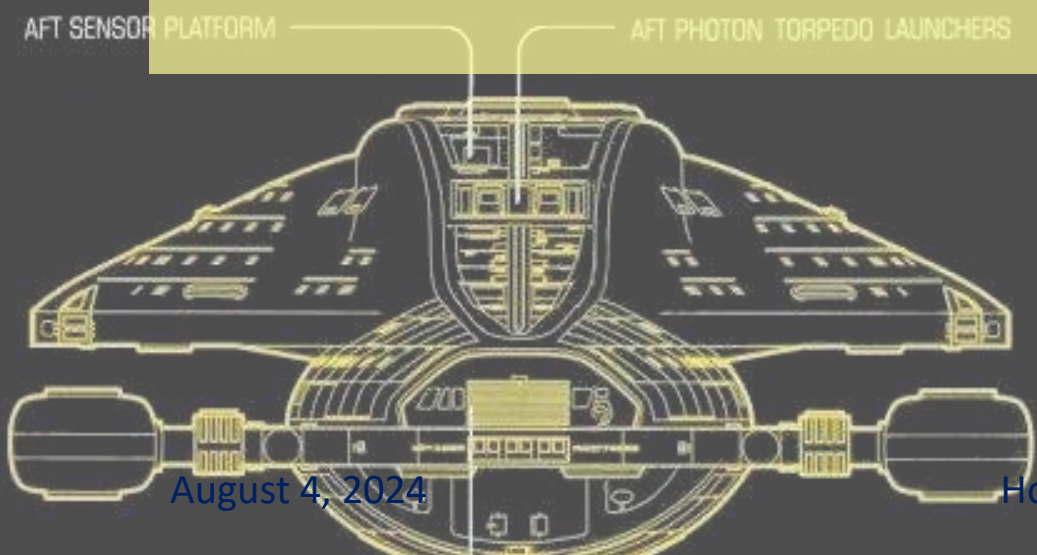




# HOW TO PATENT YOUR INVENTION

AFT VIEW

FORE VIEW



# AGENDA



1. What is a patent?
2. What does a patent protect?
3. What does a patent not protect?
4. What is a provisional patent?
5. What is a trade secret and how does it differ from a patent?
8. The history of patents
9. What is intellectual property?
10. The America Invents Act
11. NPEs and “patent trolls”
12. Q&A

# BOB ZEIDMAN



Bob is the creator of the field of software forensics. He is the founder of Zeidman Consulting that offers engineering consulting to law firms regarding IP disputes and Software Analysis and Forensic Engineering Corporation, the leading provider of software IP analysis tools. He holds 28 patents.

Bob is the author of three award-winning screenplays, four award-winning novels, five textbooks, and one memoir. His latest venture is Good Beat Poker, an online poker site that incorporates patented audio and video technology.

He is also the author of *How to Invent a Time Machine*.



# *WHAT IS A PATENT?*

- Protects one's rights to their invention
- Utility patent
  - Apparatus
  - Method
- Design patent

# *WHAT DOES A PATENT PROTECT?*



- Exclusive use rights for a limited period of time
- A method:
  - Technical process (e.g., chemical process or software)
  - Business process (very hard since the Supreme Court's Alice case)
- An apparatus:
  - Physical components, how they interconnect
  - Mechanical
  - Electrical
  - Software

# *WHAT IS A PROVISIONAL PATENT?*

- A one year placeholder
- Cheaper than a nonprovisional patent
- Needs to cover all aspects of the invention
- Be careful not to reveal trade secrets
- Must be enabling
- By itself, provides no rights

# ***WHAT IS A TRADE SECRET?***



- Generally:
  - something that is kept secret;
  - economic benefit from its secrecy;
  - not known or readily ascertainable;
  - must implement efforts to maintain its secrecy.
- Most states have adopted the Uniform Trade Secrets Act (UTSA)
- Federal Defend Trade Secrets Act (DTSA)

# ***WHAT DOES A TRADE SECRET PROTECT?***

- Technology
- Business methods
- Customer lists
- Business plans
- Secret Formulas (Coca Cola, KFC recipe)
- Ideas
- Negative knowhow
- Lots of things! Basically, anything that has value.



