

Using IP to Reduce Risk and Maximize Return on Innovation

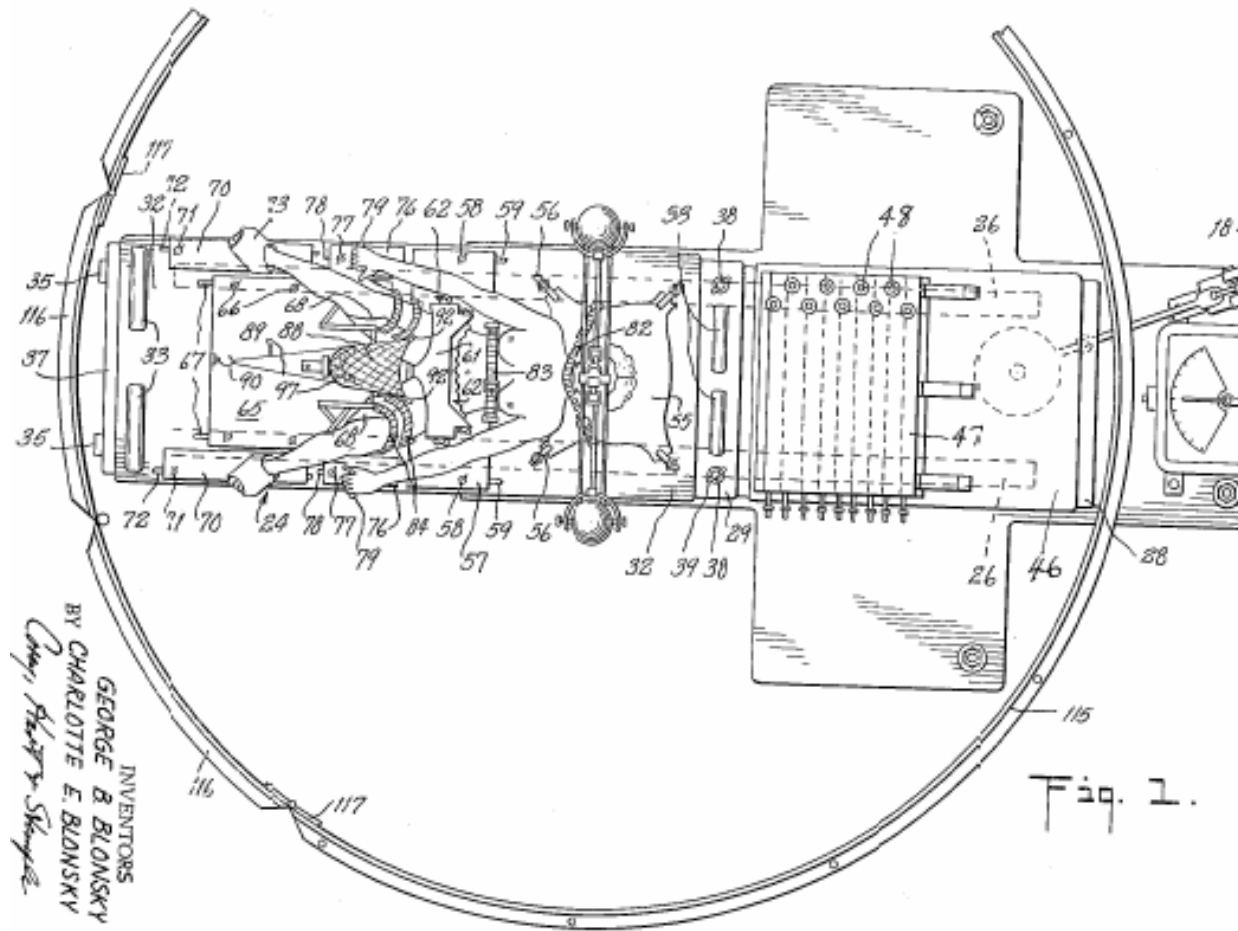
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All-Energy 20/21 May 2009

