


... to the information age.





# IP Is at the Core of the Modern US Economy





Why Study IP?

**The Plate Tectonics of IP**



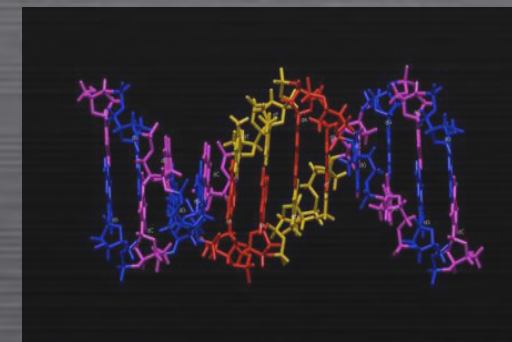
# Patents



Chemicals, pharmaceuticals

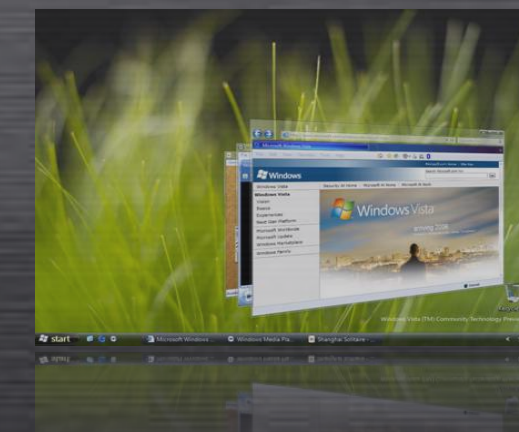


Electronics



Biology, genetics

Software

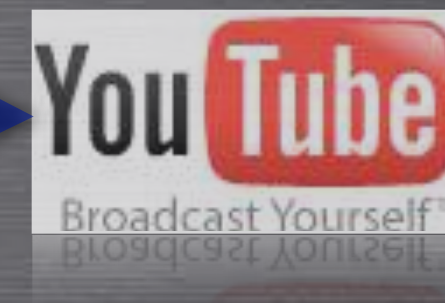


Business, finance





# Copyright



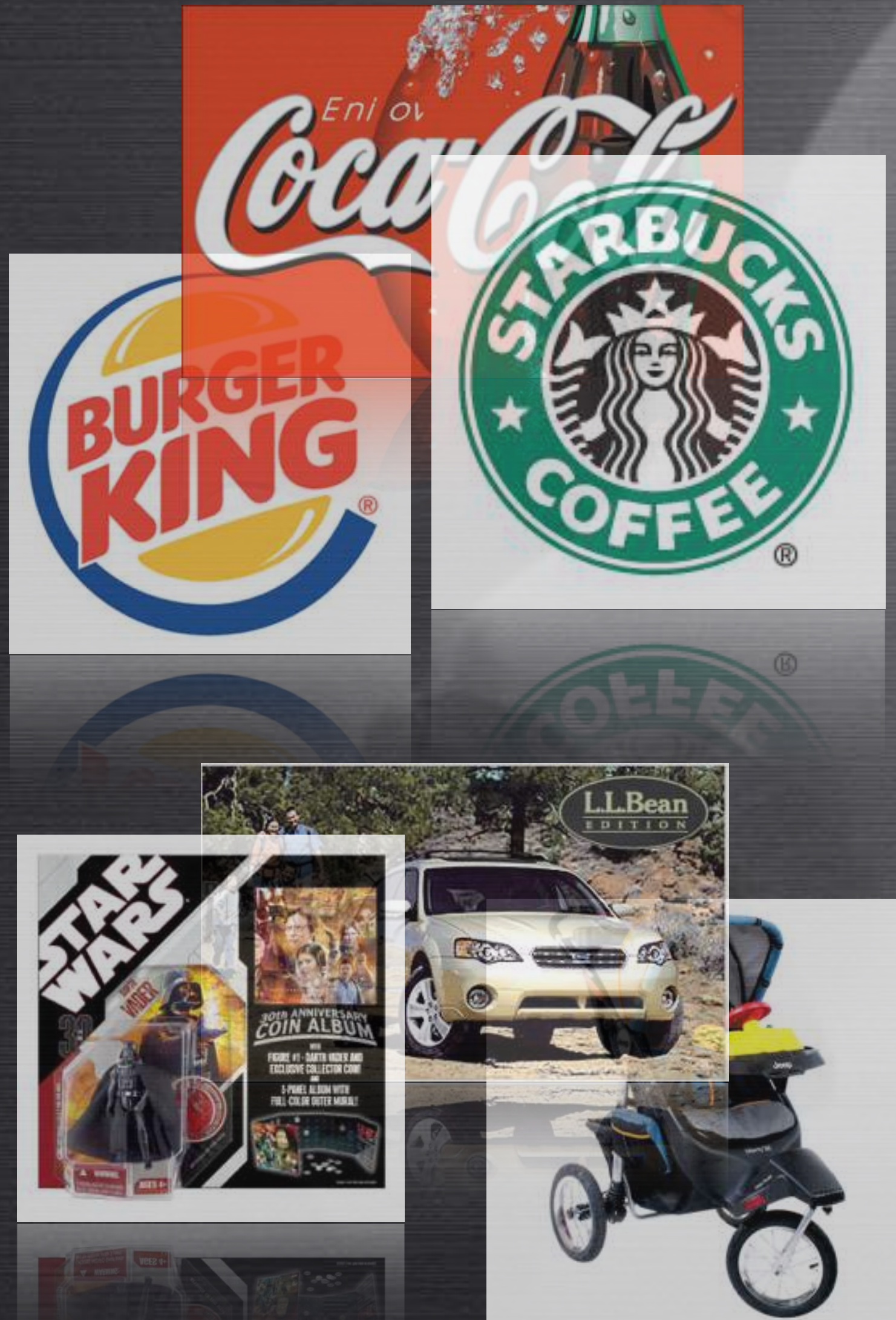