# ***PROTECTING TRADE SECRETS***

- Get signed NDAs from everyone
- Mark documents “CONFIDENTIAL”

# ***PATENT OR TRADE SECRET?***

Characteristic	Patents	Trade secrets
Public or private?	Public	Private
Owner's legal action	Easier?	Harder?
Cost	High	Low
Protection from theft	Harder?	Easier?
Time	Limited	Unlimited
Ownership	Restricted	Unregulated

# ***REASONS TO FILE PATENTS***

- File at least one patent
- File it early
- Use a patent attorney
- Defensive reasons
- Lasting value
- Offensive reasons

# ADAM MOSSOFF



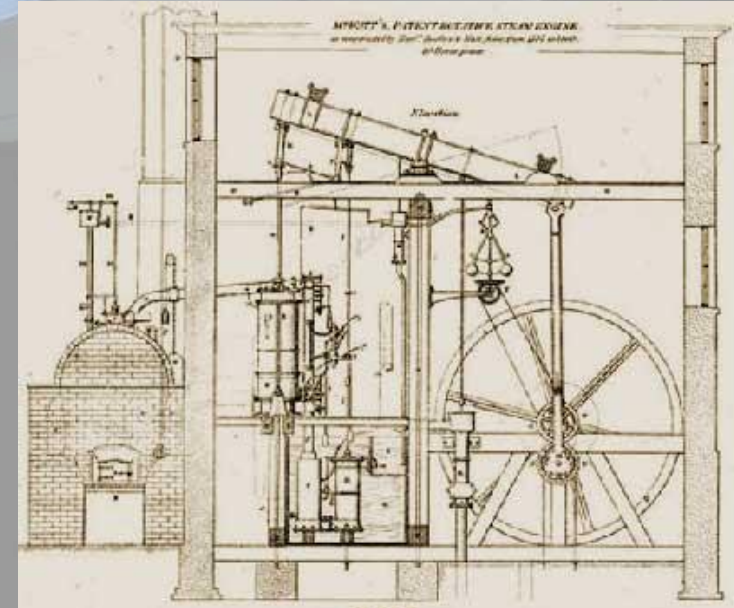
Adam is a law professor at Antonin Scalia Law School, George Mason University. He has published extensively on patent law and innovation policy and has testified five times before Congress. He has written on patent law and tech policy in the *Wall Street Journal*, *New York Times*, *Forbes* and other media.

You can follow Adam on Twitter at @AdamMossoff, where he posts regularly on patent law including patents on Star Trek and other sci-fi toys and gadgets, as well as hot topics in innovation policy. He is a lifetime geek and sci fi fan.



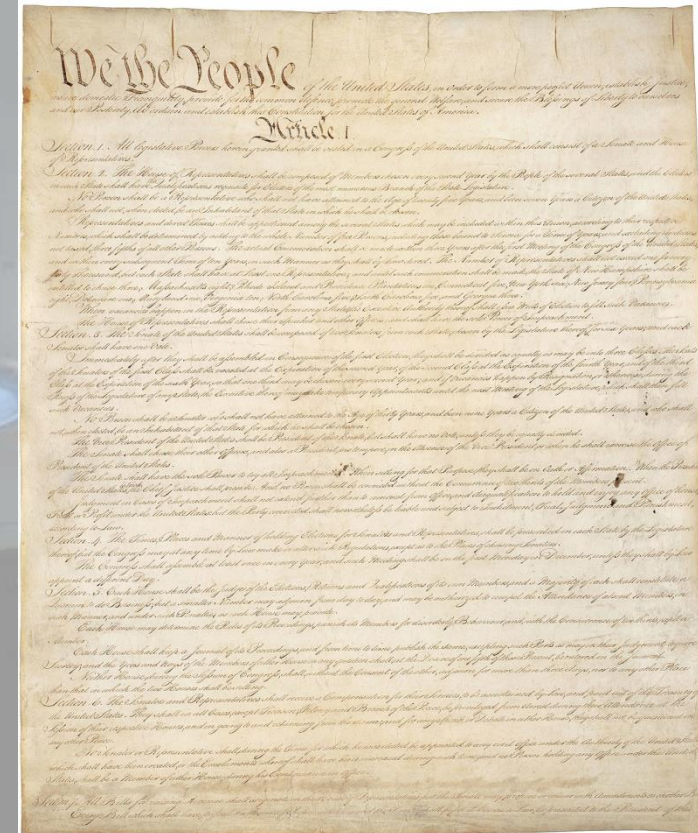
# BRIEF “ANCIENT” HISTORY OF PATENTS

- “Patents” Start in England
  - Power of the King/Queen
  - “Letter Patent”
  - Statute of Monopolies 1624
- Most Famous Early English Patent: James Watt’s Invention of the Steam Engine (1769)



