Patent Marketing and Open & Close Strategy

To Transform Patent Filing into "Strategic Investment"

Aki Ryuka

Managing Partner, RYUKA & Partners

Patent Attorney (Japan), Attorney at Law (California)

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Questions for You



To Protect Your Product Market

Where would you file?



Japanese Companies Often Say:

**“We avoid aggressive enforcement,
but seek patent strength
to deter lawsuits.”**

Protection Against Lawsuits

Where would you file?



Because:

Our Main Market **Asia**	vs	Competitor's Main Market **US**

Patents in Asia	Good for exclusion, but less useful for counter assertion
Litigation Defense	Patents should be filed in the competitor's market to defend against lawsuits and avoid being sued.

For Licensing:

Where would you file?



Patents by Objectives

Exclusionary Patents

Counter Patents

Licensing Patents

Countries should be selected accordingly.

Mismatch

Patent Portfolio Goals ≠ **Patent Filing Strategies**

Mismatch 1: Selecting Filing Countries

Japanese companies seek patent strength to deter lawsuits.

1

Setting a target number of patents based on competitors' patent counts

2

Allocating the target among countries according to the scale of business in each country

Mismatch 2: In-house Patent Evaluations

Describing and protecting the "detailed features of the company's own products"

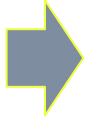
Giving higher ratings to inventions used in the company's own products

Issues

If the invention is easy to circumvent, it does not help.

Filing Strategies Must Align with Patent Objectives

First, clarify the objectives.



Then, determine where to file and which inventions to patent.

Patent filing = Investment for the future

Envision an exit strategy for the investment.

