

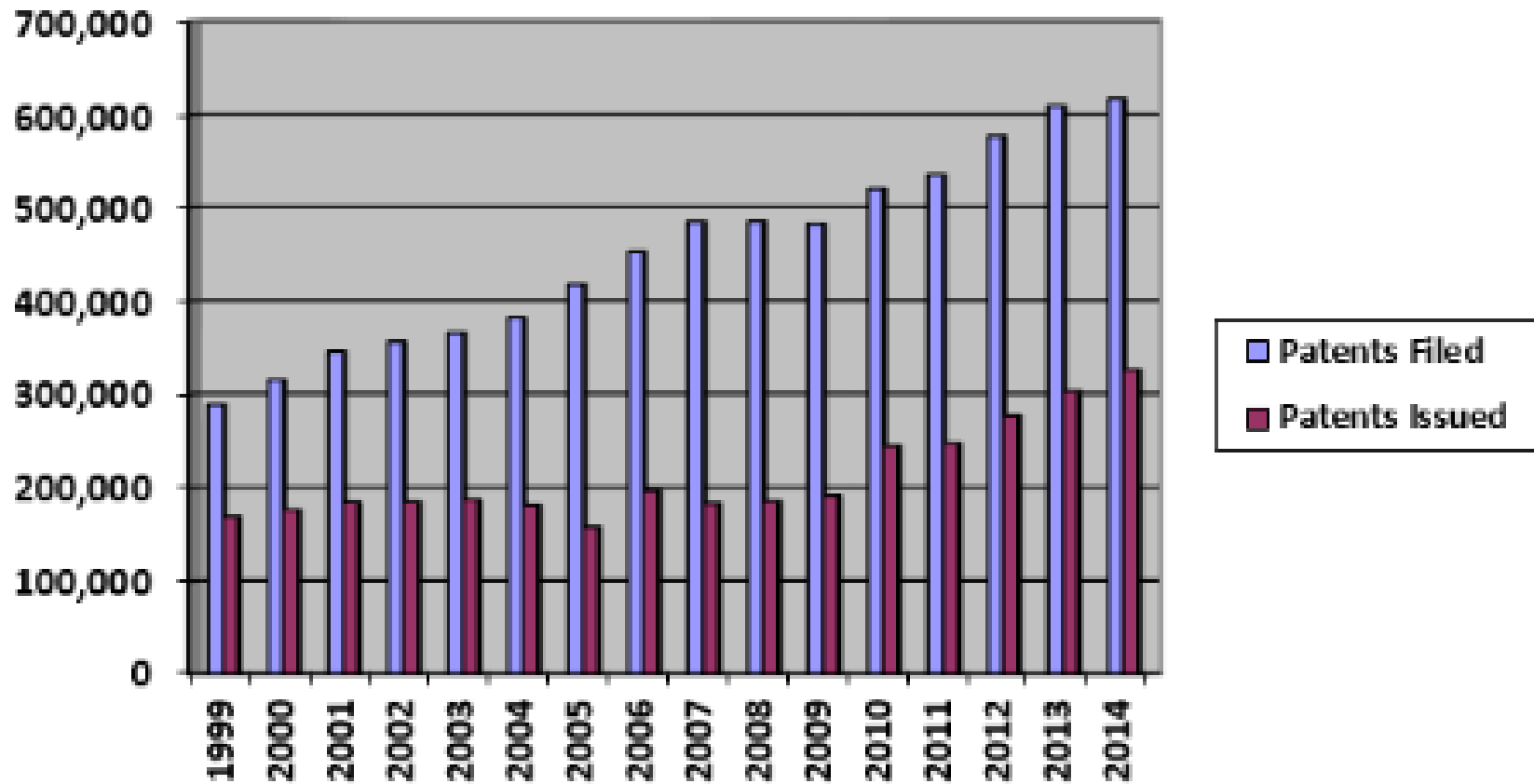
# The Surprising Resilience of the Patent System

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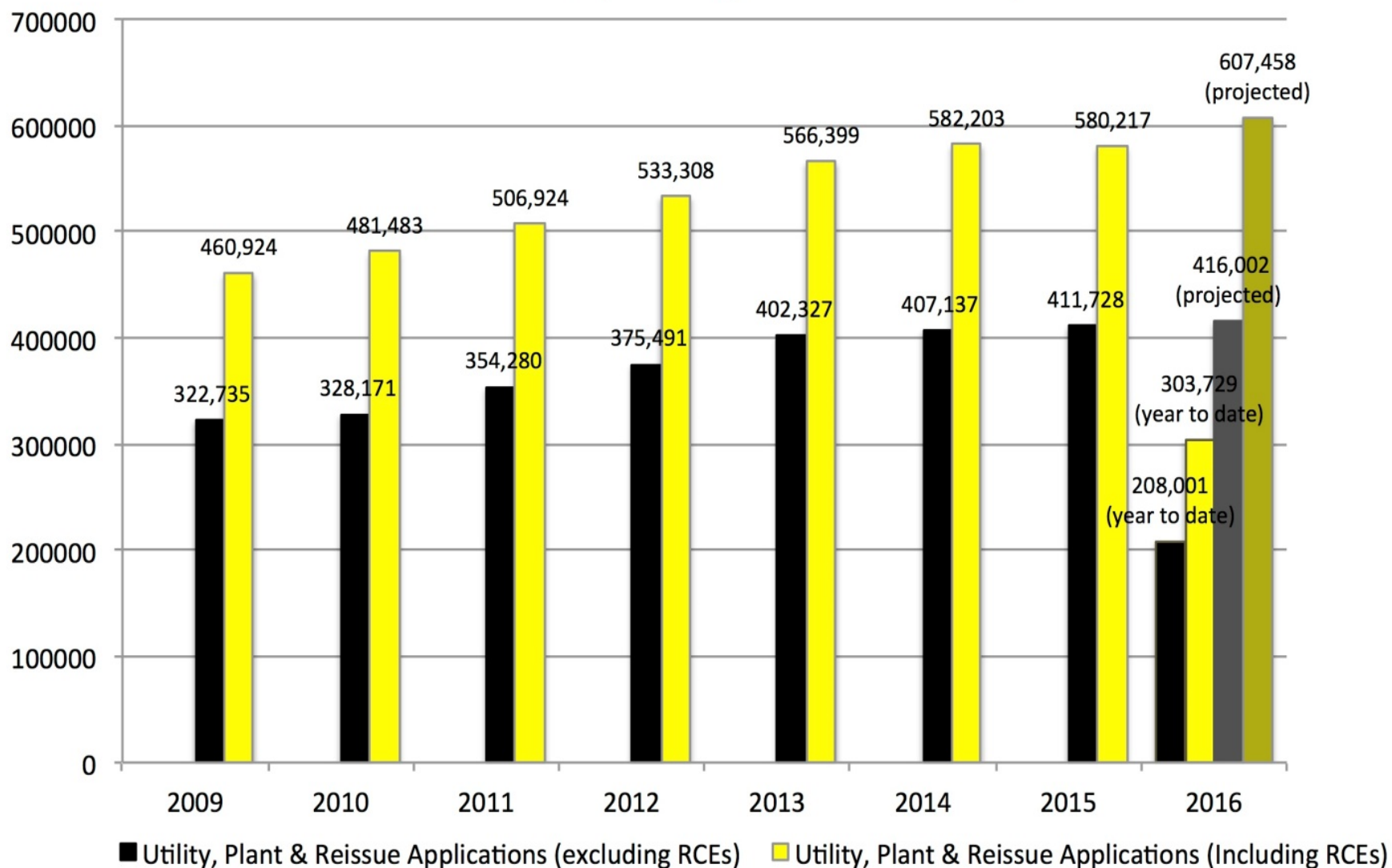
# The Patent ~~Crisis~~ Crises

