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Legal and Ethical steps: Productive Entrepreneurship & Startup



MHRD'S
INNOVATION CELL
(GOVERNMENT OF INDIA)



INSTITUTION'S
INNOVATION
COUNCIL
(Ministry of HRD Initiative)



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May, 2020

1. Startups



How to find an idea?

Observation

Web browsing

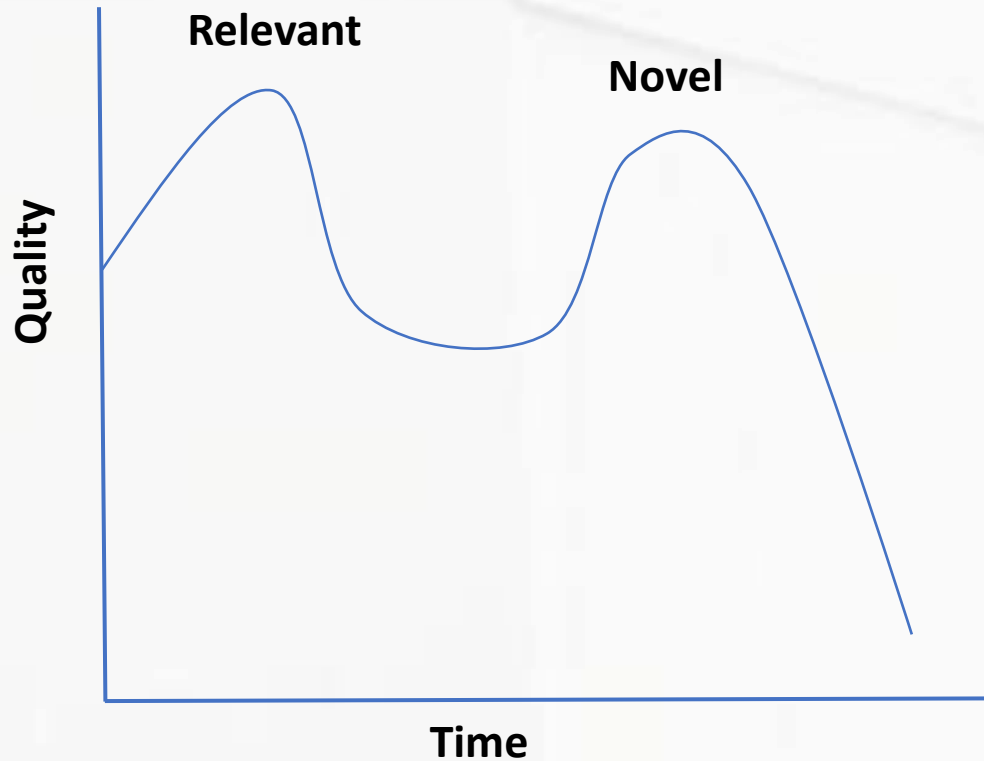


Writing Journals

Book reading

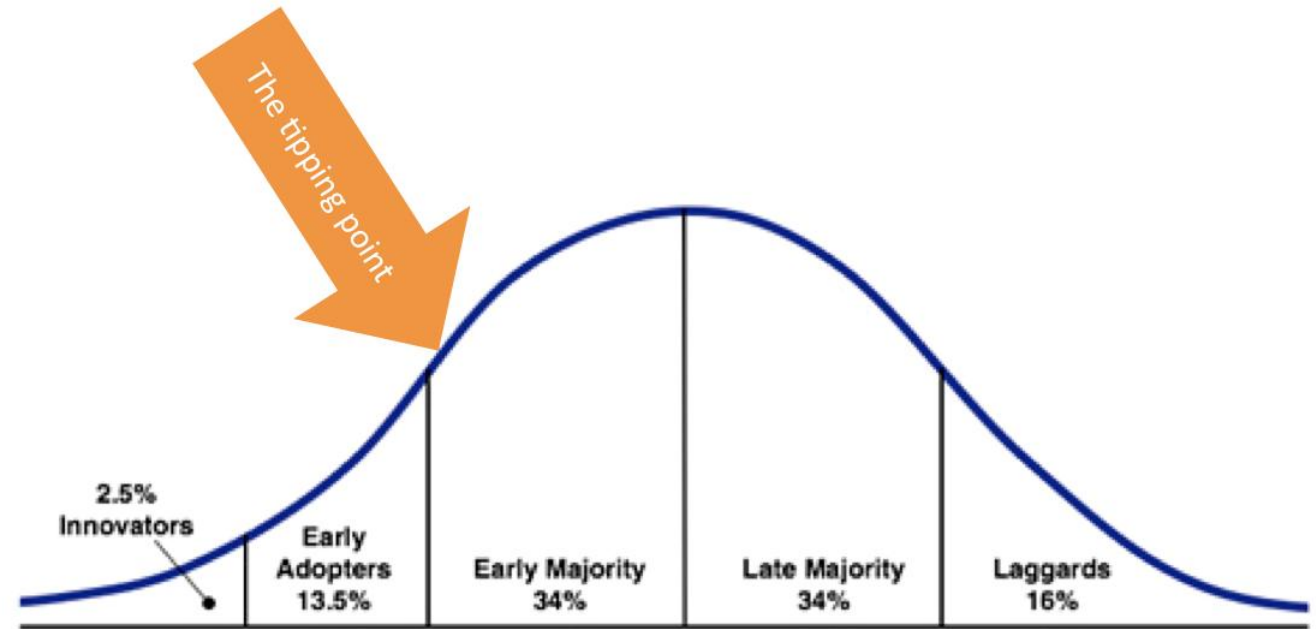
**Socialize Outside
Your Normal Circles**