Patents by Objectives

Exclusionary Patents

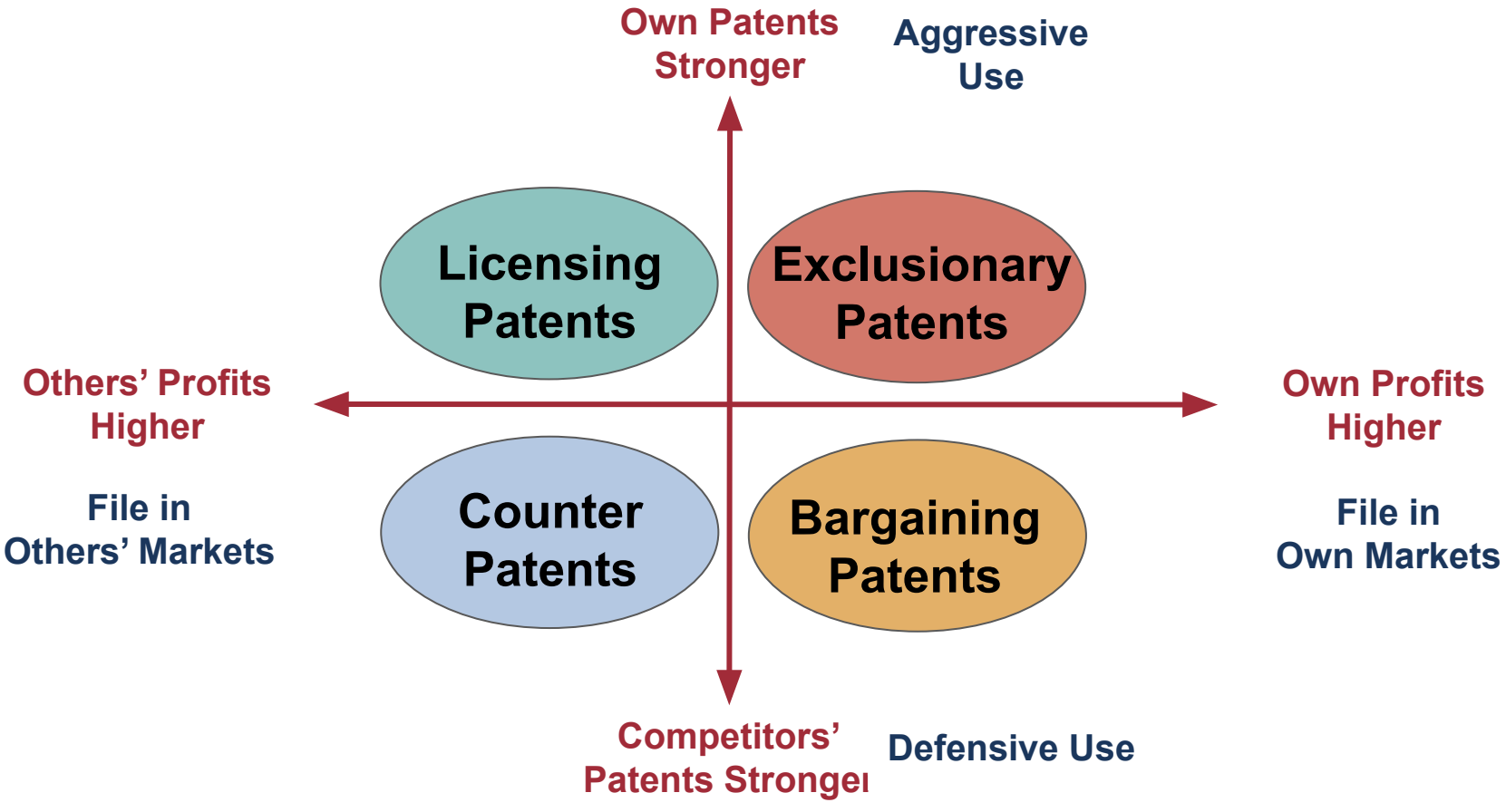
Counter Patents

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Countries should be selected accordingly.