- Lots of changes in the patent system over the past 40 years
- Major changes in patent law
- The overprotection “crisis” of the 2000s
- The underprotection “crisis” of 2016

**U.S. Patent Statistics Chart**  
**Calendar Years 1999 - 2014**

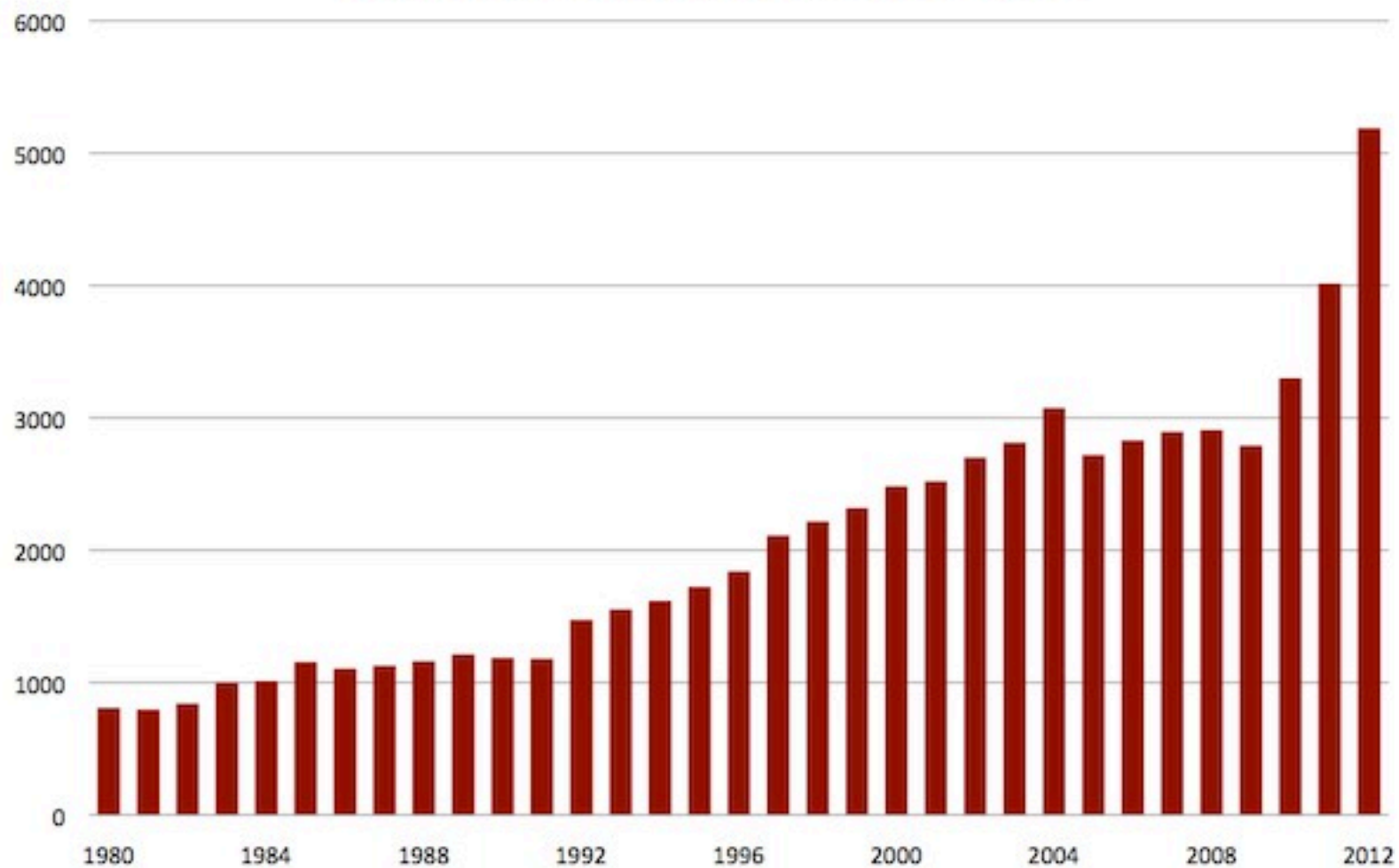


## Utility, Plant and Reissue Patent Applications Filed per Fiscal Year (through March 2016)

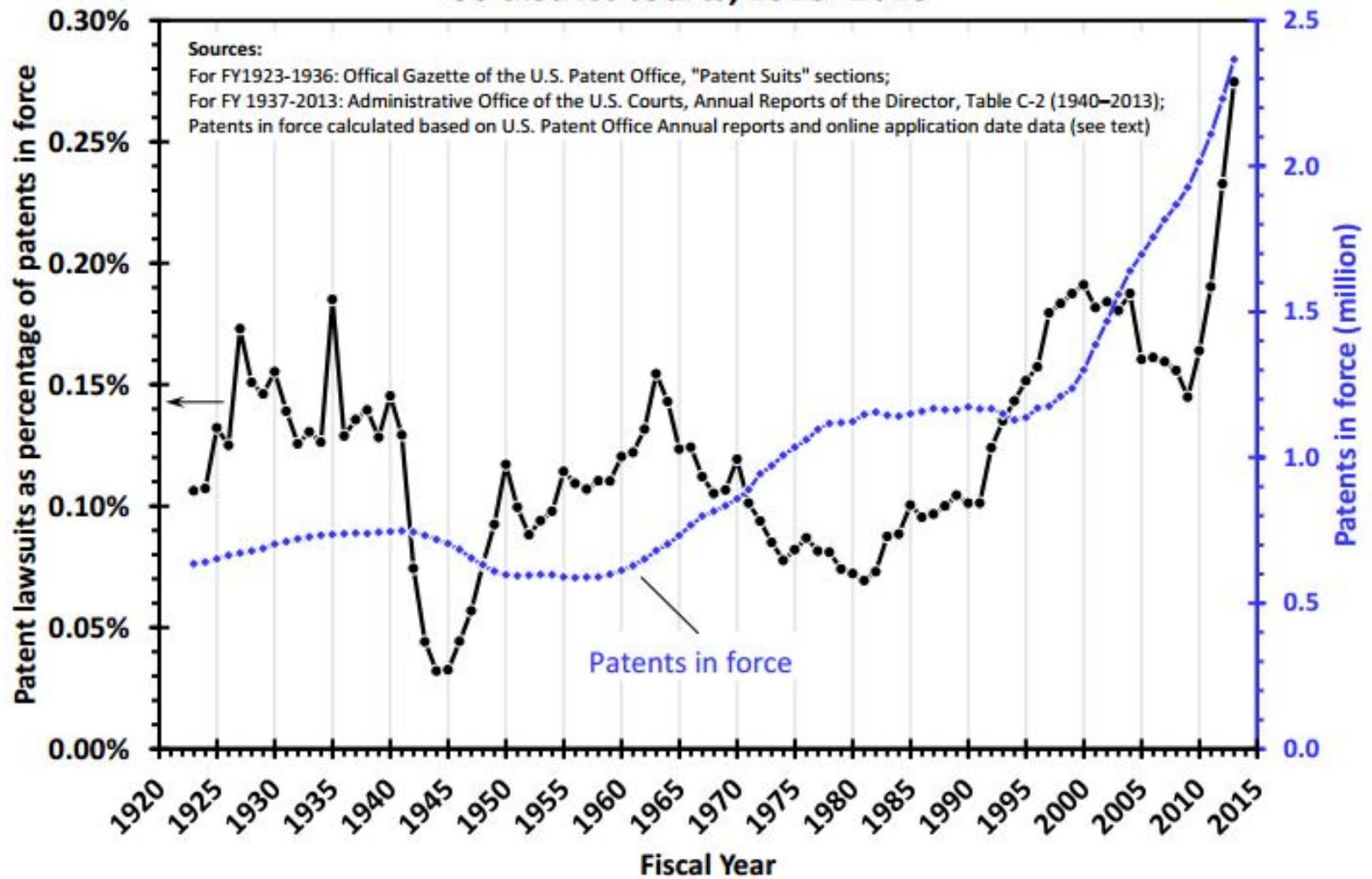




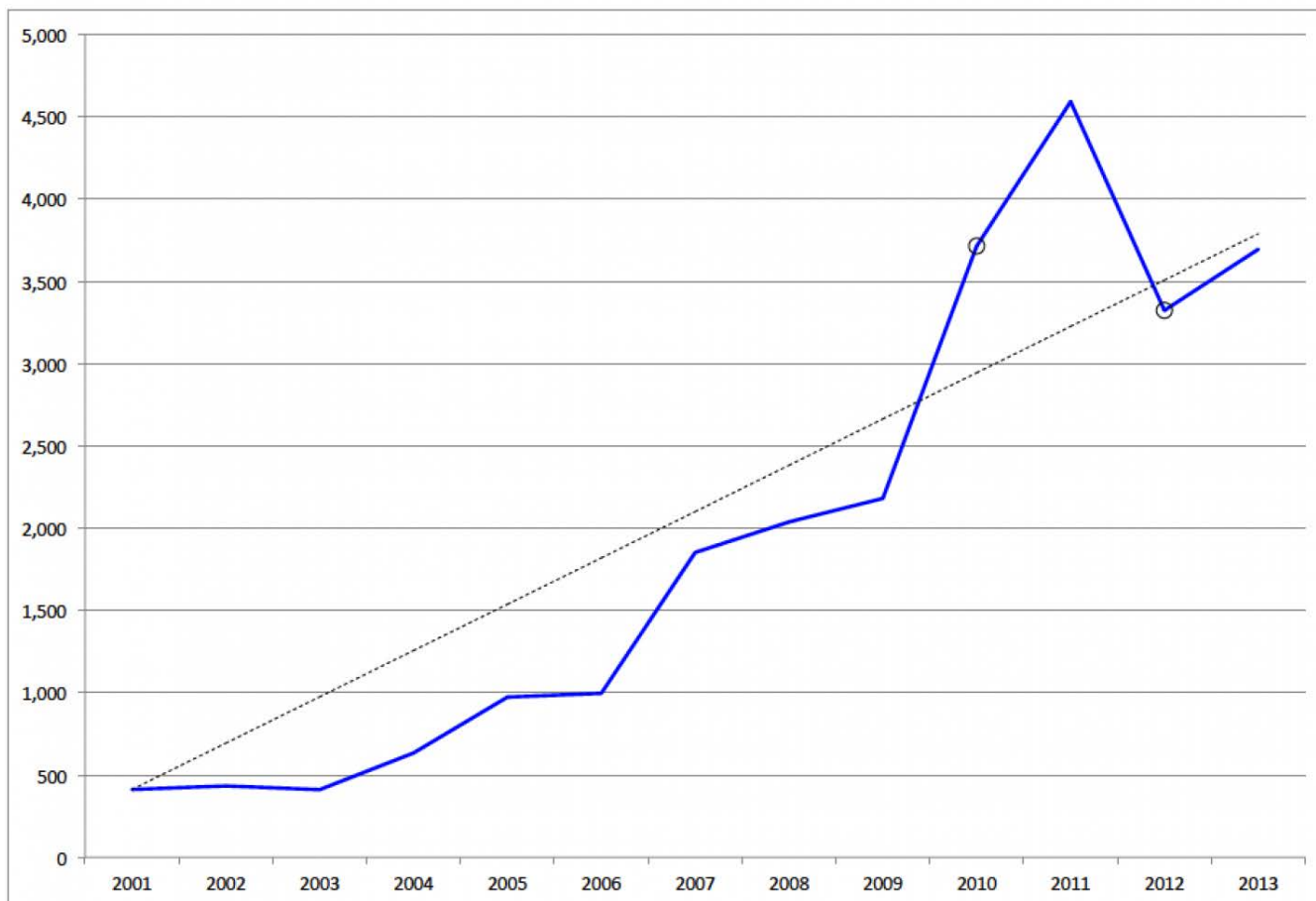