Idea Creation and Diffusion



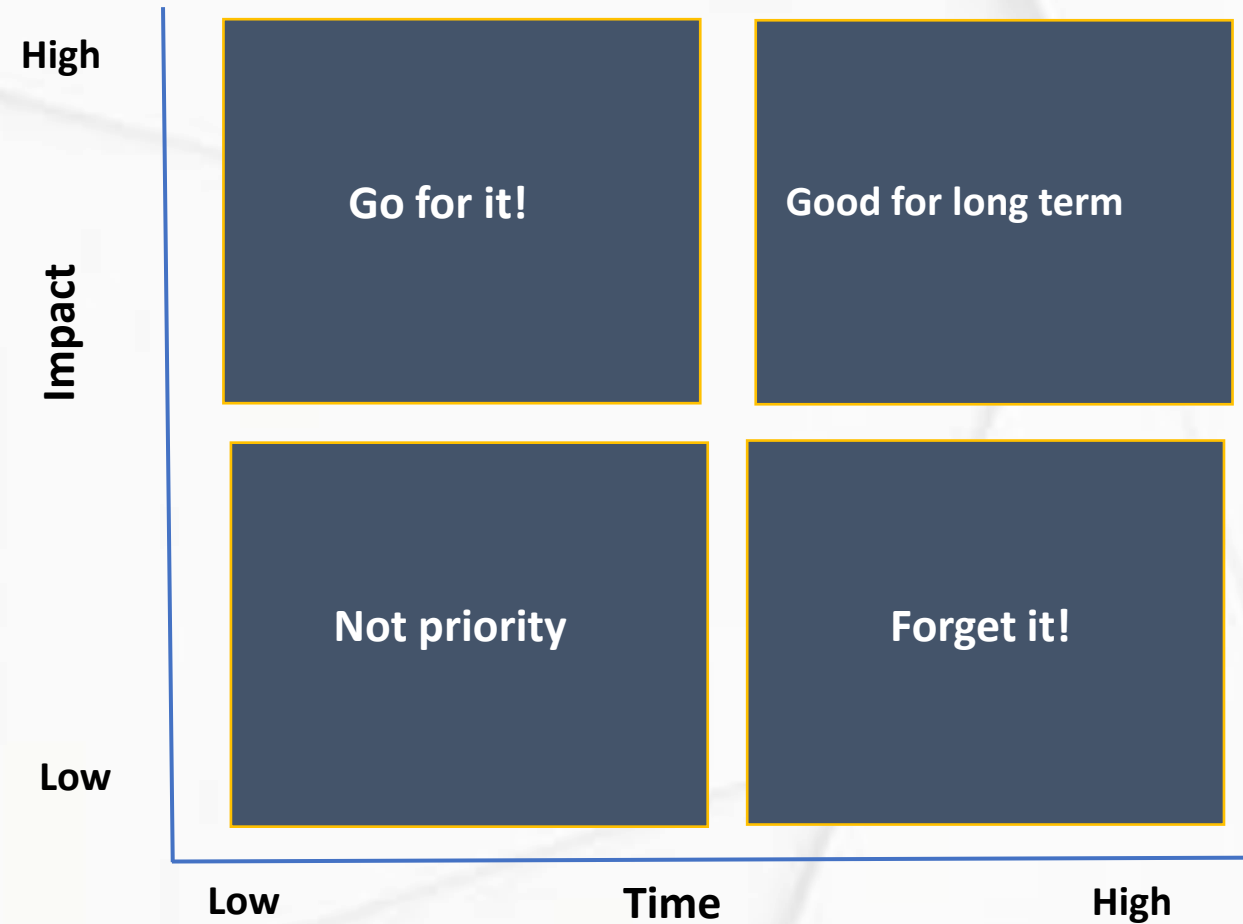
Idea Creation

The law of diffusion of innovation



Idea Diffusion

How to find an idea?



2. IPR TYPES



IP at a glance

Patent

A set of **exclusive rights** granted to a person for his/her invention

Trademark

A sign that distinguishes the **goods** or **services** of one enterprise from those of the other's

Copyright

A legal term used to describe the rights granted to a creator for his/her **literary and artistic work**

Geographical Indication

A sign used on goods that have a **specific geographical origin** and possess characteristics that are essentially attributable to that **place of origin**.

Industrial Design

An industrial design **constitutes the ornamental or aesthetic** aspect of an article