The Patent Marketing Framework

4-Quadrant Matrix for Patent Marketing

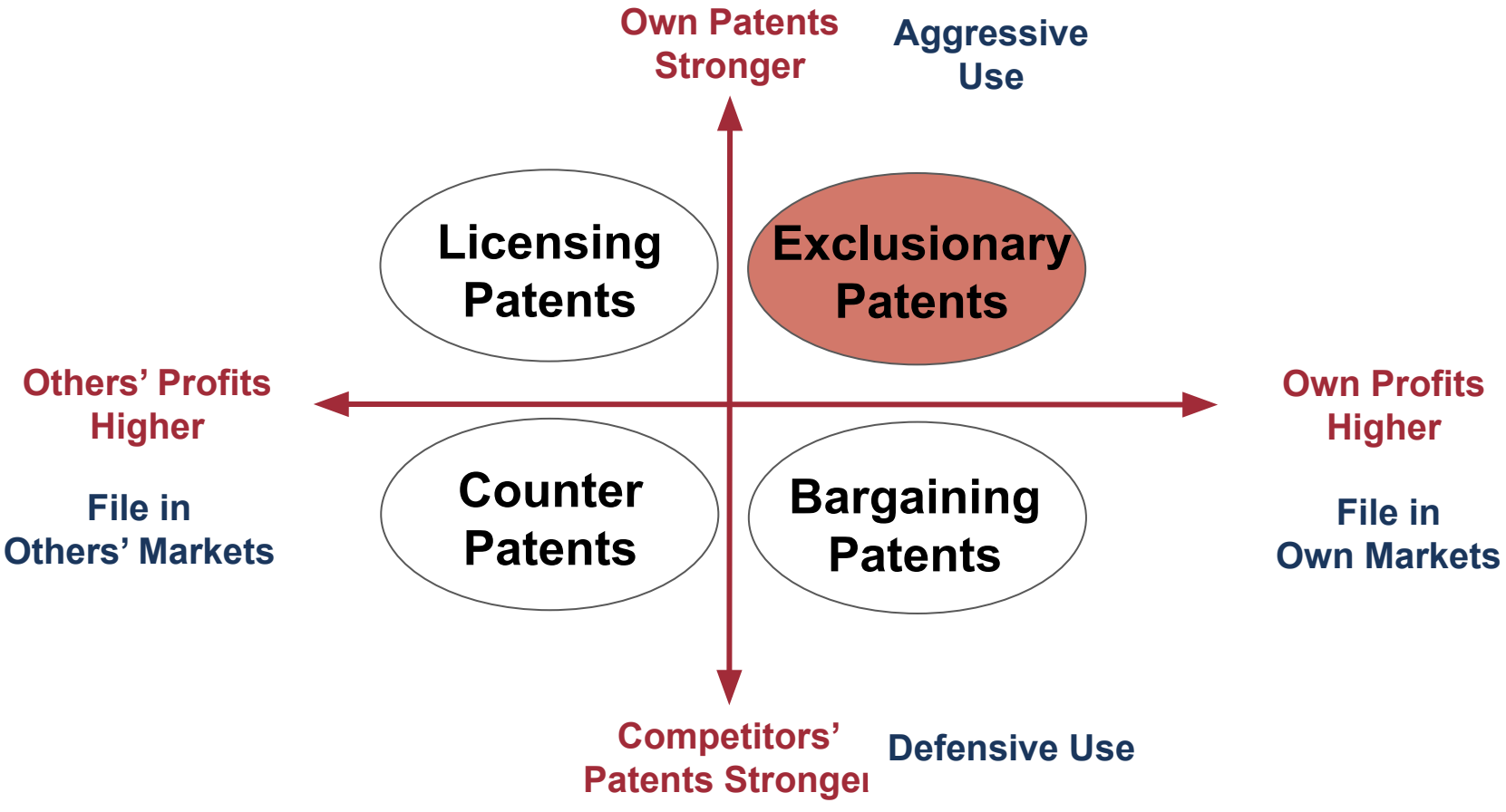


Introduction to Patent Marketing

Just as product development requires marketing,

patents require a clear “winning position.”

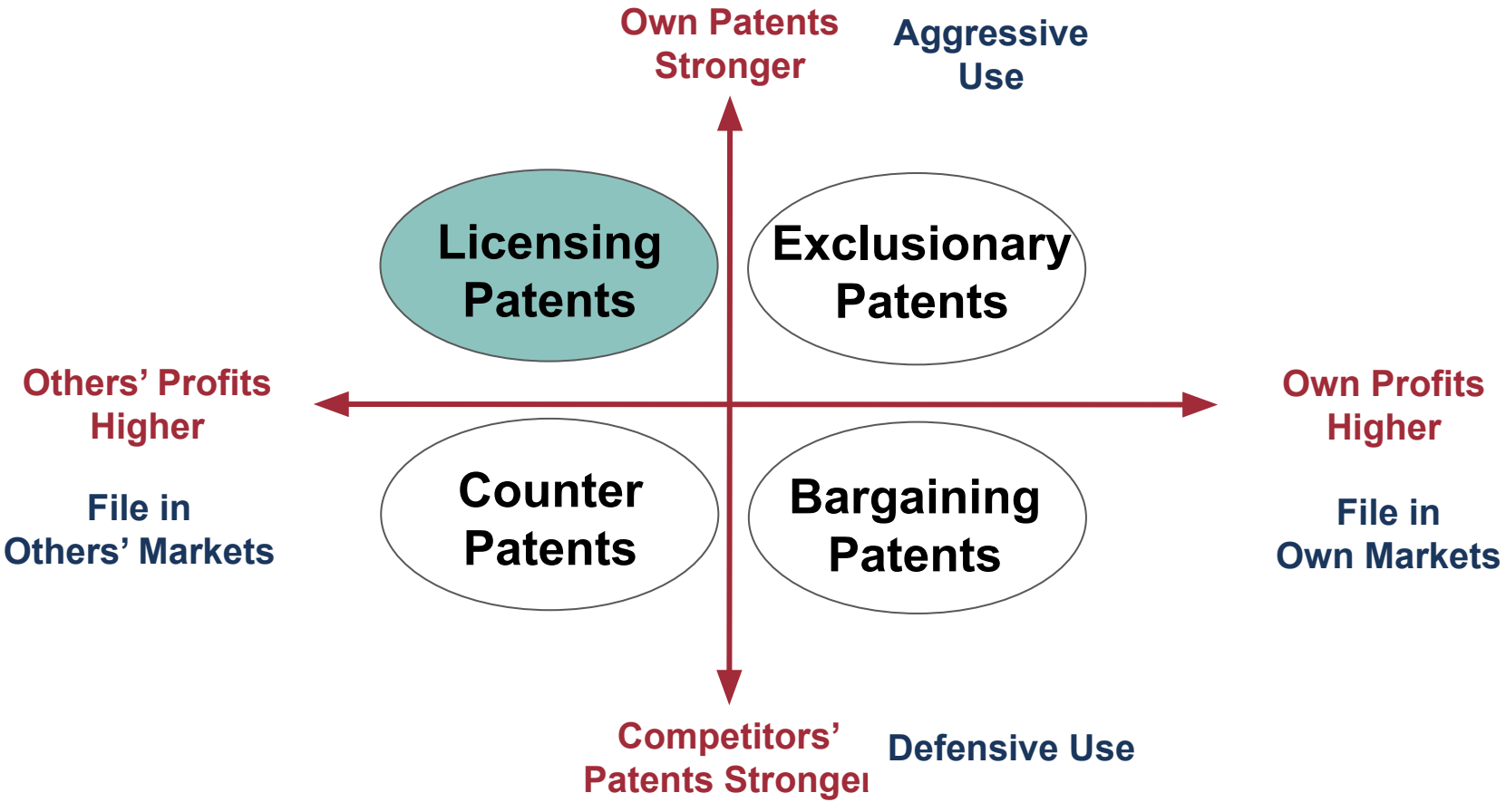
Quadrant 1 (Top-Right)