## Patent Cases Commenced, 1980 - 2012



## Patent lawsuits as a percentage of US patents in force, US district courts, 1923–2013



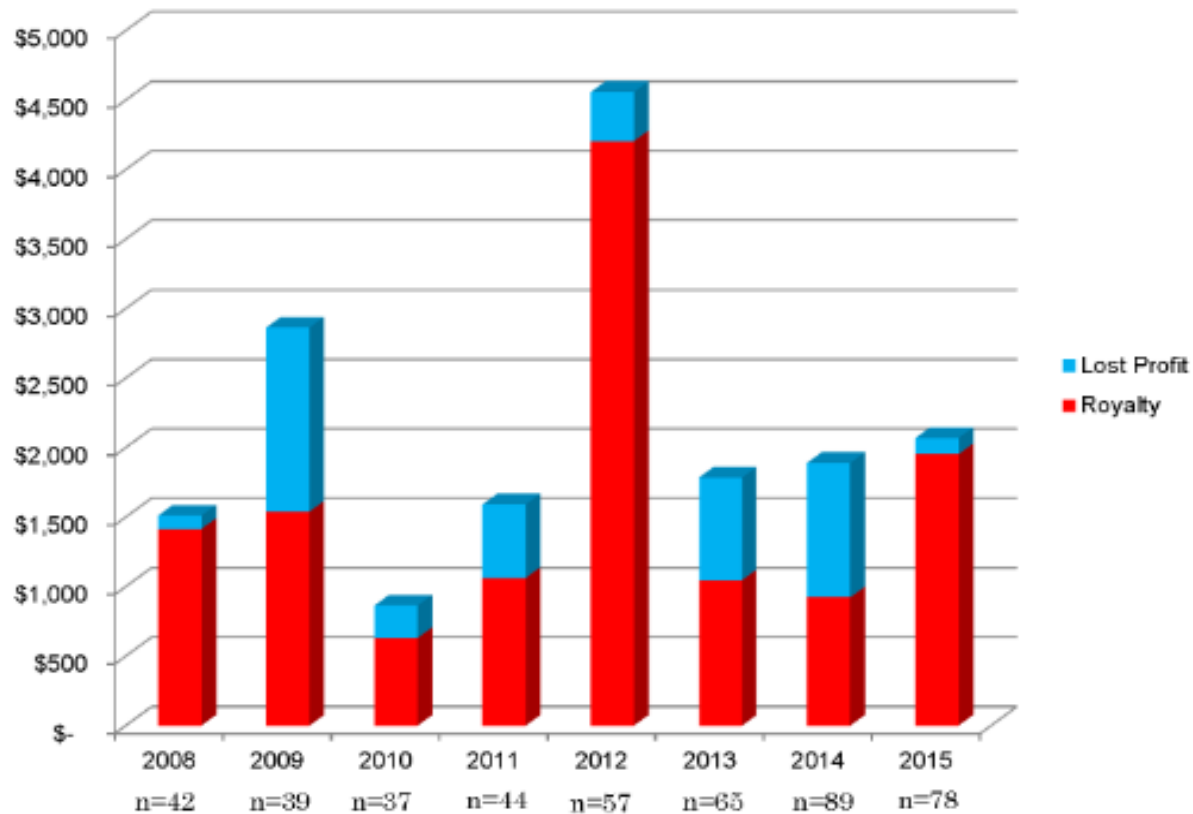
## Defendants in NPE suits by year filed



