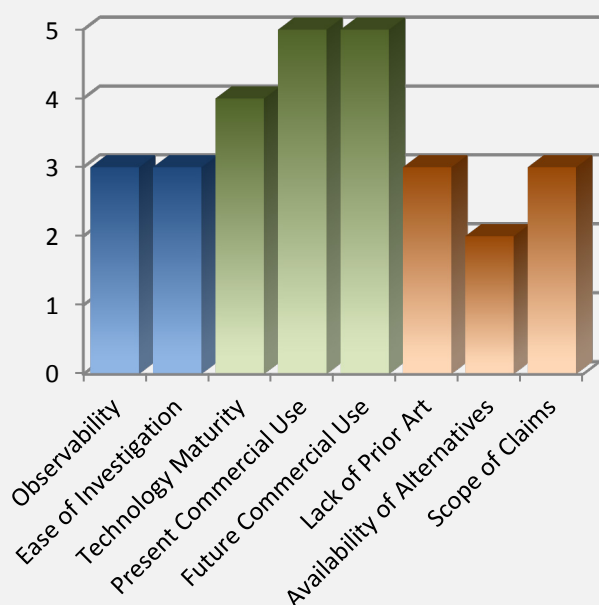




TAEUSworks Average Score: 3.50



USPN 5,870,474

TAEUSWORKS PATENT
ANALYSIS REPORT

January 11, 2013

About TAEUS International Corporation

For nearly twenty years, TAEUS International Corporation has helped market leaders around the world maximize the value of their intellectual property through comprehensive intellectual property business cycle solutions. Major organizations have turned to TAEUS to help them maximize shareholder value in mergers, acquisitions, and other corporate transactions, as well as gain a competitive advantage in the marketplace through strategic application of their unique intellectual property

©2013 TAEUS International Corporation, All Rights Reserved
Questions on the contents of this report may be addressed to:
TAEUS International Corporation
1155 Kelly Johnson Blvd, Suite 400
Colorado Springs, CO 80920 USA
Tel. +1.719.325.5000 | Fax. +1.719.632.5175 | www.taeus.com
TAEUS and the TAEUS logo are registered trademarks of TAEUS International Corporation

The technical analyses and opinions expressed in this report are those of TAEUS International Corporation and should not be construed as a legal opinion. The expression of these technical opinions and analyses must not be construed as an inducement to copy or infringe any patent or design feature mentioned in this report. TAEUS International Corporation assumes no liability for any patent infringement or any other actions resulting from the use of this information.

CONTENTS

1. TAEUSWORKS PATENT EVALUATION.....	3
1.1. USPN 5,870,474	4
1.2. Patent Information	5
1.3. TAEUSworks Evaluation	7
1.3.1. Factors Relating to Patent Enforceability.....	8
1.3.2. Factors Relating to Market Impact.....	8
1.3.3. Factors Relating to the Patent Coverage.....	8
1.3.4. Summary and Comments	9
1.3.5. Class Activity Report	9
1.3.6. Companies with Patents in Similar IP Classifications	10
2. EXHIBIT A: TAEUSWORKS EVALUATION CRITERIA.....	11
2.1. Observability	12
2.2. Ease of Investigation	13
2.3. Technology Maturity	14
2.4. Present Commercial Use	15
2.5. Future Commercial Use	16
2.6. Lack of Prior Art	17
2.7. Availability of Alternatives	18
2.8. Scope of Claims	19

1. TAEUSWORKS PATENT EVALUATION

To predict the patent's potential licensing strength from a technical perspective, TAEUS reviewed and evaluated USPN 5,870,474 following the consistent set of TAEUSworks rules. TAEUSworks provides information on a set of qualitative parameters critical to patent licensing and litigation. The evaluation factors include:

- | | |
|---------------------------------|---------------------------|
| 1. Observability | 5. Technology Life Cycle |
| 2. Ease of Investigation | 6. Present Commercial Use |
| 3. Lack of Prior Art | 7. Future Commercial Use |
| 4. Availability of Alternatives | 8. Scope of Claims |

This assessment yields an overall 1-5 score. TAEUSworks scores are recognized in the intellectual property industry as indicators of a patent's licensing strength. Patents rating above a 3.0 indicate a strong licensing potential. The TAEUSworks Potential Licensee list also indicates strong future licensing potential for this group of patents (note: Exhibit A contains a copy of the TAEUSworks rating criteria).