Quadrant 1 (Top-Right): Exclusionary Patents

Patent Objective	Exclude competitors from the market and protect the company’s own monopoly profits
Where to File	Our Markets + Competitors’ Manufacturing Sites
What to Cover	Competitors’ Products

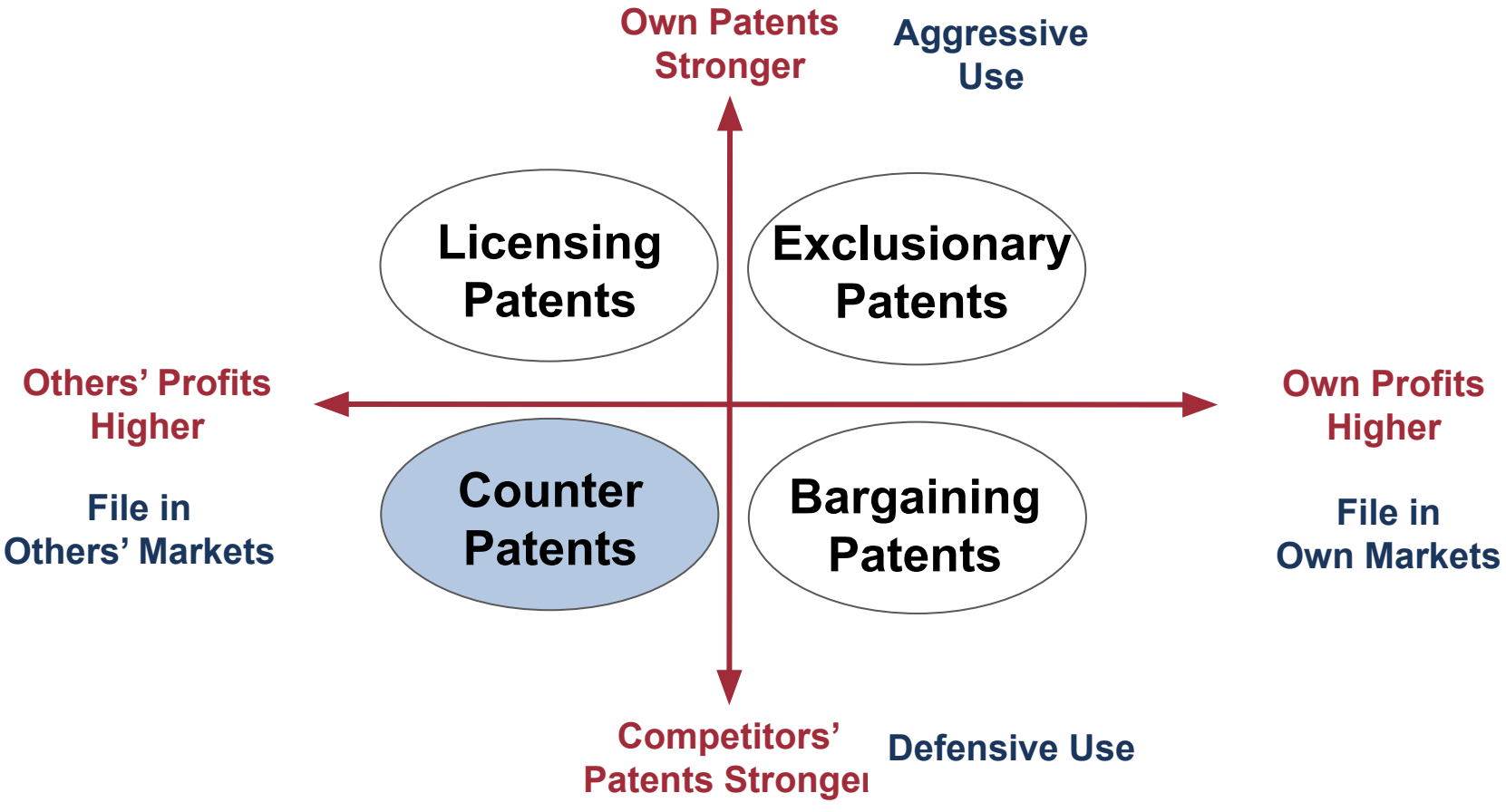
Quadrant 2 (Top-Left)