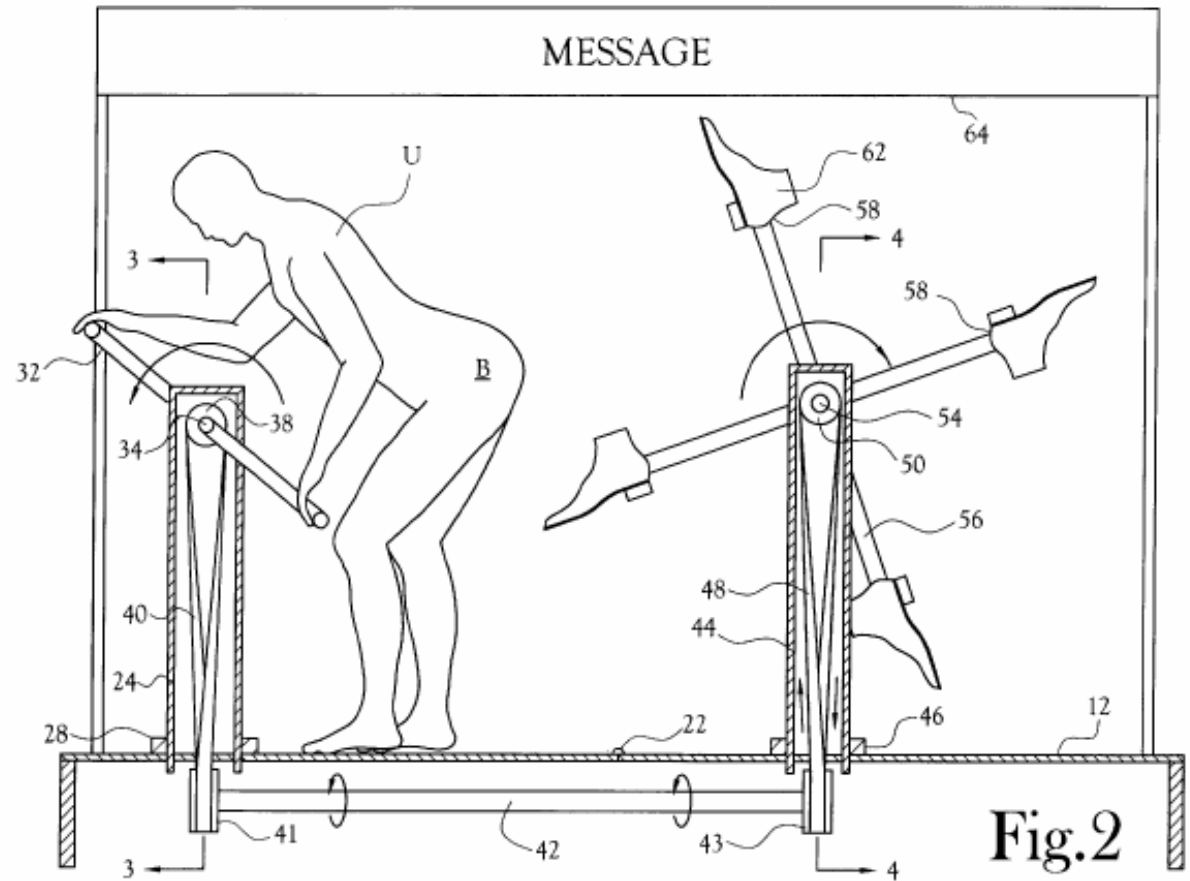
Centrifugal force
assisted birthing
device