P
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TM

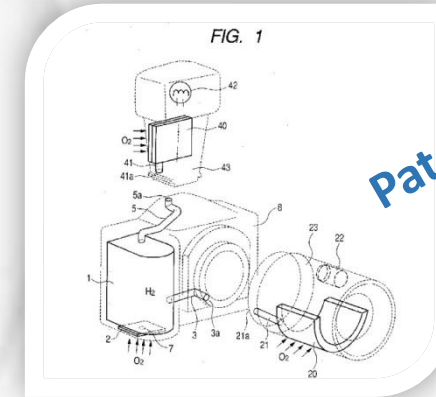


GI

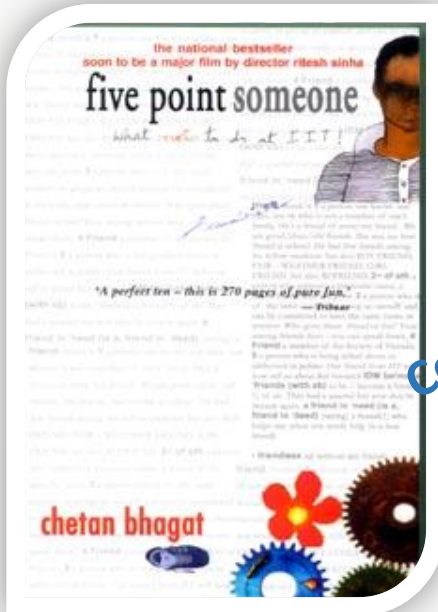
A Quick Exercise



Trademark



Patent

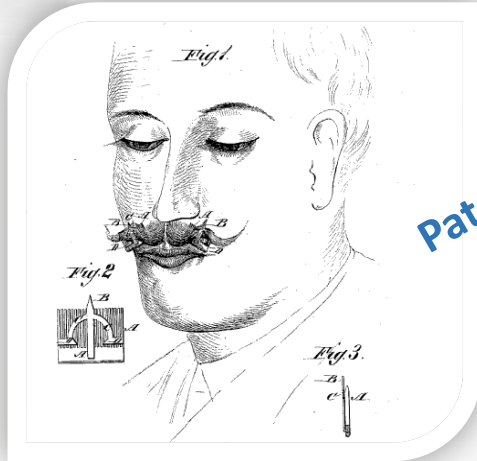


Copyright



Trade secret

A Quick Exercise



Patent



Patent

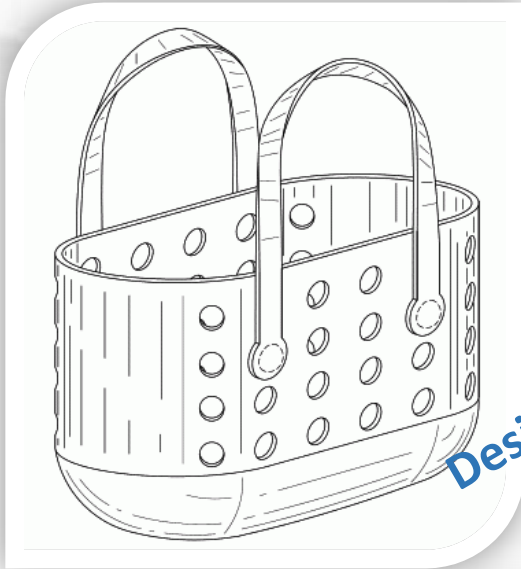


Copyright



Trademark

A Quick Exercise



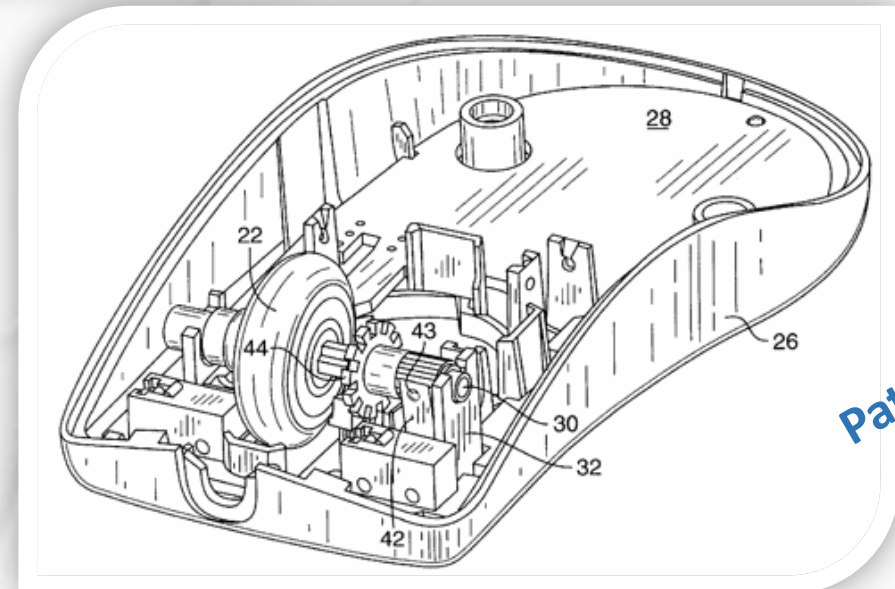
Design Patent



Trademark



GI



Patent

Why Safeguard IP?