## Movies and TV



## Music



# Trademarks



The emergence of the global megabrand.

The trademark-as-product business model.







# Why Study IP

## Broad Expansion in IP Activity

More IP Rights Than Ever Before

Far More IP Litigation

Virtually Every Major Law Firm has a Major IP Practice



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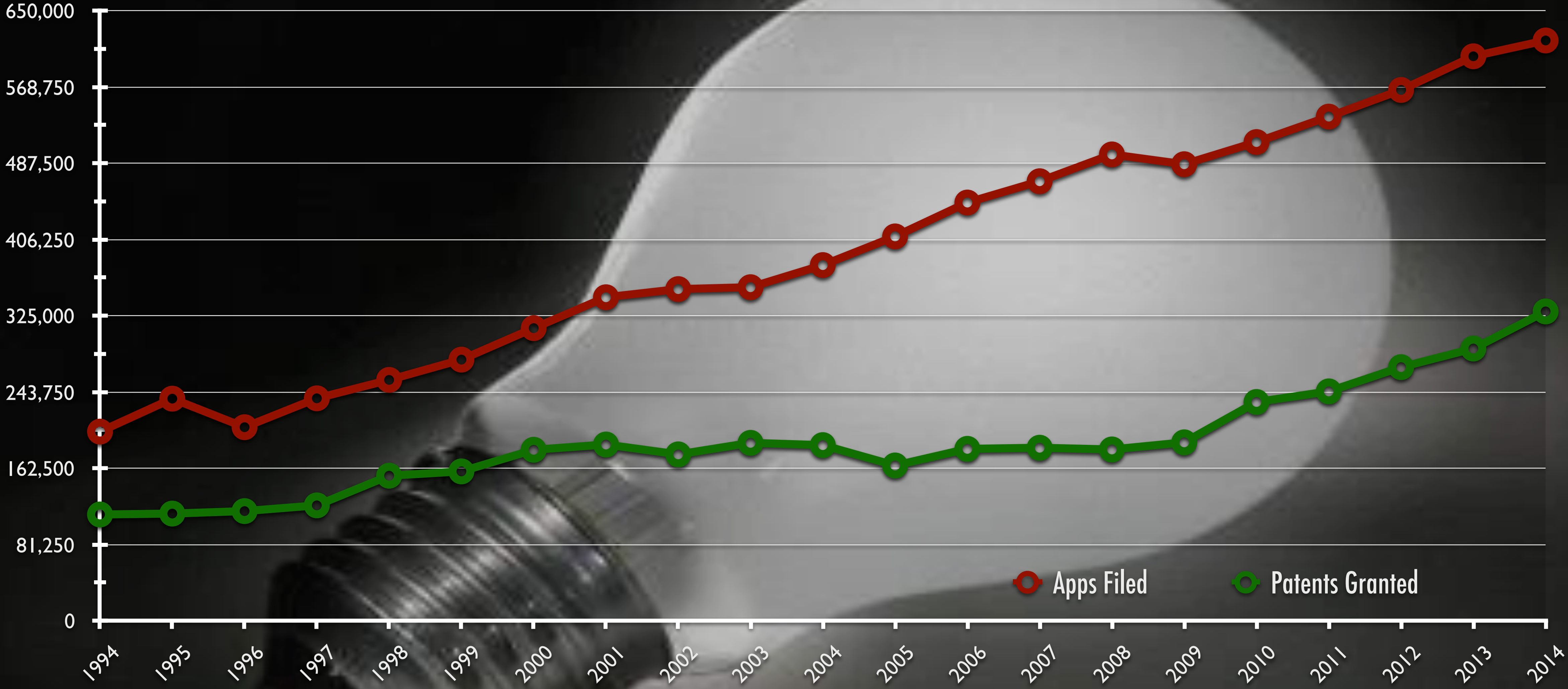