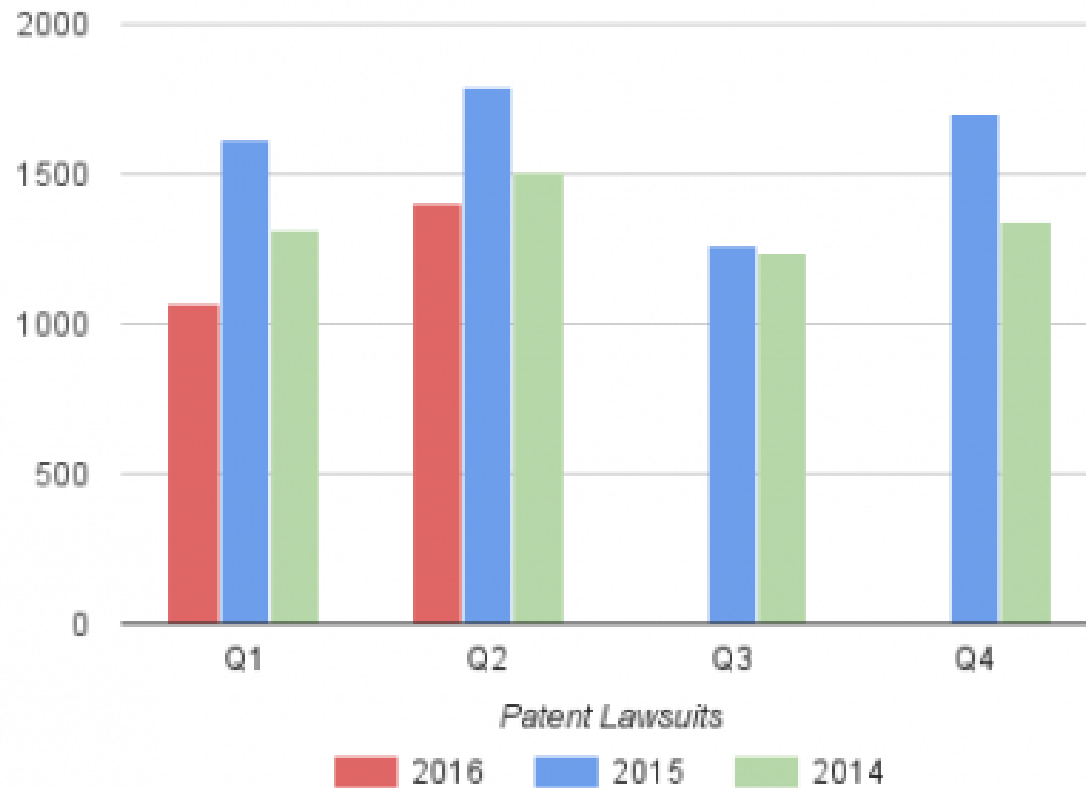


# Cumulative District Court Patent Damage Awards

Inflation Adjusted Compensatory  
Awards (in Millions)