01

Commercialization to
earn from licensing

02

Technological development
& Blocking competition

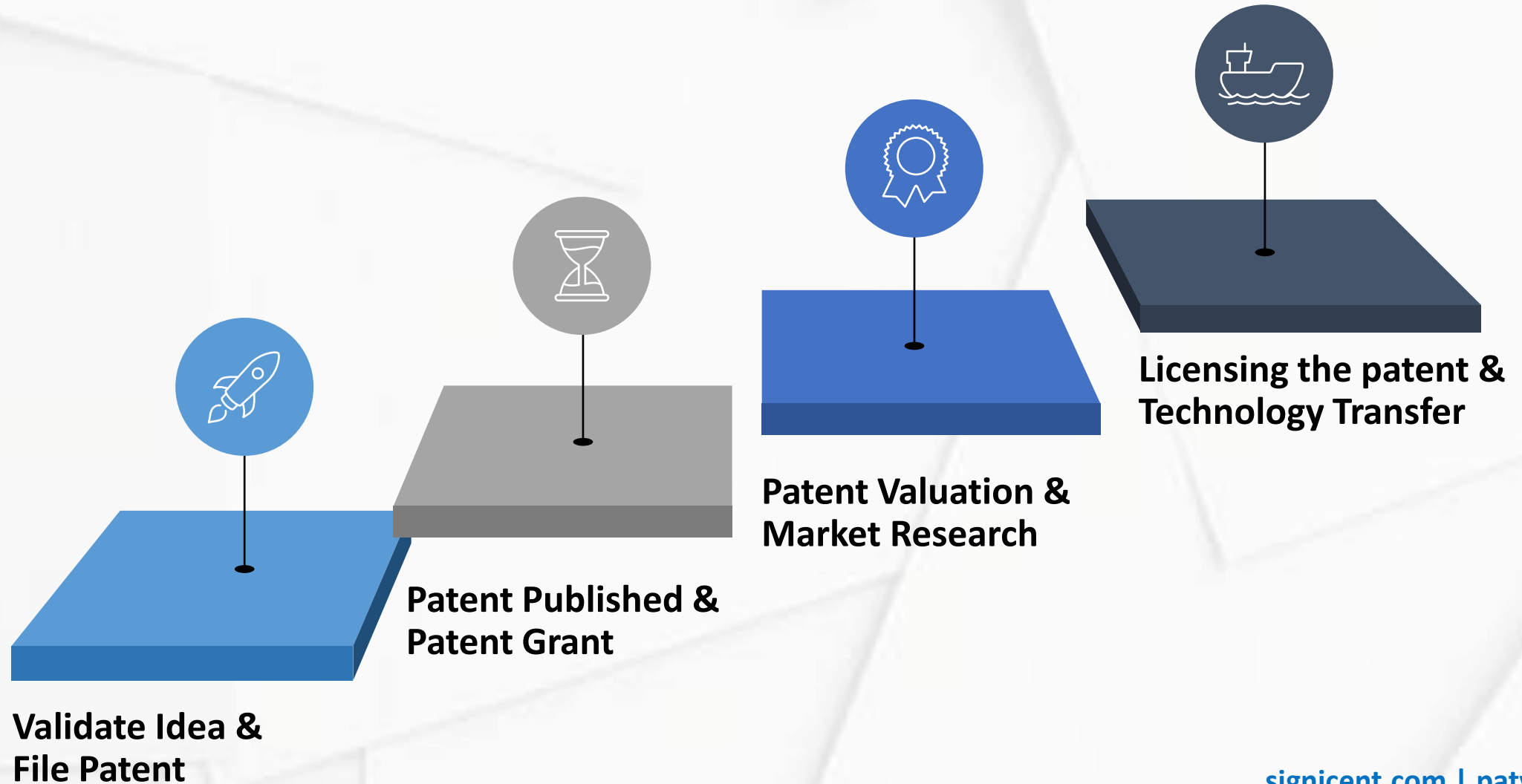
03

Recognition & Rewards

04

Brand building & to Raise
Funds

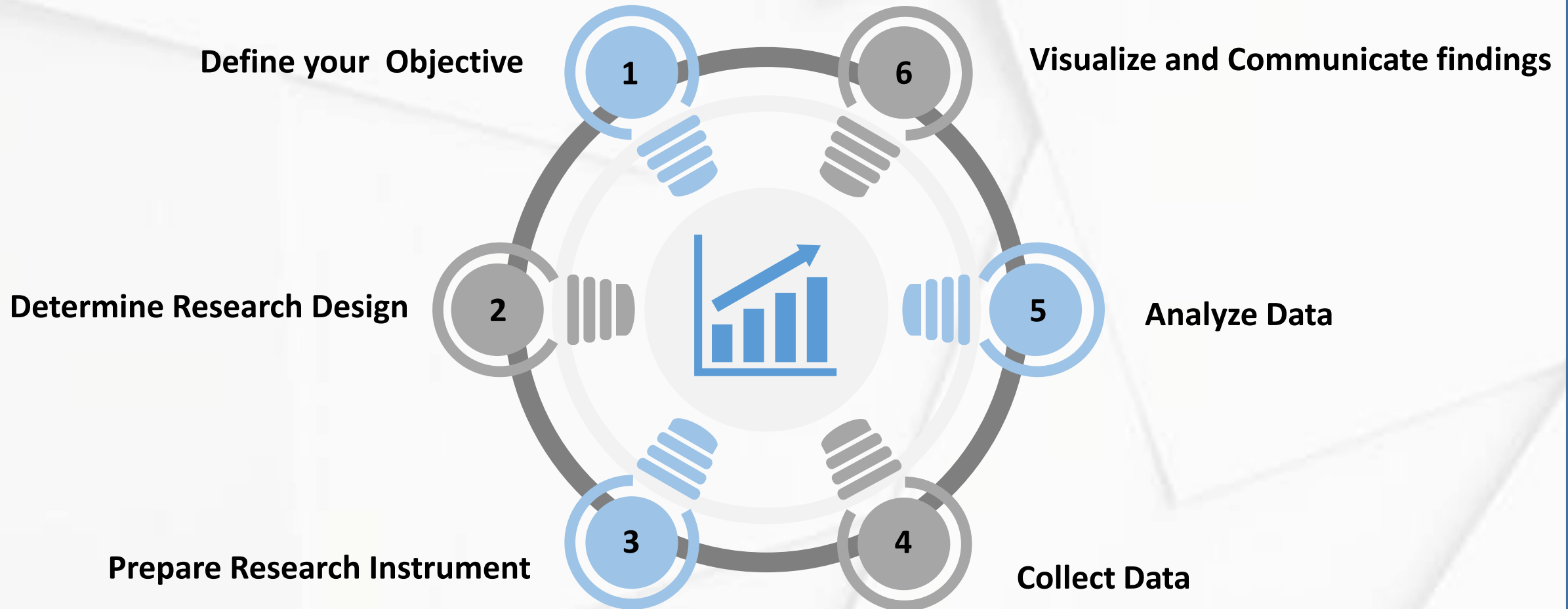
IP Flow



3. MARKET RESEARCH



Market Research



Market Research approach



Primary approach

- Interviews (telephone or face-to-face)
- Surveys (online or mail)
- Questionnaires (online or mail)
- LinkedIn

Secondary approach

Internal Sources: Balance sheets, Profit and loss statements, Inventory records, Sales figures.

External Sources: Journals and Magazines, Industry and market data, Annual reports, Government database, Demographics/consumer data

3. PATENT VALUATION



Objective of IP Valuation

- To increase or to find the business value from the IP through optimum management decisions,
- To raise funds & securing the finances,
- To assess the damage claims in business dissolution, infringement and breach of contractual rights,
- Restructuring or Liquidation procedure: As in mergers, acquisition, spin-offs or bankruptcy, and
- A future unknown market will determine the value based on market demand and supply dynamics.



Quantitative Analysis

- **What?**

This analysis helps to determine the monetary value of the patented technology for the given patent(s).

- **Why?**

This provides worth of the patents. It is based on the future predictions of the patented technology.

- **Parameters**

Cost Based Method, Market Based Method & Income Based Method

Qualitative Analysis

- **What?**

This analysis is based on the bibliographic factors that have direct impact on the value of the patent which includes citations, broadness of claims, etc.

- **Why?**

This factor helps to determine the rating of patents amongst the set of given patents.

- **Parameters**

Legal Strength of Patent, Technological Strength of Patent & Bibliographic Strength of Patent

1. Legal Status Analysis

This category helps to determine the present position of the patent during the grant process by considering the broadness of the claims, patent enforcement methodologies adopted by company.