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**Recent Expansion in Patenting Activity**



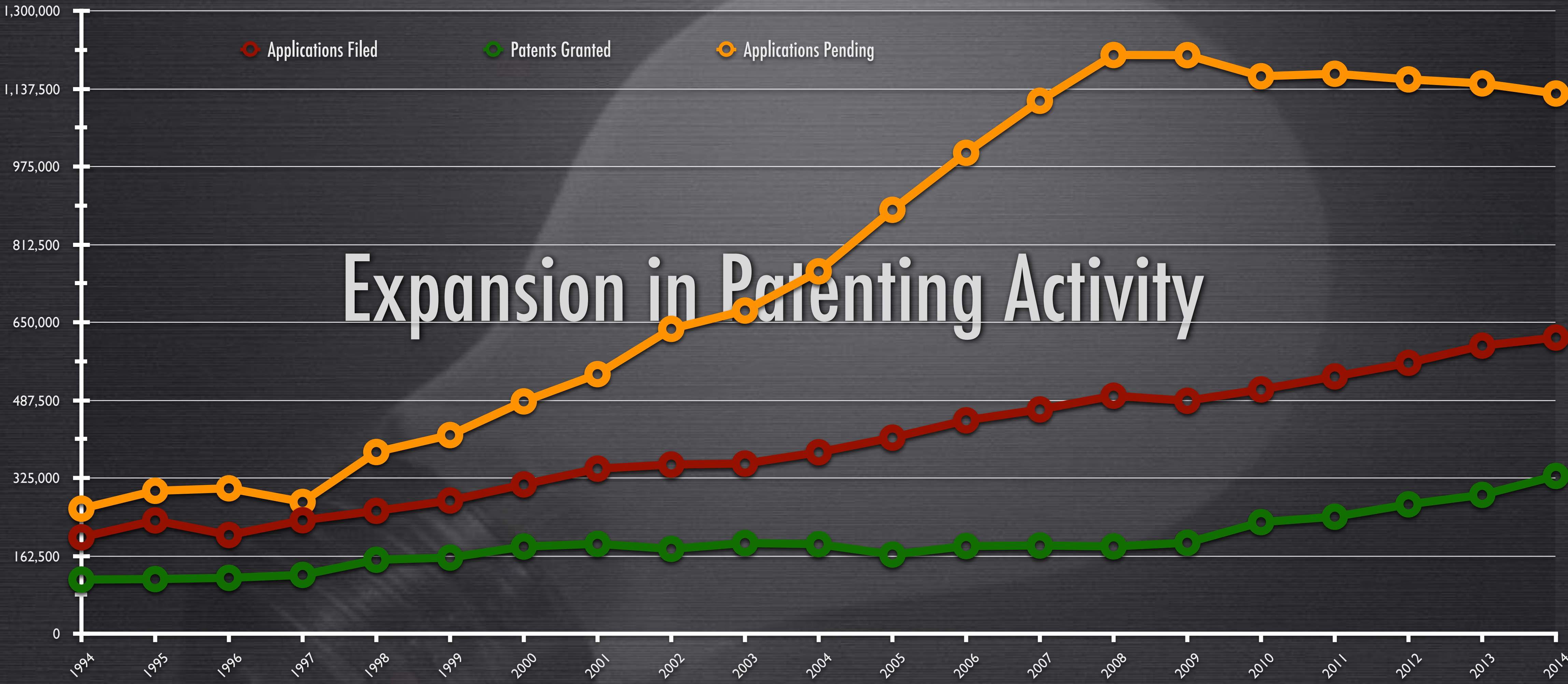
# Patenting Activity, 1994-2014



[ Source: USPTO Performance