# SOURCES OF U.S. PATENT LAW

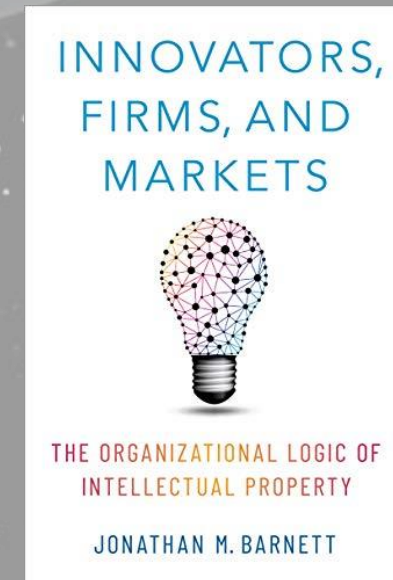
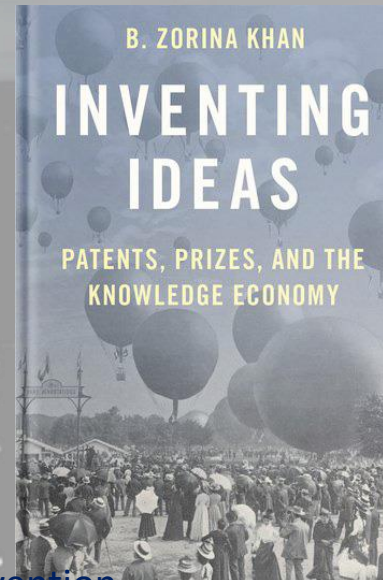
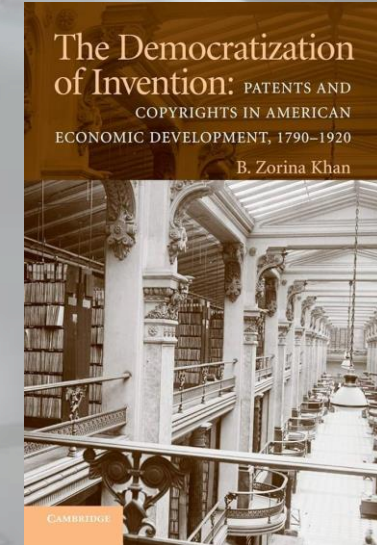
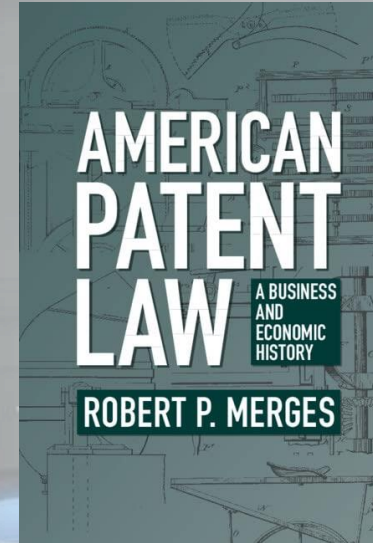
- **Constitution (Art. I, § 8, Clause 8)**
- “The Congress shall have Power . . . To Promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”
- **Federal Statutes Enacted by Congress**
  - First Patent Act of 1790
  - New Patent Laws Enacted by Congress in 1793, 1836, 1870, 1952, and 2011