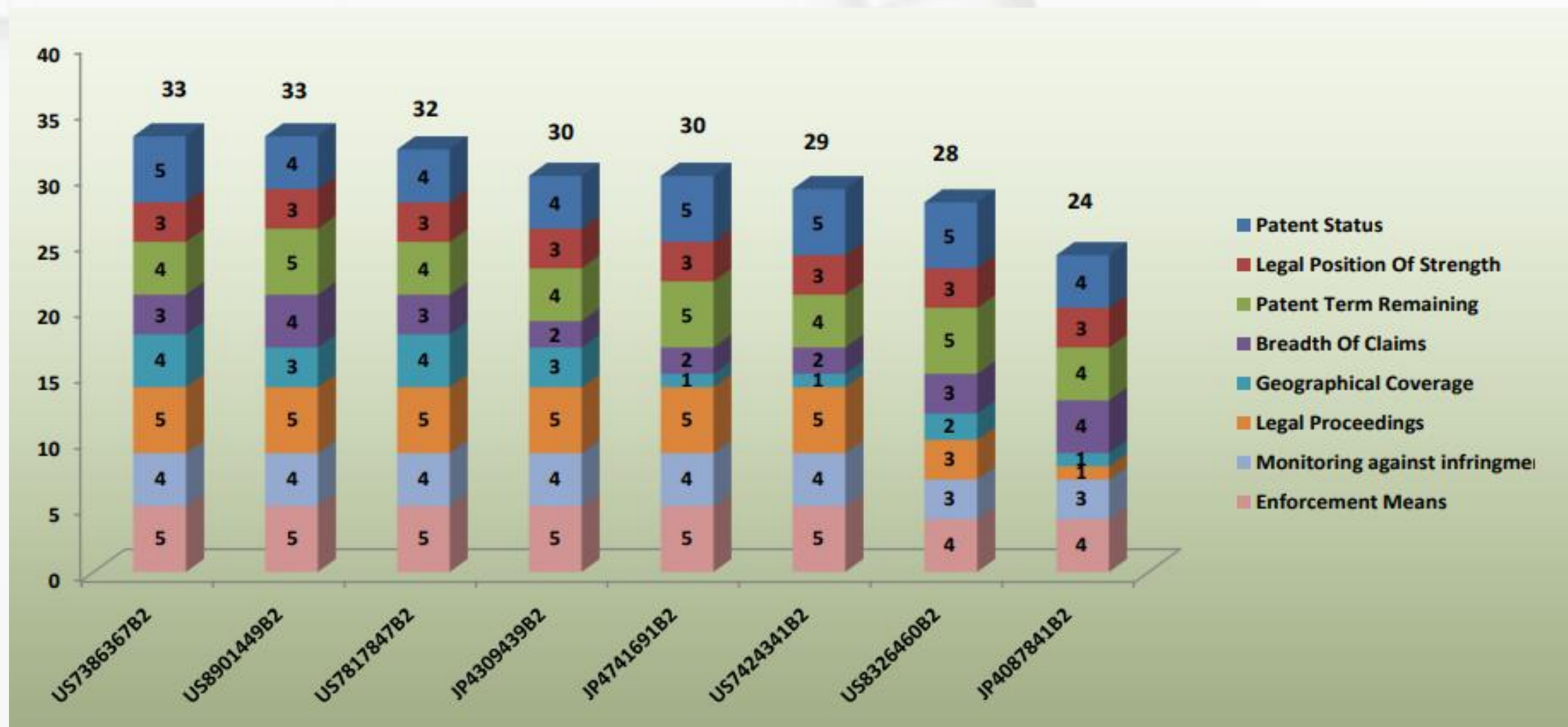
- Patent Status
- Legal Position of Strength
- Patent Term Remaining
- Breadth of Claim
- Geographical Coverage
- Monitoring Against Infringements
- Legal Proceedings
- Enforcement Means



Example

S. No.	Publication Number	Publication Date	Title	Legal Status	Application/Filing Date	Expected Approx. Expiry Date
1	EP2203608B1	2016-02-17	Rimless toilet with flush water distribution apparatus	Legal State= ALIVE Status=Granted	2008-09-03	2028-09-03
2	EP2203608A1	2010-07-07	Rimless toilet with flush water distribution apparatus	Legal State= ALIVE Status=Granted	2008-09-03	2028-09-03
3	WO2009030904A1	2009-03-12	Rimless toilet with flush water distribution apparatus	Legal State= DEAD Status=Lapsed	2008-09-03	2028-09-03
4	KR20100049597A	2010-05-12	Rimless toilet with flush water distribution apparatus	Legal State= DEAD Status=Lapsed	2008-09-03	2013-10-04
5	GB0717274D0	2007-10-17	Rimless toilet	Legal State= ALIVE Status=Granted	2007-09-05	2027-09-05
6	GB2453319A	2009-04-08	Rimless toilet	Legal State= ALIVE Status=Granted	2007-09-05	2027-09-05
7	GB2453319B	2011-09-21	Rimless toilet	Legal State= ALIVE Status=Granted	2007-09-05	2027-09-05
8	US2012210505A1	2012-08-23	Rimless toilet with flush water distribution apparatus	Legal State= DEAD Status=Lapsed	2012-03-01	2015-03-04

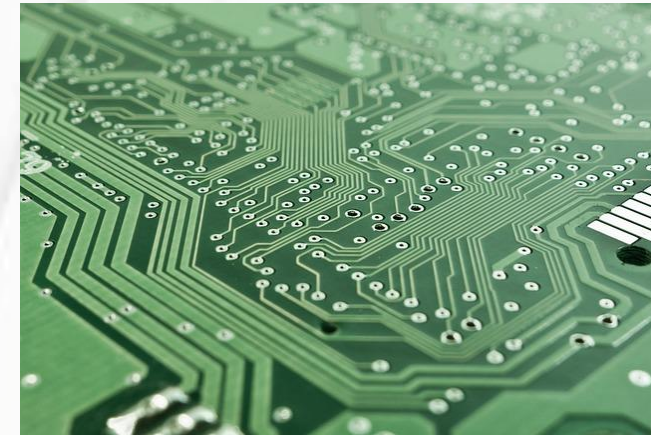
Example



2. Technology & Market Coverage Approach

It covers the aspect of the substituting technologies and whether the infringing copy cats are easy to produce, whether the technology has been tested and whether new skill/equipment is required. It provides the position of the technology in the market.

