

Limits of Property

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Land

Land

from the earth to the heavens

Land

oil & gas

water

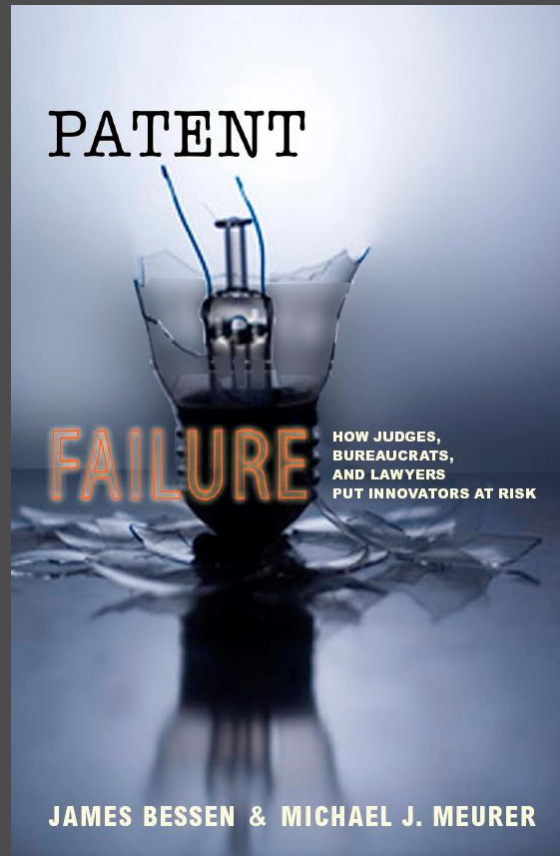
migratory fowl

airplanes



“fuzzy” boundaries

Abstract Patent Claims



Abstract Patent Claims

Unidentified
technologies

Karmarkar,
Patent 4,744,028

technology

+

law

CLAIM:

Software patents are no different

Technology	Probability patent in suit	Percent of lawsuits (2002)
Chemical	1.1%	13%
Complex	2.0%	34%
Other	2.2%	
Software	4.6%	26%
business methods	13.7%	4%
Biotechnology	3.2%	3%