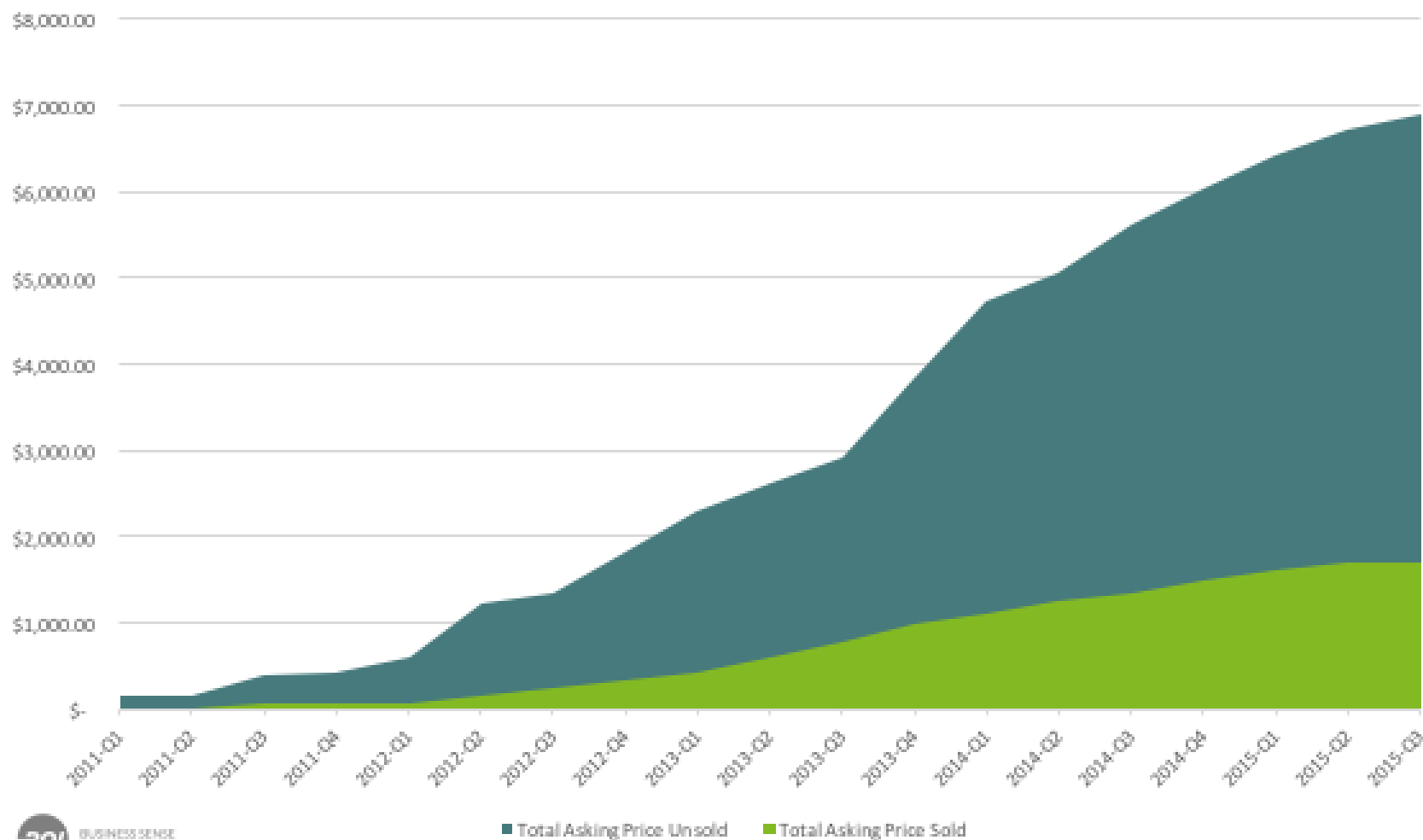


### Quarterly Filings in 2014, 2015 and 2016



# Brokered Patent Market

Total Asking Prices (\$M) - Brokered and Private Market



# Litigation Outcomes

- Validity win rate
  - 1982-1994 – 58% (Dunner 1995)
  - 1989-1996 – 54% (Allison & Lemley 1998)
  - 2010-2014 – 57% (Allison et al. 2015)
- Patentee overall win rate
  - 2002-2004 – 25% (Janicke & Ren 2006)
  - 2010-2014 – 26% (Allison et al. 2015)

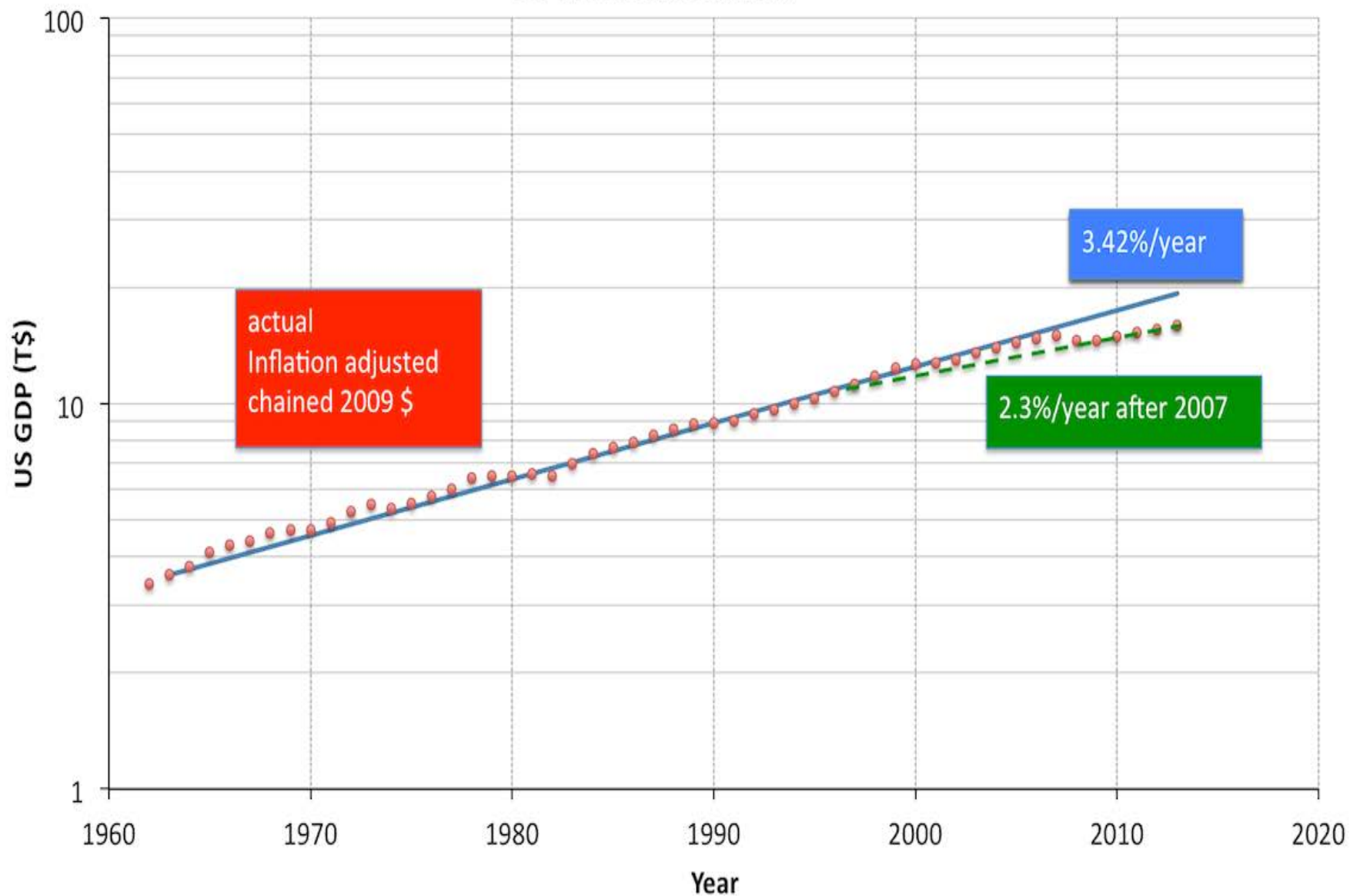
# What's Going On Here?