- Licensing Agreements
- Unique Technology
- Substitute Technology
- Testing of the Invention
- Production Skills/Equipment
- Pre-commercial term of development
- Marketing Value
- Production of infringing copy cats
- Identifiable infringing Products

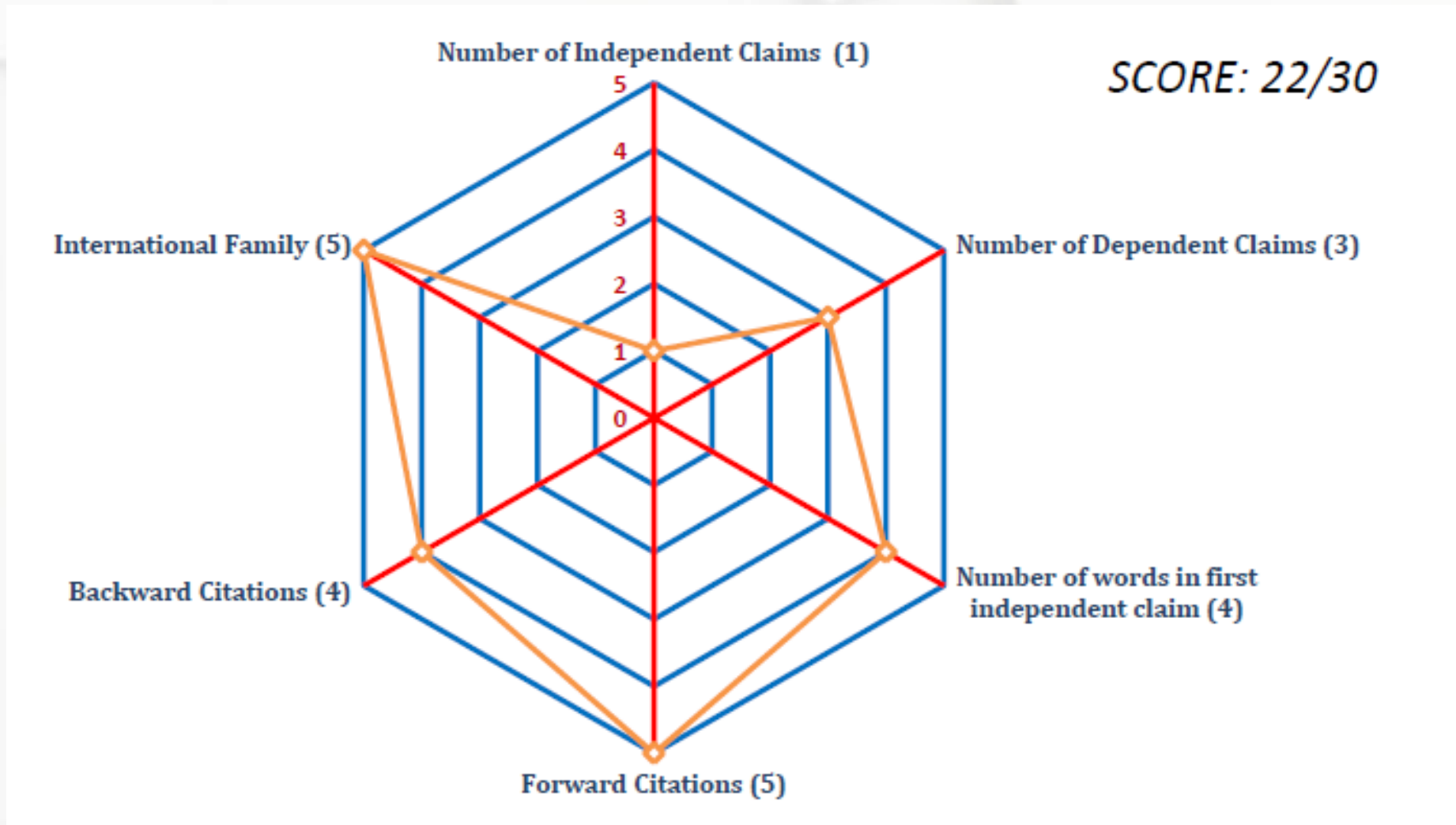


3. Bibliographic Factors

These factors need to be considered as they make huge direct impact on the values of the patent

- **Number of independent claims** - More the number of independent claims more value the patent possesses
- **Number of dependent claims** - More the dependent claim more descriptive the patent is
- **Number of words in first independent claim** - More the number of words lesser broad the technology is described
- **Forward citations** - High number of forward citations has high value and may form the base of the technologies that are yet to come.
- **Backward Citations** - The patent which has high number of backward citations has low value.
- **International Family** - More number of patent families helps to cover the more dominant countries in which the patent has high value.

Example



1. Market Based Method

The market based valuation is based on the similar deals that took place in market i.e. comparable patent industry. Comparison is performed on the basis of:

- Terms of utility
- Technological specifications and
- Perception of market

This can include various patent licensing deals, patent infringing cases or patent litigation cases.

Example

Sr. No.	Licensor Company	Licensee Company	Technologies	Companies	Agreement Type	Year	Million Dollars
1	OIN	Toyota	Manufacturing	OIN & Toyota	Patent Pool(License Agreement)	2016	20
2	Leading Robotics Company	Multinational Gaming Company	Robotic Technology	Robotics company (client) and a multinational gaming company	Patent License Agreement	2015	50
3	Avigilon	Object Video	Computer Vision	Avigilon and OV	Acquisition of Patents	2014	80.3
4	Fraunhofer	Kraken	Robotics	Kraken and Fraunhofer	Acquisitions of IP and Patent License Agreement	2017	15

2. Cost based method

It is based on the principle that there is a direct relation between the costs expended in the development of the intellectual property and its economic value.

Two different techniques are mainly used to measure costs:

- Reproduction cost method: Estimations are performed by gathering all costs associated with the **development of a replica** of the patent under valuation.
- Replacement cost method: Estimations are performed on the basis of the costs that would be spent to obtain an **equivalent patent asset** with similar use or function.