# PATENTS AS INTELLECTUAL PROPERTY

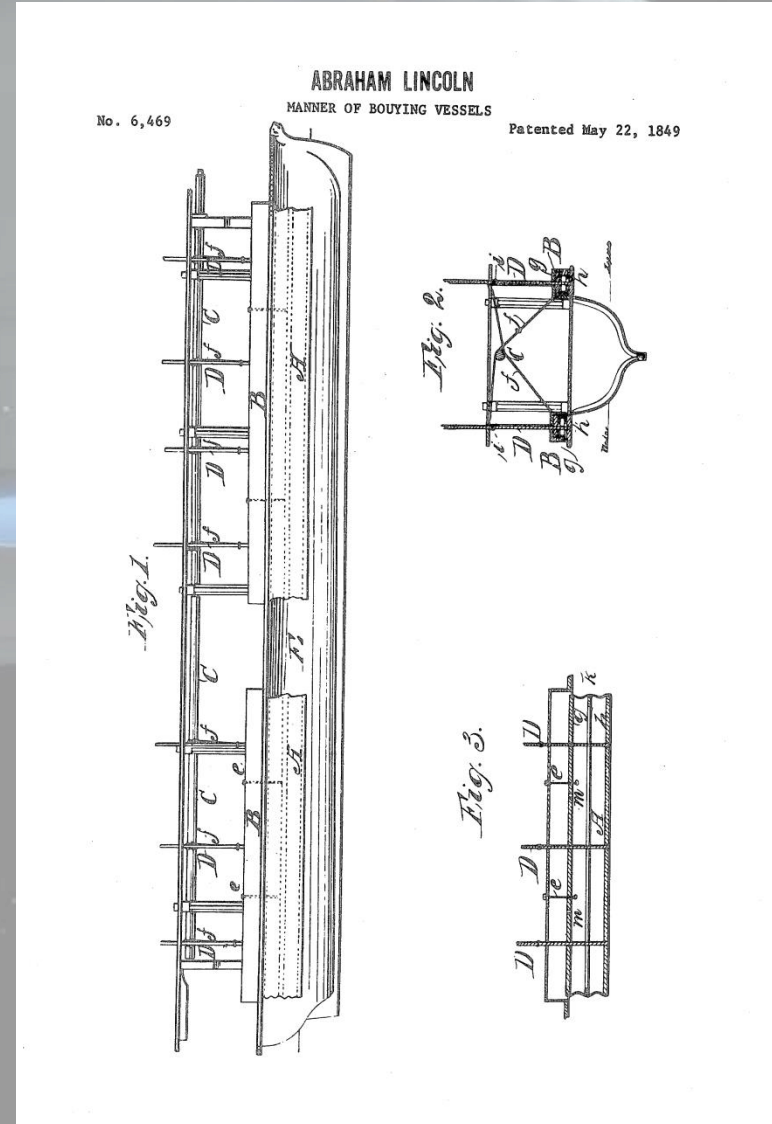
- United States is First Country to Authorize Protection of Patents (and Copyrights) in Founding Charter of Government
- “Exclusive Right” = Property
- Key Driver of Economic and Technological Revolutions in Past 200 Years
  - Industrial Revolution
  - Pharmaceutical Revolution
  - Computer Revolution
  - Biotech Revolution
  - Mobile Revolution