1.1. USPN 5,870,474



(12) **United States Patent**
Chan et al.

(10) **Patent No.:** **US 7,370,116 B2**
(45) **Date of Patent:** **May 6, 2008**

(54) **APPROACH TO MINIMIZE WORST-CASE
QUEUEING DELAY FOR A SWITCHING
COMMUNICATION SYSTEM WITH
TRANSMISSION CONSTRAINTS**

(75) **Inventors:** **Wai-Chung Chan**, Germantown, MD
(US); **Chi-Jian Su**, Derwood, MD (US)

(73) **Assignee:** **Hughes Network Systems, LLC**,
Germantown, MD (US)

(*) **Notice:** Subject to any disclaimer, the term of this
patent is extended or adjusted under 35
U.S.C. 154(b) by 0 days.

(21) **Appl. No.:** **11/499,416**

(22) **Filed:** **Aug. 4, 2006**

(65) **Prior Publication Data**

US 2006/0271704 A1 Nov. 30, 2006

Related U.S. Application Data

(63) Continuation of application No. 09/670,124, filed on
Sep. 26, 2000, *now abandoned*.

(60) Provisional application No. 60/198,580, filed on Apr.
16, 2000.

(51) **Int. Cl.**
G06F 15/16 (2006.01)

(52) **U.S. Cl.** **709/232**

(58) **Field of Classification Search** **709/232**
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

4,914,650 A * 4/1990 Simon 370/235
5,036,523 A * 7/1991 Briskman 375/141

5,192,280 A * 2/1995 Zheng 370/353
5,463,620 A * 10/1995 Seinen 370/412
5,844,890 A * 12/1998 Delp et al. 370/230
5,859,835 A * 1/1999 Varma et al. 370/229
5,889,779 A * 3/1999 Lincoln 370/398
5,926,458 A * 7/1999 Yin 370/230
5,926,459 A * 7/1999 Lyles et al. 370/230

(Continued)

FOREIGN PATENT DOCUMENTS

EP © 886 403 A1 6/1997

OTHER PUBLICATIONS

Inder S. Gopal, Maurizio A. Bonaccelli, and C. K. Wong
XP-002279841, IEEE Transactions on Communications, vol. Com-
31, No. 8, Aug. 1983, "Scheduling in Multibeam Satellites With
Interfering Zones", pp. 941-951.

(Continued)

Primary Examiner—Jason D Cardone

Assistant Examiner—Thomas Duong

(74) **Attorney, Agent, or Firm**—Bell, Boyd & Lloyd LLP

(57)

ABSTRACT

An approach for minimizing queueing delay of packets is
disclosed. M number of queues are configured to store
packets. A memory stores a search order table that has table
entries corresponding to the M queues. Specifically, the table
entries store values that correspond to relative positions of
the M queues and that are selected based upon a transmis-
sion constraint of the communication system. A scheduler is
coupled to the memory and is configured to schedule trans-
mission of the packets stored in the M queues based upon the
search order table. According to one embodiment of the
present invention, this queueing mechanism is applied in a
satellite communication system with transmission con-
straints to the downlink cells.