Quadrant 2 (Top-Left): Licensing Patents

Objective	Licensing for revenue or ecosystem building
Where to File	Potential Licensees’ Markets
What to Patent	Inventions others want to use

Quadrant 3 (Bottom-Left)



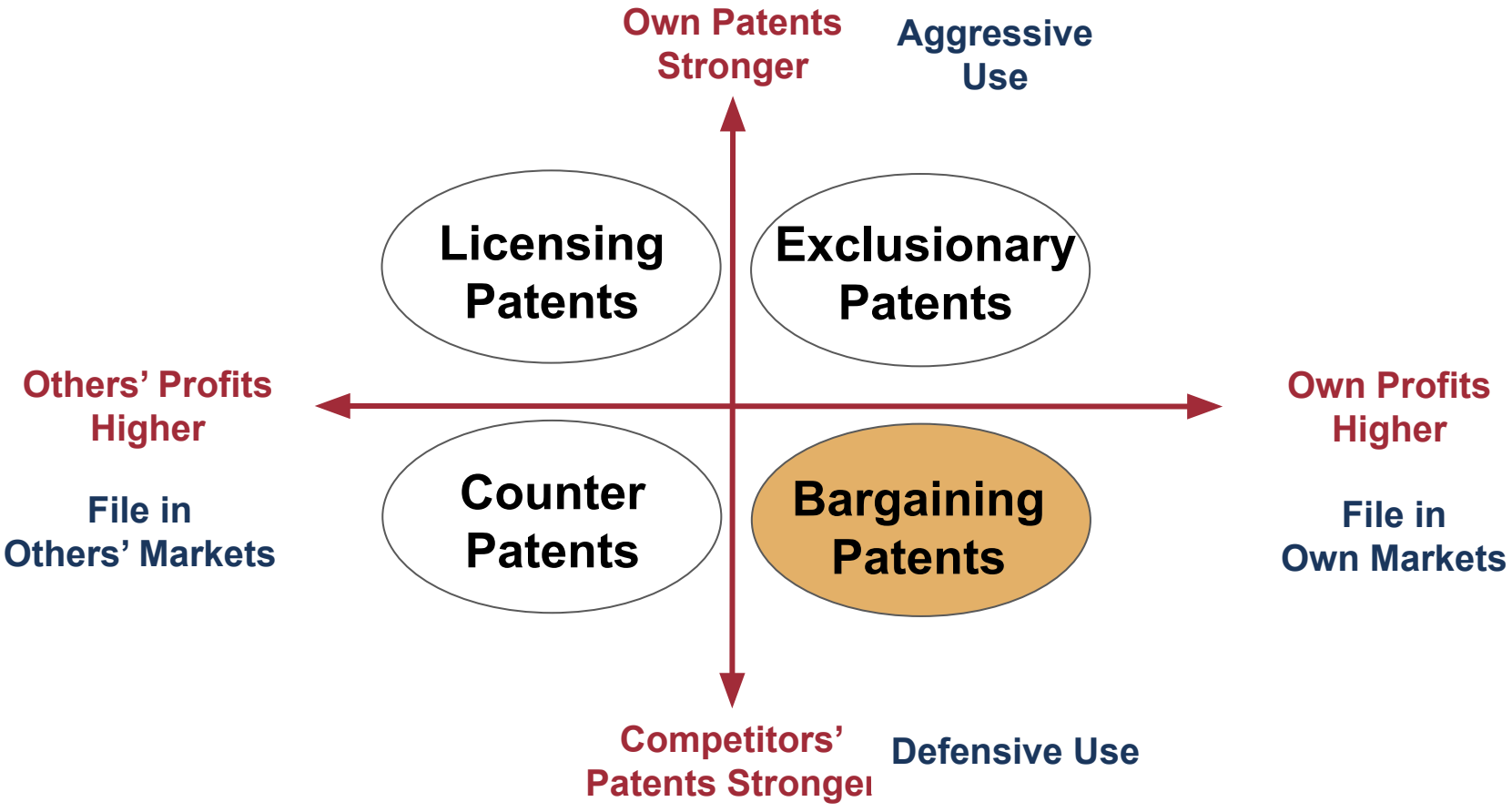
Quadrant 3 (Bottom-Left): Counter Patents

Effect of Counter Assertion	Because the competitor’s business profits are large, even a few patents can have a strong injunctive effect
Risk of Enforcing	Actively enforcing patents carries a high risk of a fierce counterattack
How to Use	Patents can be used "defensively"

Strategy for Counter Patents

Where to File	Competitors' Markets (+ Manufacturing Sites)
What to Cover	Competitors' Products