and Accountability Reports, 1994-2014 ]



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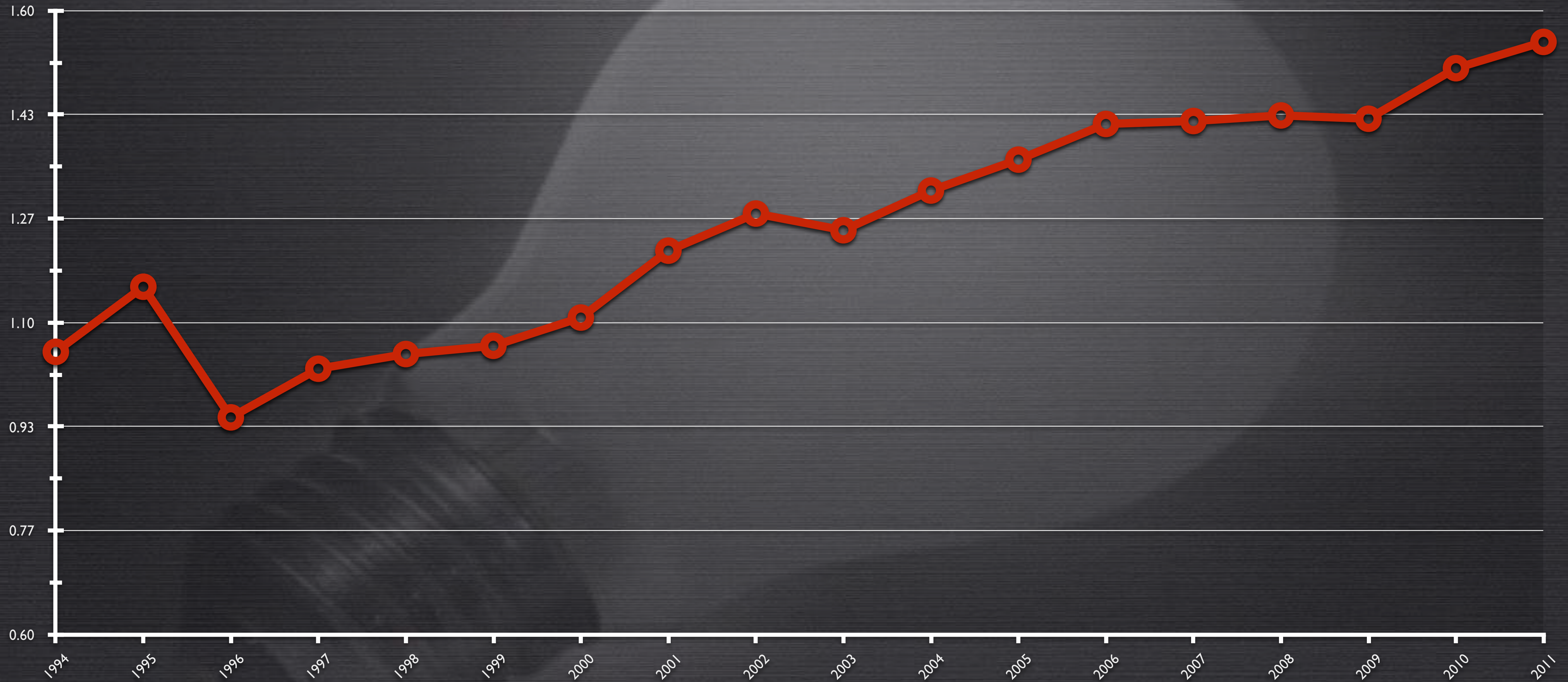
Expansion in Patenting Activity

[ Source: USPTO Annual Reports ]