US 3,216,423



Apparatus for
kicking the user's
buttocks

US 6,293,874

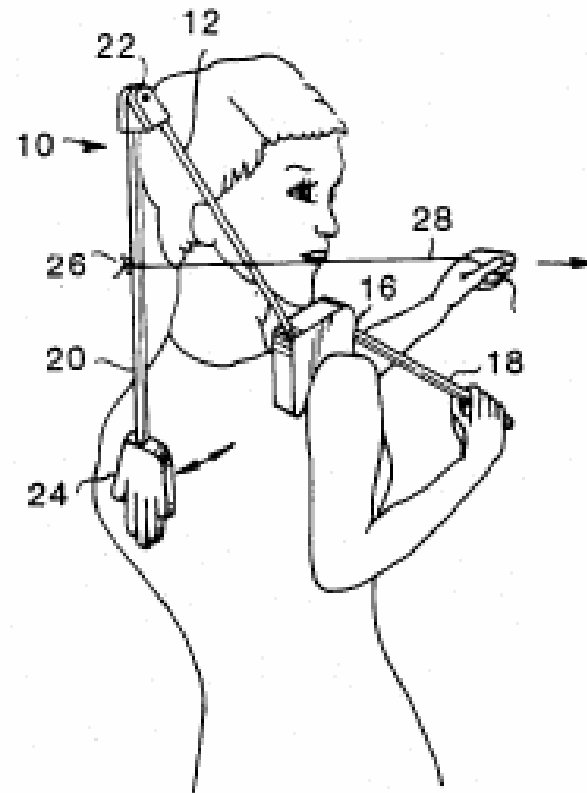


Pat on the back
apparatus

US 4,608,967

“For providing a needed
psychological lift”

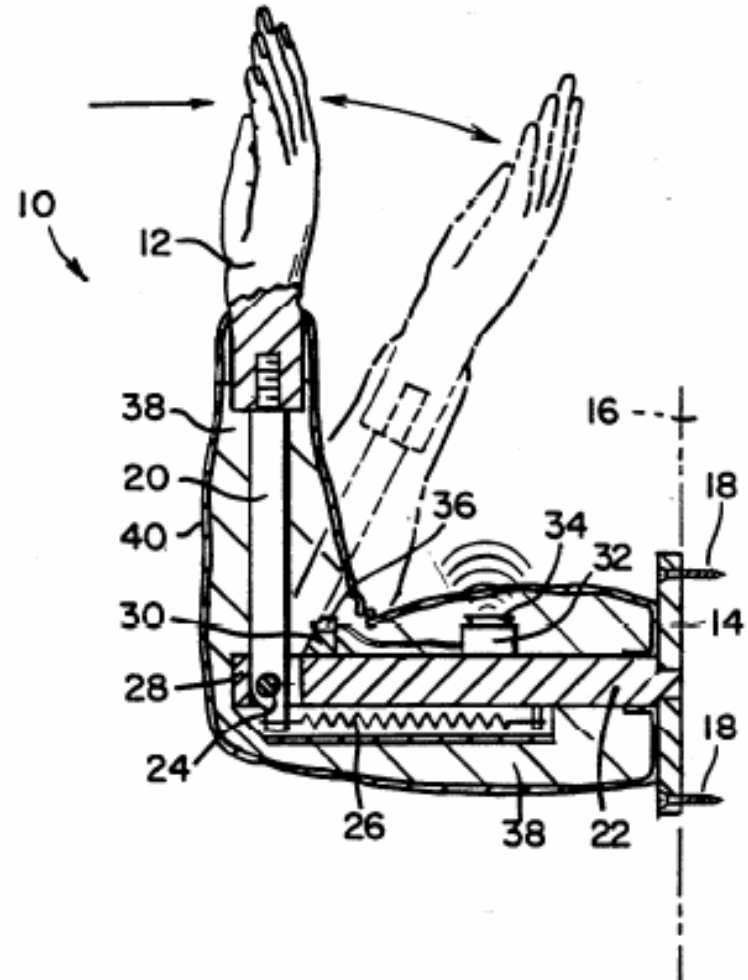
FIG. 1



Apparatus for simulating
a “High Five”

US 5,356,330

“Permits a solitary fan to
express excitement
during a sporting event”



Assets - Tangible vs Intangible

Assets

- everything of value owned by a person or company

Tangible Assets

- things of value that have physical substance
- inventory, buildings, equipment, vehicles etc.