Quadrant 4 (Bottom-Right)



Quadrant 4 (Bottom-Right): Bargaining Patents

Objective	Minimize damages
Feature	High damages risk in US NPE litigation

Strategy for Bargaining Patents

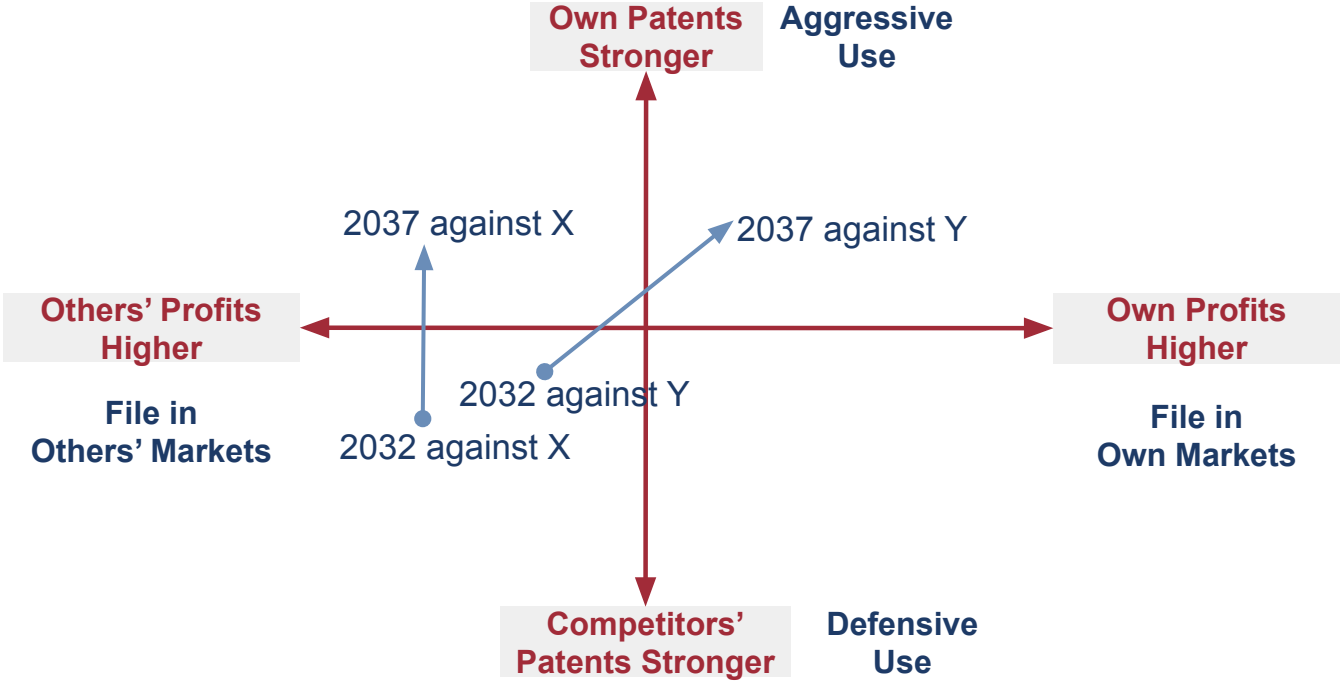
Strategy	Obtain patents that cover the company's own products
Where to File	Our Markets
What to Cover	Our Products
Result	May limit the NPE patent's attributed value and reduce damages

Summary of the Filing Strategy

Quadrant	Objectives	Filing Country	Scope of Rights
Upper Right	Exclusion	Our Markets (+ Manufacturing Base)	Competitors' Products
Upper Left	Licensing	Licensees' Markets	Competitors' Products / Our Products
Lower Left	Countering	Competitors' Markets (+ Manufacturing Base)	Competitors' Products
Lower Right	Bargaining	Our Markets	Our Products