21 Claims, 10 Drawing Sheets



1.2. Patent Information

Title	Method and apparatus for providing conditional access in connection-oriented, interactive networks with a multiplicity of service providers				References	USPTO	Google
Granted	2/9/1999	Filed	12/29/1995	Priority Date	12/4/1995	Appl. No.	08/580759
Abstract	A control system provides secure transmission of programs including at least one of video audio and data between a service provider and a customer's set top unit over a digital network. Program bearing data packets are recieved in a first network protocol over a first data link and removed from the first network protocol. Packets representing a particular program requested by a customer having a set top unit are selected. Conditional access is provided to the selected program. In particular program bearing packets are encrypted according to a first encryption algorithm using a first key which is then encrypted according to a second encryption algorithm using a second key. The first keys are transported in packets to the customer's set top units along with the program packets. A public key cryptographic technique encrypts the second key such that the public key used in the encryption corresponds to the private key of the customer's set top unit. After the conditional access layers have been added the packets are encapsulated and output in a second network protocol destined for the set top unit.						
Inventor(s)	Wasilewski, Anthony John woodhead, Douglas F logston, Gary Lee				Original Assignee	SCIENTIFIC-ATLANTA, INC.	
Current US Class	709/232				Current Int'l Class	G06F 15/16	
Pendency	Issued	Claim Types	Method		Significant Claims	Claim 1	
Keywords	Encryption/Packet Encryption/Public Key Security/Encryption Key Security/Package Security/Service Provider Security/Conditional Access Access Service/Access Control Access Service/Video Access Service/Conditional Access				Key Figures	Fig. 1	
Forward Citations	324	Reverse Citations	22		Litigation	No	
Asserted Claim	In an interactive information services system for providing at least one of video, audio, and data (program) requested by a customer from a service provider (SP) and for transmitting the requested program in program bearing packets to a set top unit (STU) associated with the customer, apparatus positioned between the SP and the STU associated with the customer, apparatus positioned between the SP and the STU for ensuring that only the customer has access to said program, said apparatus comprising: means for receiving program bearing packets in a first network protocol from						

Title	Method and apparatus for providing conditional access in connection-oriented, interactive networks with a multiplicity of service providers	References	USPTO	Google
	a first data link and removing said packets from said first network protocol; means for adding conditional access to said program bearing packets, said means for applying conditional access comprising: means for selecting program bearing packet comprising a program requested by the customer; means for encrypting said selected program bearing packets according to a first encryption algorithm using a first key; means for encrypting said first key according to a second encryption algorithm using a second key; means for providing the encrypted said first key to the customer; means for encrypting said second key according to a public-key encryption algorithm using a public key corresponding to a private key stored within the STU associated with the customer; means for providing the encrypted said second key to the customer; and, means for hashing a concatenation of said first key and said second key according to a hashing function to produce an authentication code from which the STU can determine the authenticity of said first key; and, means for re-encapsulating said program bearing packets in a second network protocol and outputting said program bearing packets over a second data link.			