# Patent Intensity, 1994-2011

[ Patent applications filed per \$M non-federal R&D (constant 2005 dollars) ]



[ Source: USPTO Annual Reports, NSF Science and Engineering Indicators 2014 ]



# The Supreme Court is Now The IP Court!

1	Nautilus v. Biosig	Patent	Indefiniteness
2	Limelight v Akamai	Patent	Joint Infringement
3	Alice v CLS Bank	Patent	Software Patentability
4	Octane Fitness v Icon Health & Fitness	Patent	Attorneys Fees in Patent Cases
5	Medtronic v Boston Scientific	Patent	Licensee Litigation
6	ABC v Aereo Inc	Copyright	Is streaming a public performance?
7	Petrella v MGM	Copyright	Laches and Copyright
8	Highmark v Allcare	Patent	Attorneys Fees in Patent Cases
9	Lexmark v Static Control	Trademark/False Advertising	Test for False Advertising
10	POM Wonderful v Coca Cola	Trademark	Trademark/FDA Preemption
11	Teva Pharmaceuticals v. Sandoz	Patent	Deference to District Court Claim Construction
12	Commil v Cisco	Patent	Indirect Infringement and Scienter
13	Kimble v Marvel Enterprises	Patent	Royalty agreements extending beyond patent term







# Why Study IP?

Limited Knowledge About  
True Costs vs. Benefits of System



# Why Study IP?

**Total Costs of the System are Increasing  
(Are the Benefits?)**



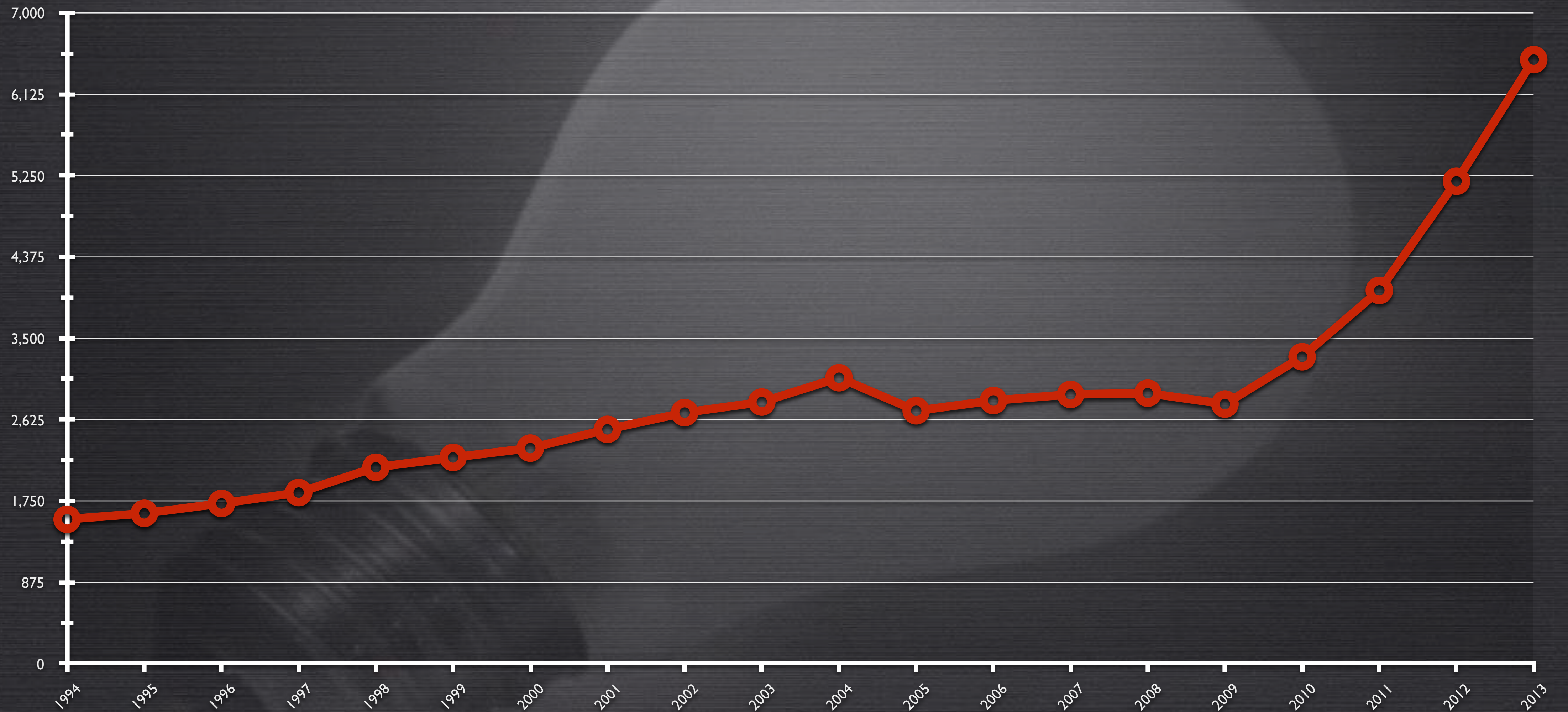
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**Recent Increases in Patent Enforcement**