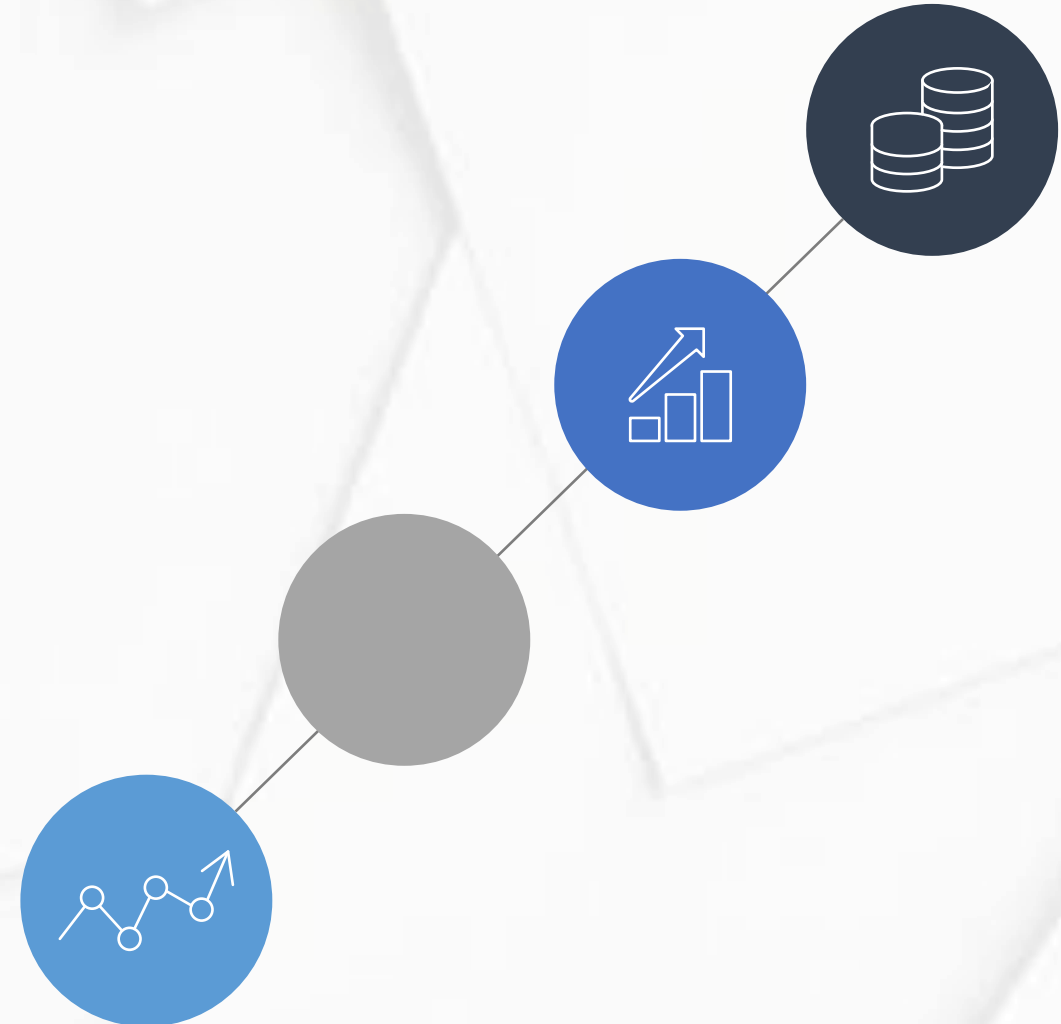
This method is not use driven and the data used always refers to the past.

Generally used to verify **plausibility** or to determine **minimum price thresholds**

3. Income Based Method

Income based approach is based on the future cash flow derived from a particular piece of Intellectual Property i.e. patents of the given technology. The following variables are needed when using an income based approach:

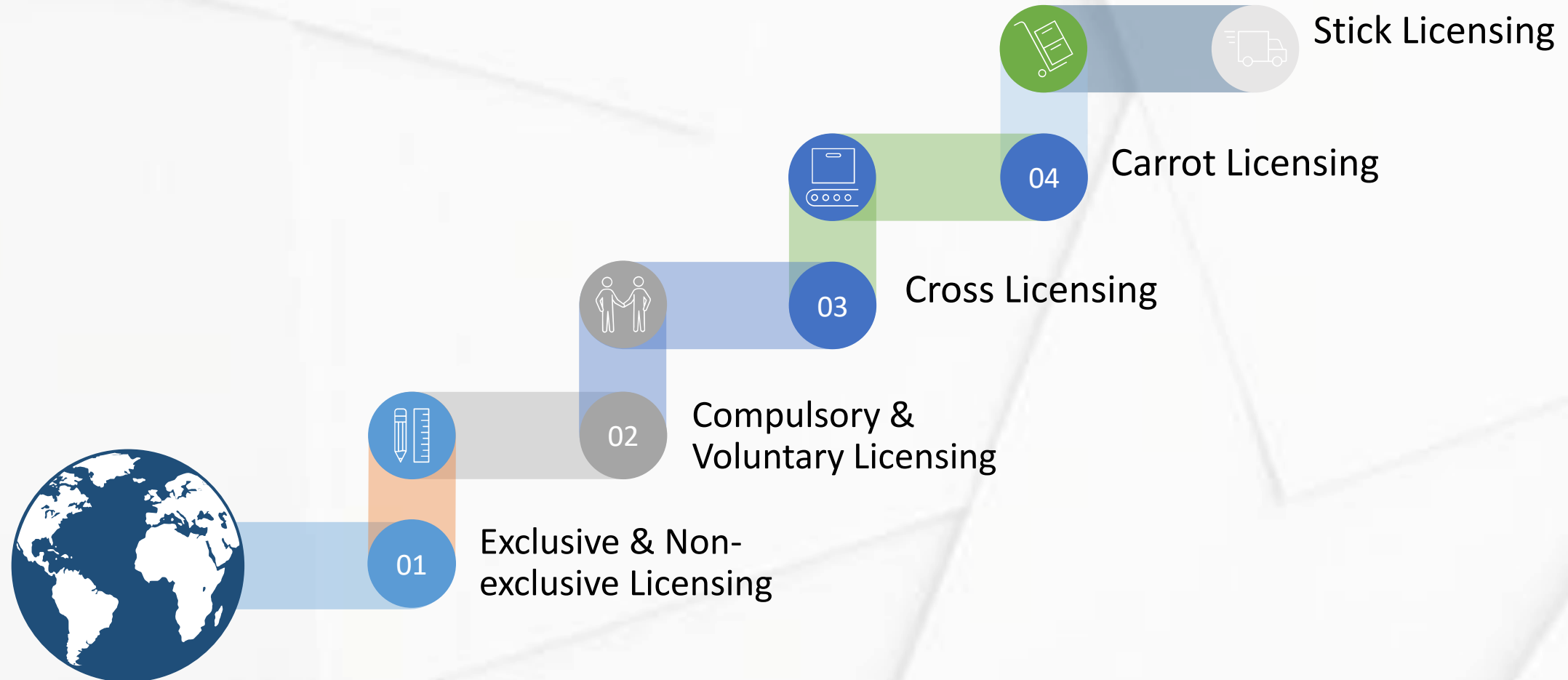
- Income Stream (net sales or gross income)
- Estimate of patents useful life
- Patent Specific Risk Factor
- Royalty Rates (if any)
- Discount Rates