Intangible Assets

- things of value that lack physical substance
- valuable because they give some kind of advantage in the market place
- Intellectual Property (IP) – patents, trade marks etc.

Where does your value lie?

Over 75% of company value is in the intangibles - the IP

Young renewable technology company will have almost entire value in the IP

May 2009 – Renewable Energy Holdings plc agreed to sell its wave energy IP to Carnegie Corporation Limited for around £30 million

IP rights are therefore critical – usually all you have to offer for investment

Essential that you get your IP and IP strategy/policy right

Benefits of IP – Reduces Risk and Maximises Return

Reduces risk for you/investor

- provides exclusive monopoly on the technology – competitor barrier
- protects market share
- protects investment - helps maintain value
- minimise external threats - bargaining tool

Maximises Return on Innovation

- provides valuable asset which can be monetized
- provides basis for revenue stream – licensing
- permits premium royalties/income

Best achieved by implementing a sound IP strategy/policy

IP Strategy vs IP Policy

Terms are normally interchangeable, but there is a subtle difference

IP strategy should be developed as part of or in line with business objectives

The strategy may be:

- We will develop IP to obtain exclusivity on our core technology
- We will develop IP to generate a revenue stream – license out
- We will develop technology on the basis of third party IP – licence in
- We will monitor key competitor IP activity

IP policy should be developed as a process to put the strategy into effect

IP Strategy/Policy – What should be considered?

Your own IP

Third party IP

Third Party IP

Early investigations of third party IP which may be a barrier - freedom to operate, validity etc.

Use IP system to watch the competition – landscape – identify gaps

Identify potential customers of your IP – licensees etc.

Identify sources of new IP – license or buy in

Problem solving – patents as a source of information

Your Own IP

Recognising and protecting your own IP is fundamental

PROBLEM - Recognising that an invention has been created is one of the most difficult stages in the patent process

Inventors are often the worst at recognising their innovation

IP policy should include an education process on basic IP principles – directed at ALL staff

Implement a process for invention capture – regular IP reviews with inventors/engineers, management, marketing (careful!), patent attorney

Criteria for “Patentability”

New

- not known anywhere in the world prior to filing date

Inventive step

- not obvious: more than a simple adaptation or combination - if you believe that what you are doing has commercial value, then this is a strong indication that an inventive step exists

A layman’s understanding of these criteria is entirely different from a patent professional’s – they are usually not difficult hurdles!

REMEMBER.....

....IT DOESN'T NEED TO BE GROUNDBREAKING ROCKET SCIENCE!