- Selection effects?
  - Are suits a function of uncertainty, not strength? [perhaps, but no systematic pattern]
  - Are trolls driving out practicing entities? [no; practicing entity suits unchanged]
  - Are licenses being replaced with lawsuits? [hard to observe, but licensing still significant]

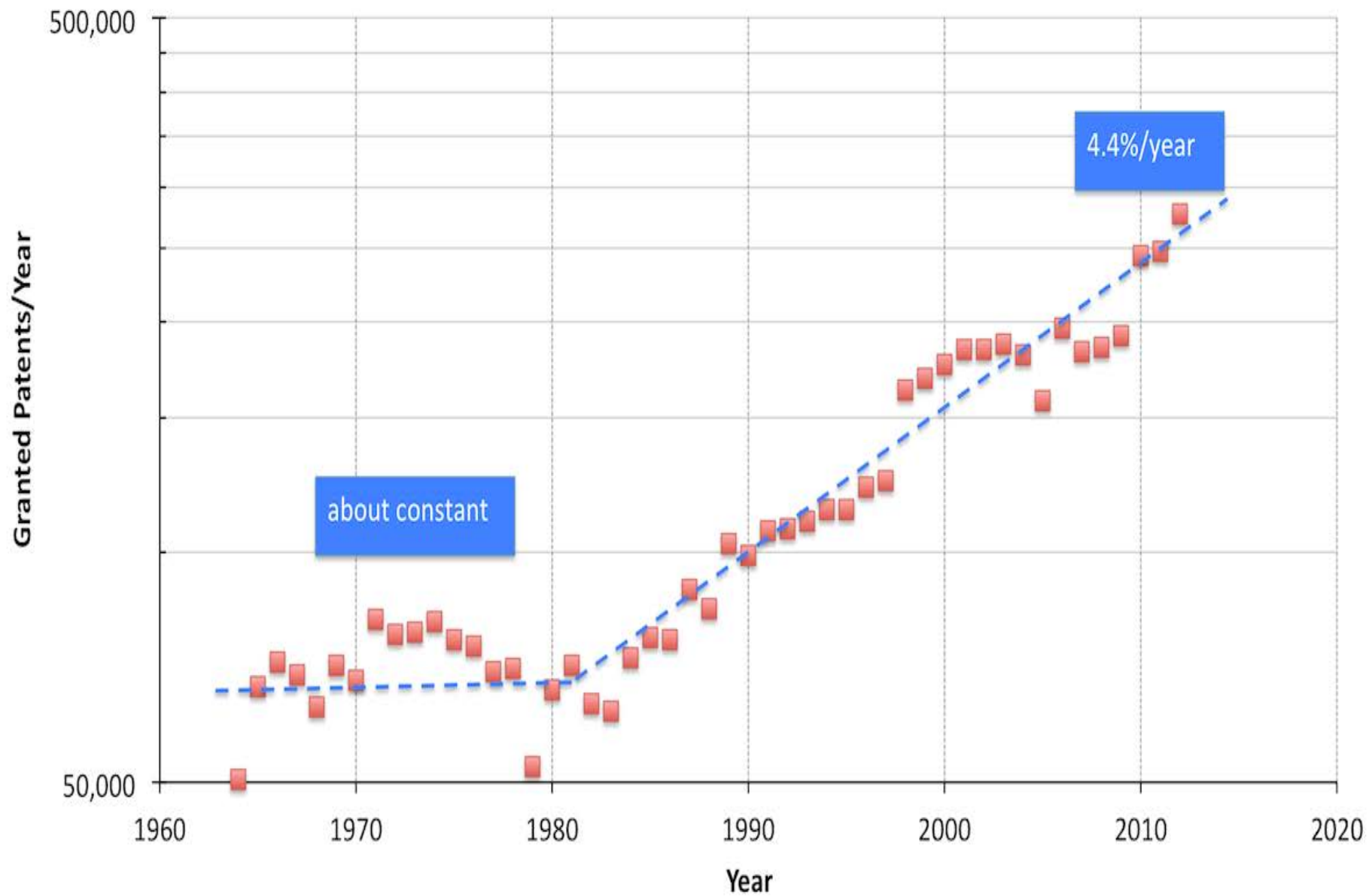
# What's Going On Here 2?

- Broader economic trends?
  - Patent filing and economic growth?
  - Cyclical vs. countercyclical trends?