Filing Objectives Change over Time

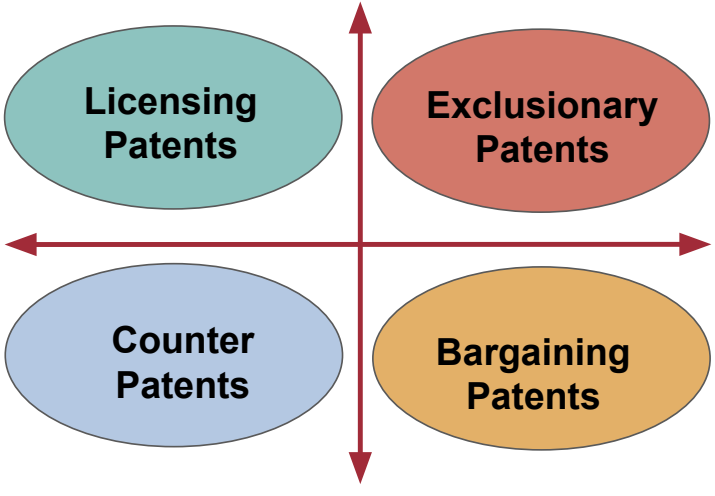
- Anticipating shifts in position
- Preparing the application for future shifts
- Filing divisional applications



Working Assumptions Matter More Than Precision

Use a working assumption to decide what to patent and where to file.

No need for perfect calculations.
First, place the "target position" on the map.



Using “Patent Marketing”

Inventor Interviews with IP Staff

1. Discussing the "potential objective of this patent" (which quadrant?) first



2. Deciding where to file and what to include in the claims and specification

Optimizing Prosecution Costs

Maximum effort on every filing	Clarifying the position (quadrant)
Increases costs	Larger budgets and more careful prosecution for exclusionary patents

Financing

Fundraising, showcasing technical strength to shareholders

Show concretely how patent strategy supports the business.

Business Prioritization and Focus

Problems of products with many technical parts

e.g., Cell phones
LCD TVs
DVD players

Products use many patents

↓

- Counter patents emerge
- Hard to stay in the upper-right quadrant (exclusion)

↓

Others cannot be excluded, leading to cost competition

↓

Countries with low labor costs have the advantage

Strategies for a Highly Profitable Business

Objectives:

- **Aim for the upper-right quadrant (exclusion)**
  Exclude others and earn high profits (e.g., Qualcomm)
- **Avoid counter patents**

Means:

- **Focus patents and products on components where the company excels**

Using “Patent Marketing” Open & Close Strategy

Qualcomm's Open & Close Strategy

1. Focused on communication chip design (the core)
   Protected by patents: also secured patent coverage over European and Japanese W-CDMA

2. Sold its base station and handset businesses
   → Avoided counter patents

3. Opened the interfaces inside mobile phones (modularization)
   → Anyone can make them → Lower prices → Market expansion

4. Earns revenue from chip sales and licensing
   • Acquired patent owners: LTE, Wi-Fi

Focusing on the core is also important for patent strategy

Why Acquire Patent Owners in the Closed Domain?

1

Strengthen the defense of the closed domain

Value of a patent when alternatives exist: the difference from the alternatives
When no alternative exists: gain pricing power

2

Avoid counter patents

Prevent patents from falling into adversaries' hands and being used in counter lawsuits.

3

Total license cost: proportional to the number of owners

∵ A license or lawsuit is needed for each patent owner

In the closed domain, patents create value,
and patent investments are easier to exit (monetize)

Company I's Open & Close Strategy (from public information)

1

Standardized HDD and memory interfaces with the PCI bus (modularization)

→ Promoted HDD and memory competition to lower prices

2

Disclosed motherboard manufacturing methods (layout and wiring specs) to Taiwanese companies

→ Many Taiwanese companies entered

→ Motherboard prices fell

→ PC prices fell while CPU prices were maintained

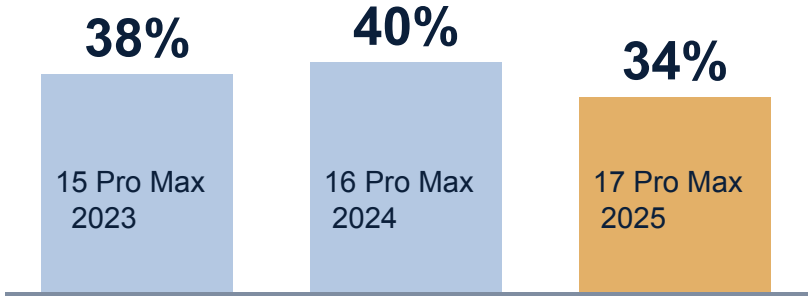
(= profits concentrated in the CPU)

Disclosed not only standards but also design, manufacturing, and testing methods, supporting partners (and competition among them).