4. LICENSING



Types of Licensing



License Agreement

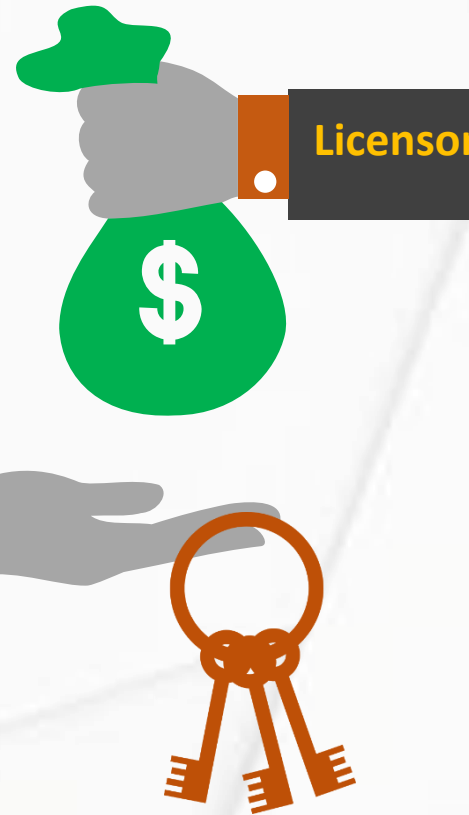


An agreement to

- **make,**
- **have made,**
- **use,**
- **export,**
- **offer for sale, and**
- **sell Licensed Products**

in the Field of Use during the term.

Licensor



Fees and Royalties involved

License Initiation Fee
License Maintenance Fees
Milestone Payments
Earned Royalties

Important Components



FEES AND
ROYALTIES



CONFIDENTIALITY



TERM AND
TERMINATION



PATENT PROSECUTION
AND MAINTENANCE



INFRINGEMENT



LIMITATION OF
LIABILITY

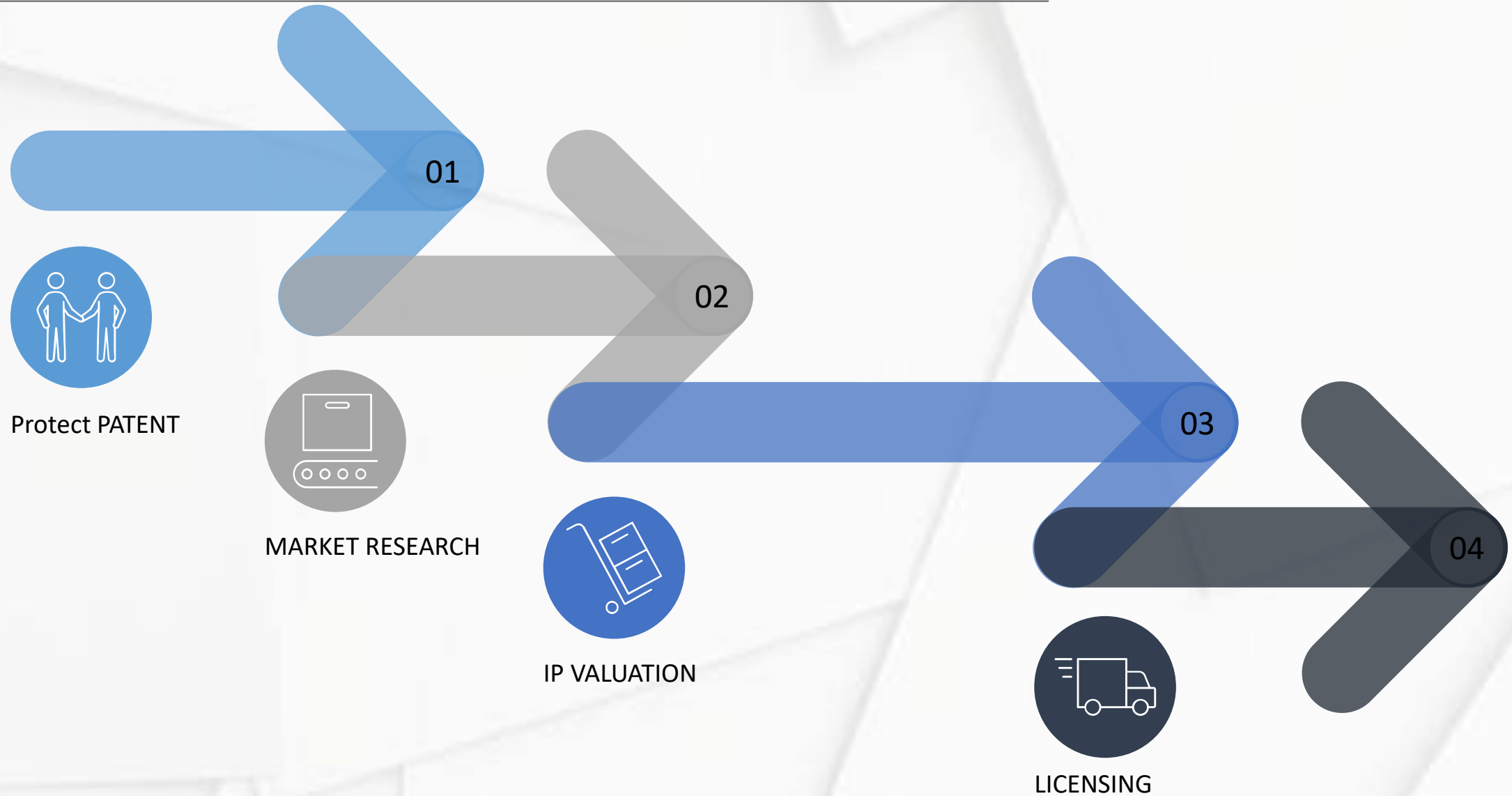


DISCLAIMER OF
WARRANTIES



INSURANCE

SUMMARY



THANK YOU

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