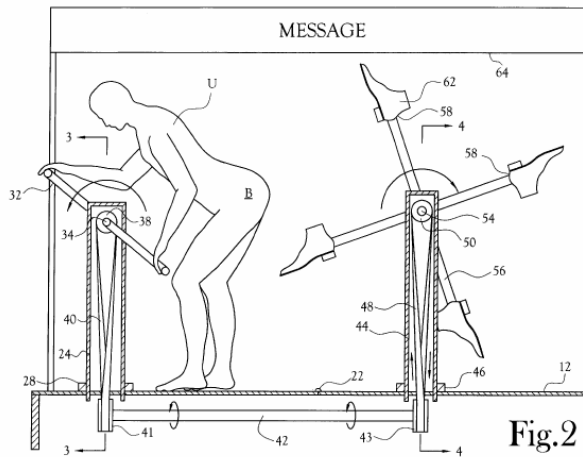


Fig.2

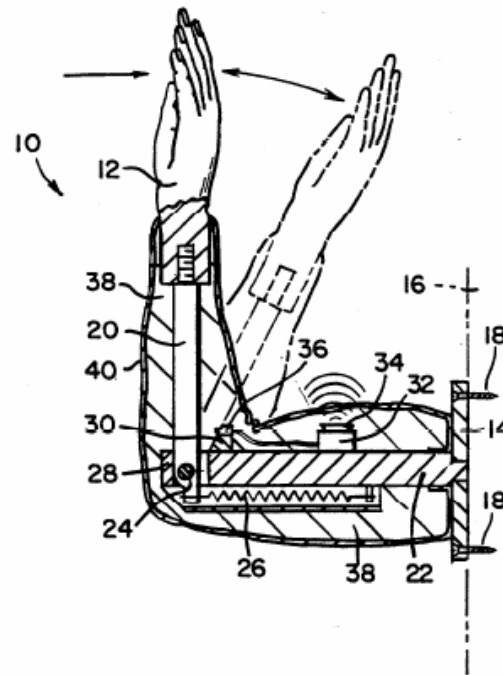
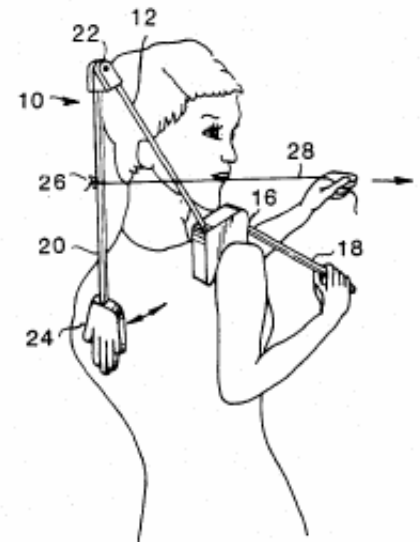


FIG. 1



Your Own IP – What do you protect?

At a minimum you should cover your core technologies

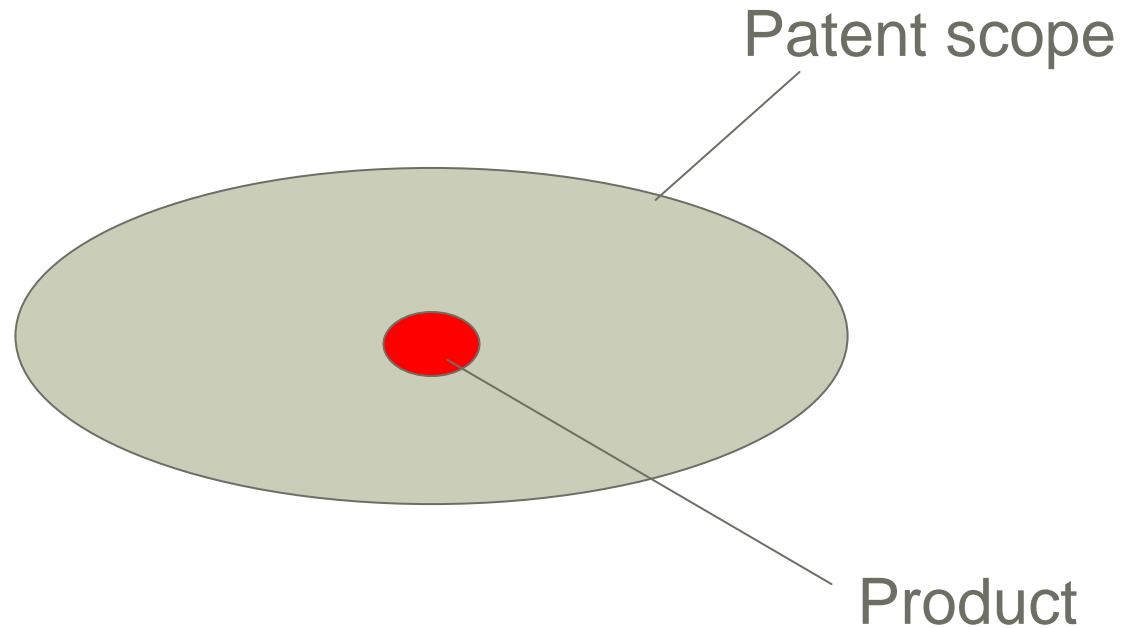
Take a step back from the detail and look at the overall concept