## US Economic Growth



## US Patent History





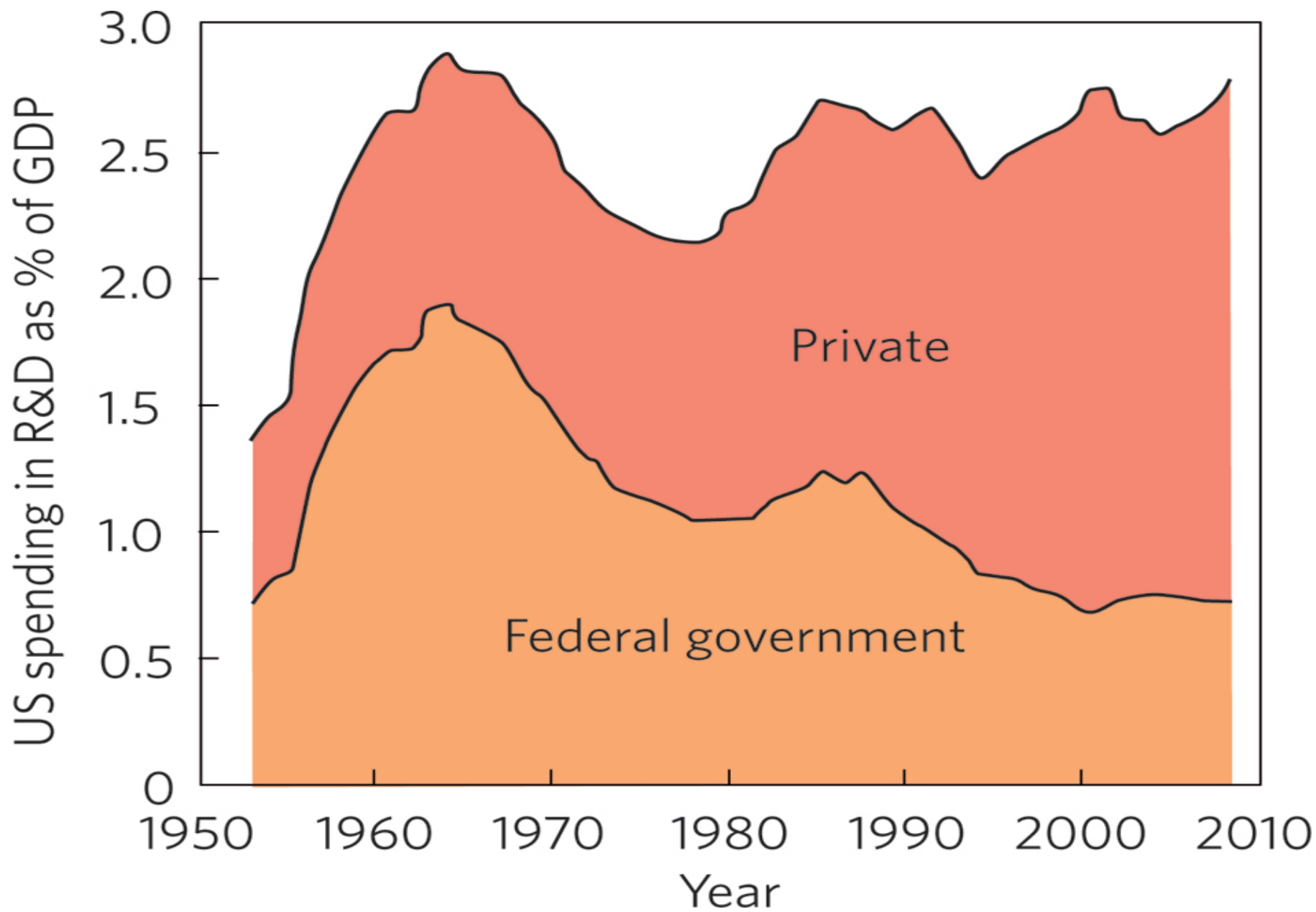
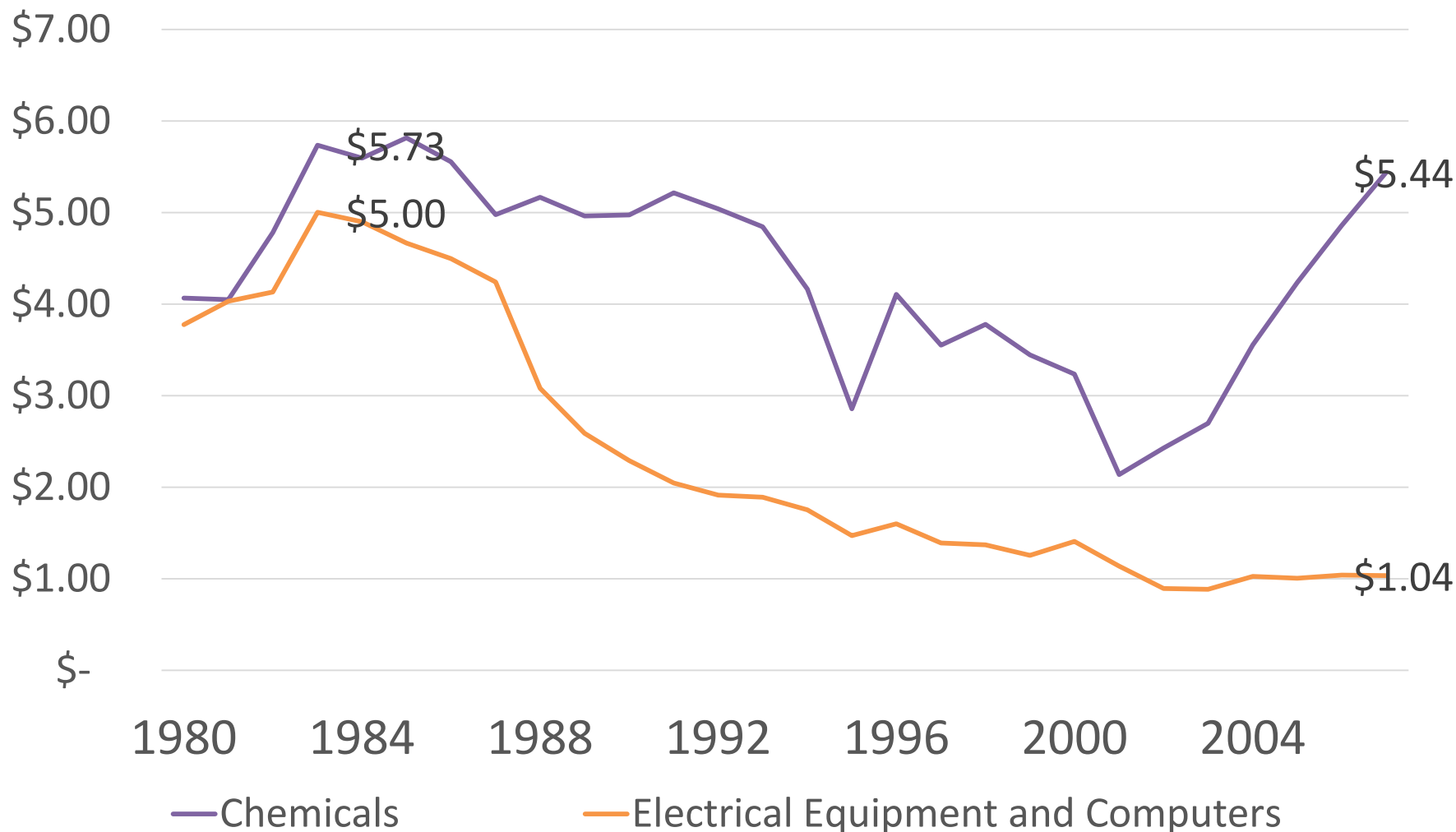


FIGURE 16  
R&D (in \$M) per US Origin Patent Application 1980-  
2007 (inflation adjusted)



# What's Going On Here 3?

- Are patent reforms irrelevant? Maybe they are not as significant we think
- Are the merits irrelevant?
  - Many reasons to obtain patents that are unrelated to enforcement
  - Many types of litigation driven by something other than expected outcomes
- Is it all pointless?
  - Can the resilience of the system itself point the way towards reform?