Manufacturing the End Product Is Not Always the Source of Profit

Apple earns gross margins of **over 50%** on the iPhone without manufacturing it in-house.

iPhone Pro Max Cost Ratio (BOM cost ÷ launch price)



(Based on Counterpoint Research BOM analysis, July 2026)

If the core is protected, an Open (collaboration) strategy can accelerate business expansion
(Open & Close Strategy)

Essence of the Open & Close Strategy

- Close: Protect the core and its external interfaces
- Open: Open non-core areas to invite participation, competition, and lower prices
  Exit finished products to avoid counter patents

Also standardize interfaces within the Open domain to promote competition
If needed, form a consortium with other companies to standardize jointly.

Raise core prices to keep the same profit as former finished-product sales	Lower finished-product prices and increase sales volume	Require approval by contract for deviations from standards, ostensibly to ensure compatibility
Shift profits to the core	**Core sales increase**	**Control next-generation standards**

Why Open & Close Matters

Most fast-growing US companies use Open & Close

Microsoft
PC (IBM)
→ Focused on the OS

intel
Published the
PC design

cisco
OEM supply of routers
→ Control of feature upgrades

Adobe
Released the
free PDF reader

Qualcomm
Specialized in communication CPU R&D

Apple
Providing and controlling platforms

Google
Android

Prioritization and focus → Accelerate business through partner collaboration

Open & Close Strategy: A Hypothetical Review of the DVD Case

Issue: Japanese companies once held most of the world market

Patent network of 2,000+ patents (over 90% of essential patents)

Vertical integration, making as much as possible in-house

Lost completely to Korea, Taiwan, and China within 4–5 years of mass adoption

Yet they still hold high shares in laser components and DVD materials.

How could they have protected profits from DVD sales?

Open & Close Strategy: A Hypothetical Review of the DVD Case

What would have happened if, for example, the following strategy had been adopted?

Protecting the Core (Close)

◆ **Unitization and I/O standardization**

Unitize laser components (core) and create I/O standards. Form a group with other companies to strengthen the patent portfolio.

◆ **Standardizing interconnections**

Also standardize interconnections within other areas.

◆ **Protection by patents**

Protect the standards and the core with patents

Expanding the Ecosystem (Open)

◆ **Opening non-core areas**

Open non-core areas; by contract, require partners not to deviate from the standards and to open up (license) their patents.

◆ **Manufacturing support and cost reduction**

Support manufacturing outside the core to lower costs and drive rapid adoption.

Business Model and Continuous Evolution

◆ **Exit finished products** (former Qualcomm model)

Exit finished products to avoid counter patents.

◆ **Brand labeling** (Intel, Dolby model)

Require brand labeling of the laser unit.

◆ **Continuous standard creation** (current Qualcomm model)

Keep improving the performance of laser components and creating new DVD standards.

Using “Patent Marketing” How to Conduct Inventor Interviews

Not "file because an invention was made,"
but rather...

Consider the sources of future business profit,
and file based on the expected return on investment.
Create the patents you need.

Before Filing, Discuss What to Protect, Where, and How

Filing carries the risk of "disclosure"

Issue

- Inventions for a new business are proposed before its profit sources, ecosystem, and the patent strategy to protect them have been considered.
- If only that invention is filed, it will be published, and competitors may patent the profit sources and bottlenecks first.

Therefore

- Understand the whole business using the invention and the ecosystem, including other companies.
- Identify the business's profit sources and the bottlenecks in the ecosystem.
- If a portfolio needs to be built, the patent attorney reports to the IP department. (Especially important for new businesses)

Bringing the Patent Attorney's Perspective Up to Management

Keep Learning

We continually learn about new business models and ecosystem bottlenecks through discussions with inventors across diverse industries

Imagine

So when we hear about a new business, we can readily imagine its profit sources and bottlenecks

Communicate

We put these into words, discuss them, and convey them up to management

Closing Patent “Escape Routes”

Consider how others could avoid the patents in both the Open and Closed domains.

Developers	Propose the invention they consider best
For strong patents	Consider how others could design around the patent, and also secure the second-best and third-best alternatives

Do not file and disclose an invention that is easy to design around.

Discussions Beyond Traditional Roles

Issue

Inventors conceive inventions, and patent firms prepare the applications

→ **This alone makes it difficult to protect the client's business**

What Is Needed

- Patent attorneys actively ask about the invention and the business
- Understand profit sources and bottlenecks
- Discuss patent escape routes broadly with inventors & the IP department

Discussions with inventors increase patent value, and sharing information with the IP department and management provides hints for the next patent strategy

By designating the same patent attorney for filings, inventors can deepen discussion and thinking

We aim to be
the best partner
for inventors and companies.

Aki Ryuka, Managing Partner, RYUKA & Partners

Thank you very much

Questions?
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