But don't forget the detail – this may be where most of the value exists, and will almost certainly be where most of your development costs will lie

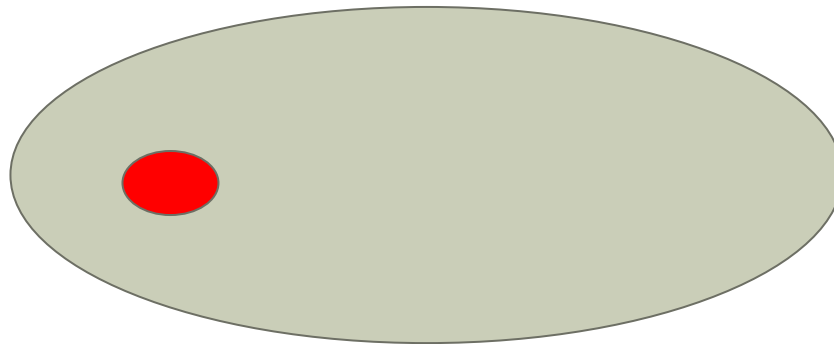
Doing both will provide a very powerful suite of IP

IP policy should ensure continual review of products vs IP coverage – one of the first things an investor will look at

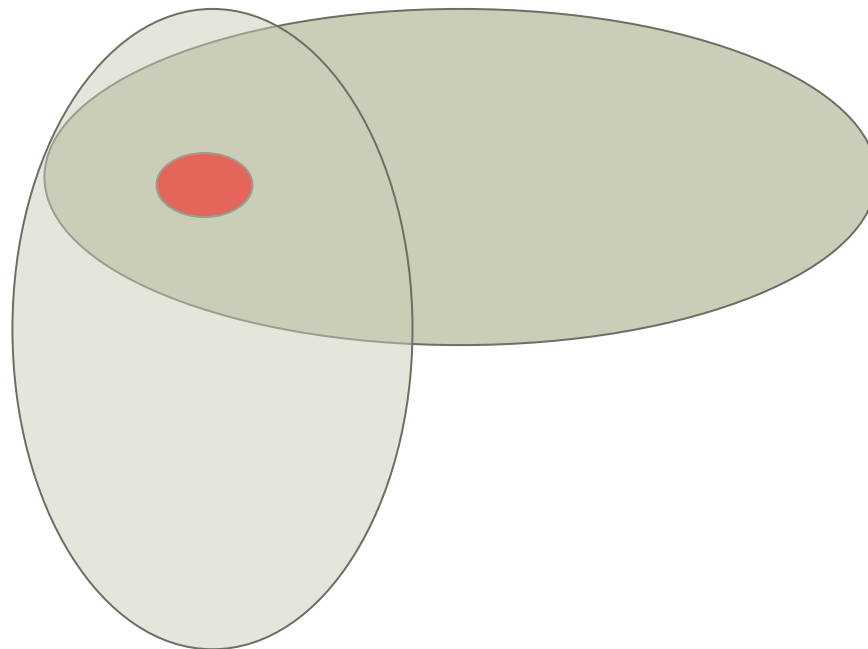
Scope - do the patents cover the products/services of the business – a graphical example 1