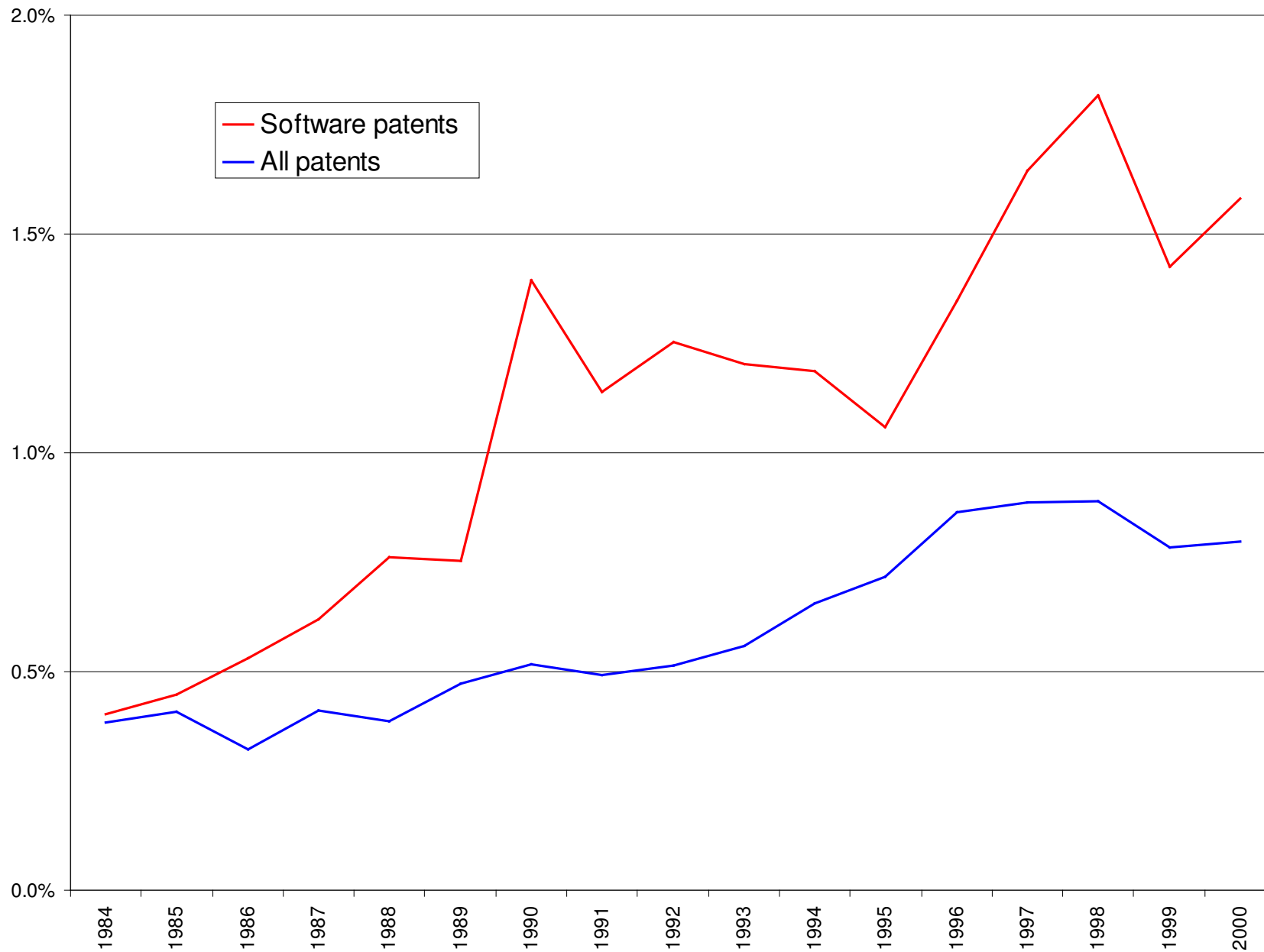
Fuzzy boundaries

	Relative frequency of claim construction appeal
ALL	1.0
Chemical	0.8
Complex	0.9
Other	1.1
Software	2.2
business methods	6.7
Biotechnology	2.4

CLAIM:

PTO needs to adapt

Probability Patent in Lawsuit within 4 years of issue



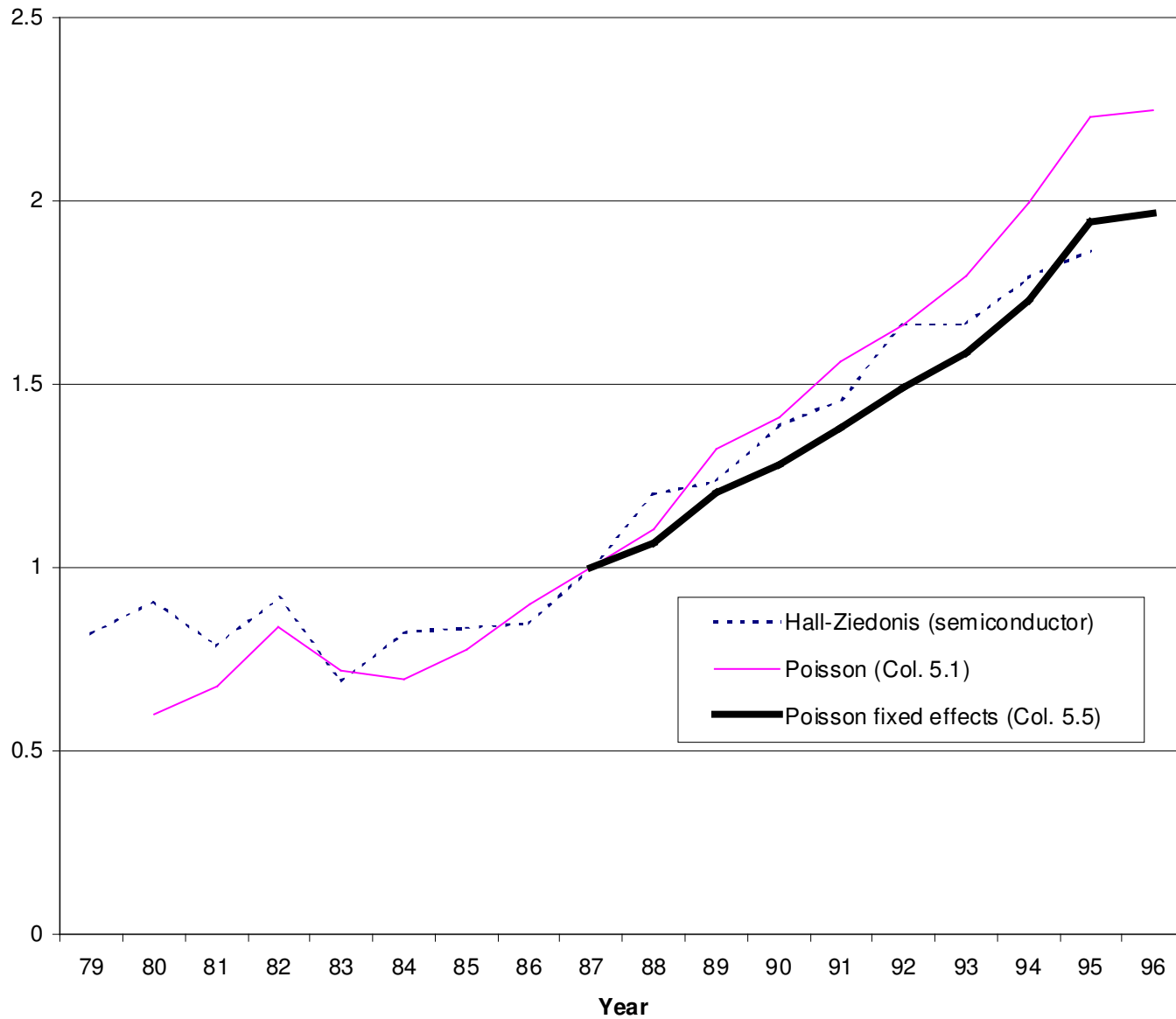
CLAIM:

Technology distinctions
will be evaded

Taxes?

Pharma compositions?
Medical activities (287c)?

Software Patent Propensity



CLAIM:
Bilski solves all

“principles” of manufacture

Abstract patents
subject matter
enablement
functional claiming

belt
+
suspenders