# Patent enforcement activity is rising ...

Patent lawsuits filed, 1994 – 2013

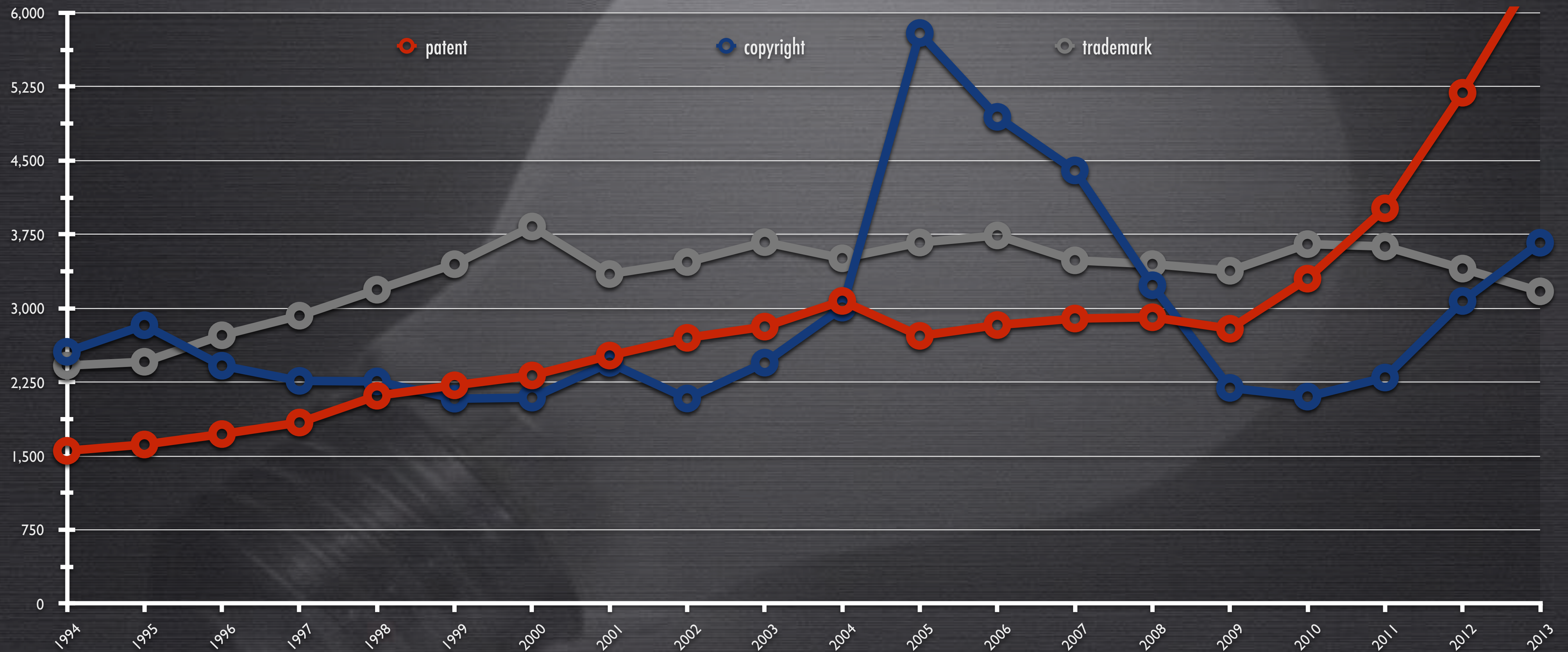


Source: Administrative Office of the US Courts



# ... and has passed other IP enforcement.

## Federal IP lawsuits filed, 1994 – 2013

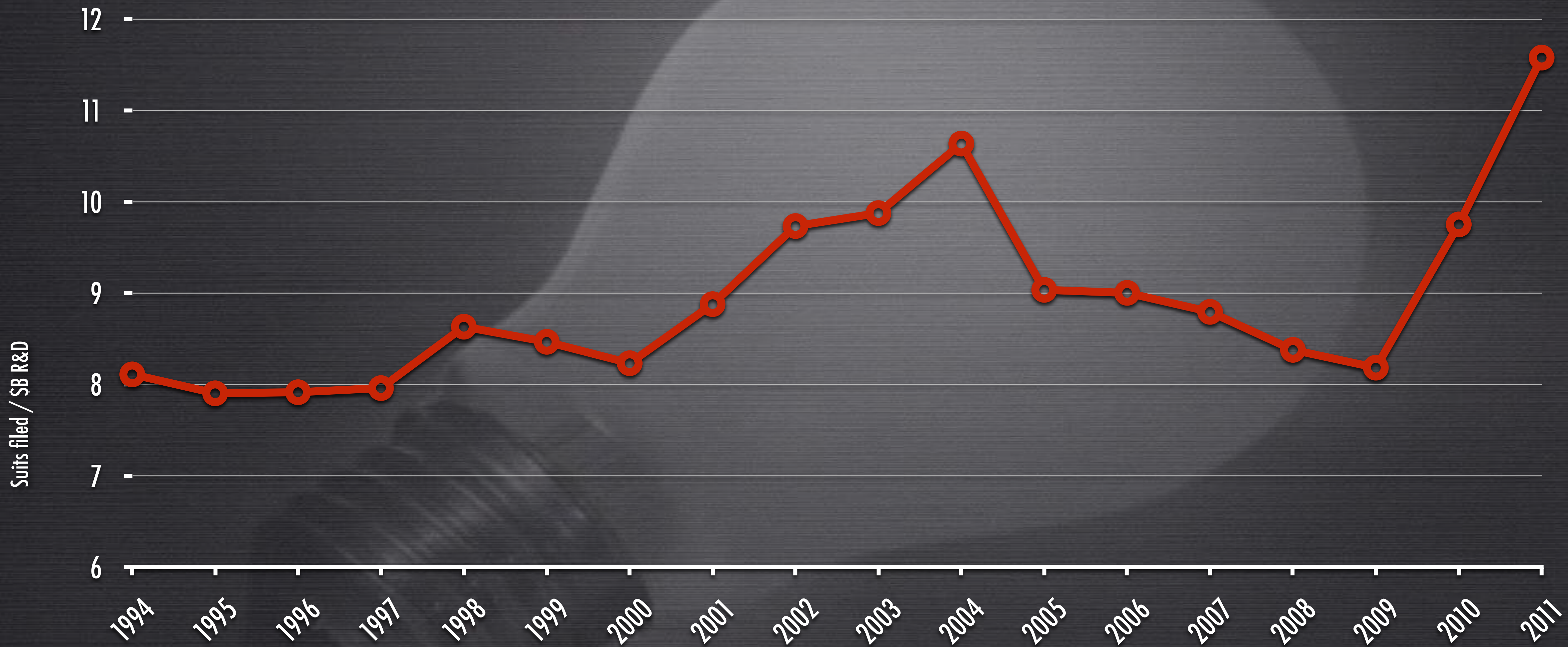


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# Patent litigation intensity has risen as well ...

Patent lawsuits filed per \$B non-Federal US R&D (2005 dollars)



Sources: NSF, Administrative Office of the US Courts



Why Study IP?

**The Rules are Not Set (yet)**



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**IP is the regulatory framework of the new economy.**

Knowing IP means you can help set the rules.



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# The Forms of Intellectual Property



# Patent

Types of Works	[A]ny new and useful process, machine, manufacture, or composition of matter.
Standard	Novelty, Nonobvious, Utility, Disclosure
Acquisition	Application process.
Law	35 U.S.C. §§; exclusively Federal; appeals to FedCir
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