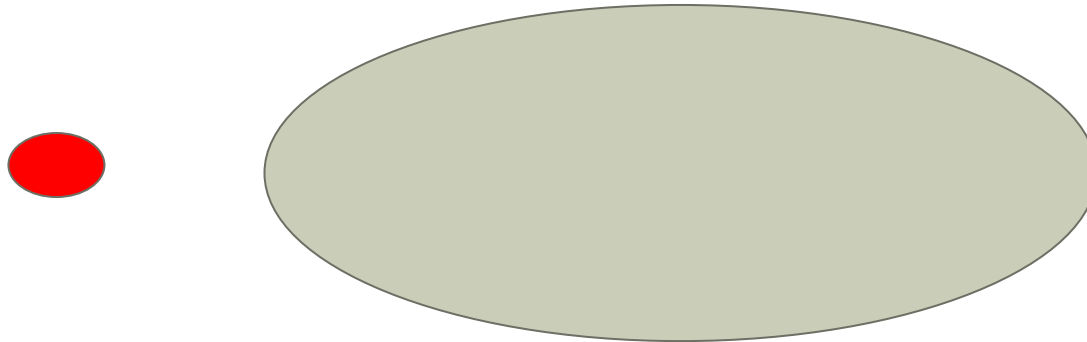
**Scope - do the patents cover the products/services of the business
– a graphical example 2**



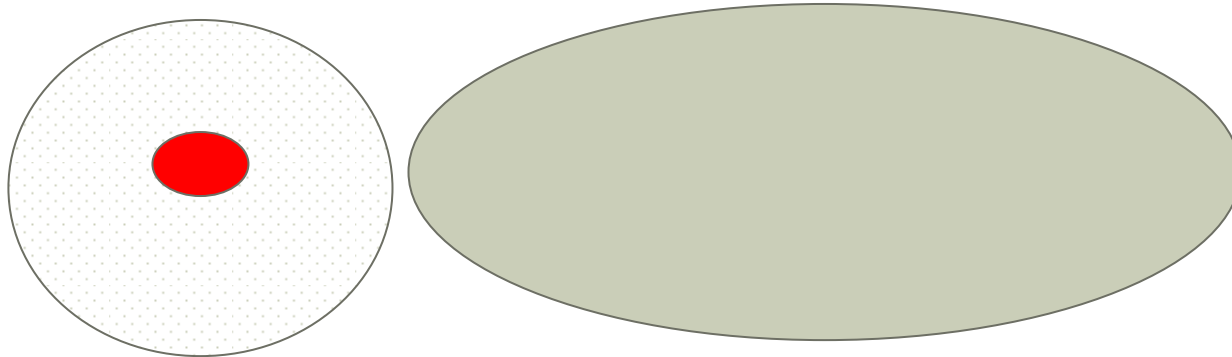
**Scope - do the patents cover the products/services of the business
– a graphical example 3**



**Scope - do the patents cover the products/services of the business
– a graphical example 4**



**Scope - do the patents cover the products/services of the business
– a graphical example 5**



Your Own IP – What else do you protect?

Look forward

- Where might your business/technology go in the future?
- Where might the industry go in the future?
- Blue sky thinking IP

Look at the competition

- Are there any gaps in their IP?
- Can you see improvements in the competitor technology?
- Can you see alternative uses of the competitor technology?
- Can you see application of your inventions in the competitor technology, or vice versa?

When do you protect?

At which stage in the product development cycle:

- Discovery phase?
- Assessment phase?
- Development phase?
- Commercialisation phase?

Always better to secure protection early – criteria of novelty so IP policy should closely monitor any disclosure of inventions

Ideally your IP policy should be continuously implemented at every stage

Where do you Protect?

Cover your own/home market (existing and potential)

- May be manufacturing base, but in renewable technologies the principal regions of use should be covered

Cover your competitor's market

Be realistic – don't go for world domination

What would you prefer?

- A single patent in 30 territories covering one technology

Or

- Ten patents in 3 principal territories covering multiple technologies

Don't undermine your most valuable asset

Your intangible ideas are your most valuable assets

Ensure that you are doing all you can to protect these

Recognise IP as one of your most powerful business tool

Develop an IP strategy in line with business objectives

Implement this strategy using a suitable IP policy across the entire business hierarchy

Marks&Clerk



QUESTIONS?

Andrew Docherty

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All-Energy May 2009