# ABRAHAM LINCOLN

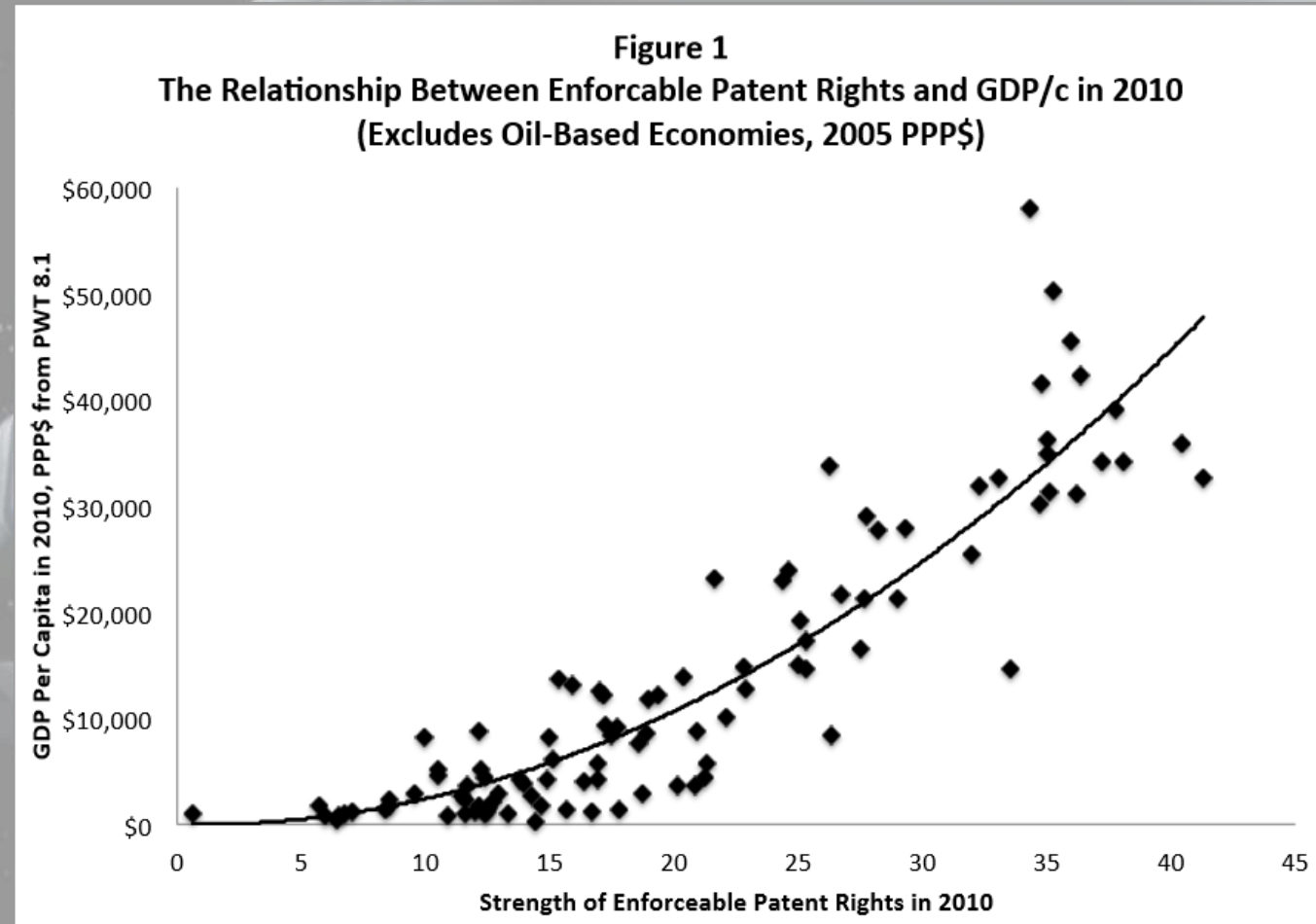


“The patent system ...  
added the fuel of interest  
to the fire of genius”





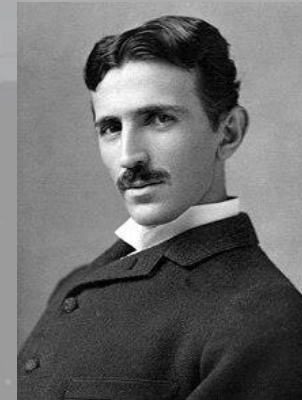
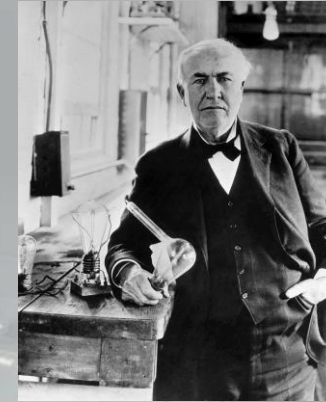
# RELATIONSHIP BETWEEN PATENT RIGHTS AND GDP



Stephen Haber, "Patents and the Wealth of Nations," *George Mason Law Review*, vol. 23 (2016)

# IS THE PATENT SYSTEM BROKEN TODAY?

- What is a “Patent Troll”?
- Examples of “Patent Trolls”
  - ❑ Thomas Edison
  - ❑ Alexander Graham Bell
  - ❑ Nikola Tesla
- Rhetoric vs. Reality
- Fight Over Business Models?



# ***QUESTIONS AND ANSWERS***

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