1.3. TAEUSworks Evaluation

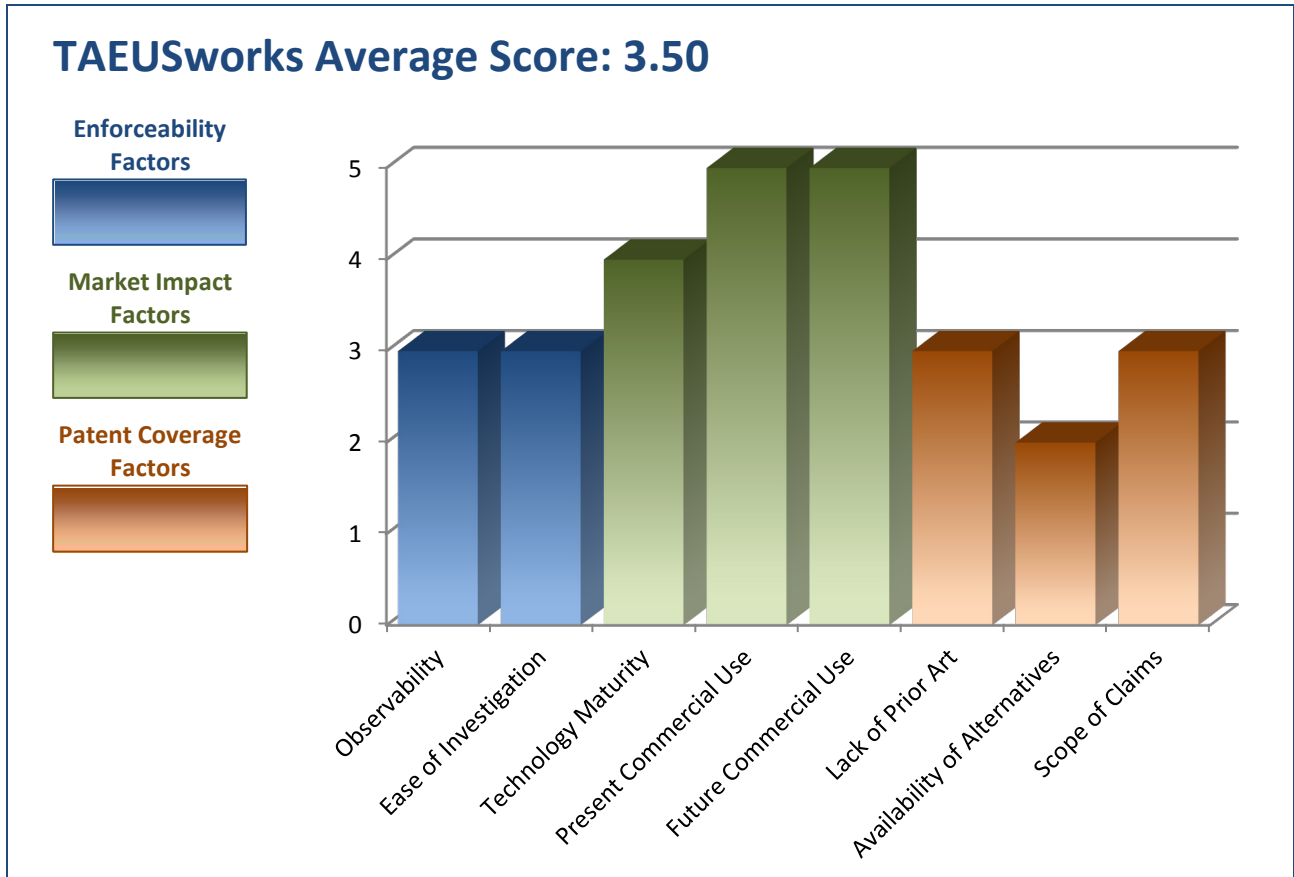


Figure 1. USPN 5,870,474 Evaluation Summary

1.3.1. Factors Relating to Patent Enforceability

Factor	Score	Comments
<u>Observability</u>	3	Reverse engineering will yield a conclusion; though will require analysis of the traffic between the base station and the mobile device.
<u>Ease of Investigation</u>	3	The use of off-the-shelf test equipment will yield a conclusion, if one is not found in documentation.

1.3.2. Factors Relating to Market Impact

Factor	Score	Comments
<u>Technology Maturity</u>	4	This patent describes a mechanism for on-demand programming and gaming. The technology taught in this patent is in growth stage - on-demand services are expanding beyond multimedia.
<u>Present Commercial Use</u>	5	This patent deals with the distribution of AV packets. The technology is currently experiencing pervasive use in services such as Netflix.
<u>Future Commercial Use</u>	5	On-demand programming and gaming is pervasive and expanding.

1.3.3. Factors Relating to the Patent Coverage

Factor	Score	Comments
<u>Lack of Prior Art</u>	3	The patent, due to its fundamental nature, may be vulnerable to prior art. There are publications and patents that preceded submittal of this patent application. Such publications would need to be carefully examined.
<u>Availability of Alternatives</u>	2	The patent claims are somewhat restrictive and provide an opportunity to work around these claims.
<u>Scope of Claims</u>	3	The claims of this patent are somewhat narrow due to call-out of specific techniques and transmission medium, but the claims should be broad enough to cover new on-demand applications.

1.3.4. Summary and Comments

This patent is a strong patent in the field of on-demand broadcast communications. The patent is currently in use today; encryption techniques are required to protect broadcast data. This is a highly cited patent, with three years of life left.

The following Viasat products are potential users of this technology:

- ▶ Surfbeam 2
- ▶ Linkstar
- ▶ Yonder

1.3.5. Class Activity Report

The following graph shows where the target patent fits in relation to other patents within the same class. As can be seen, the target patent was issued much later than many others in the same class. The larger the number of patents issued before the target patent within the same class increases the potential for finding prior art.

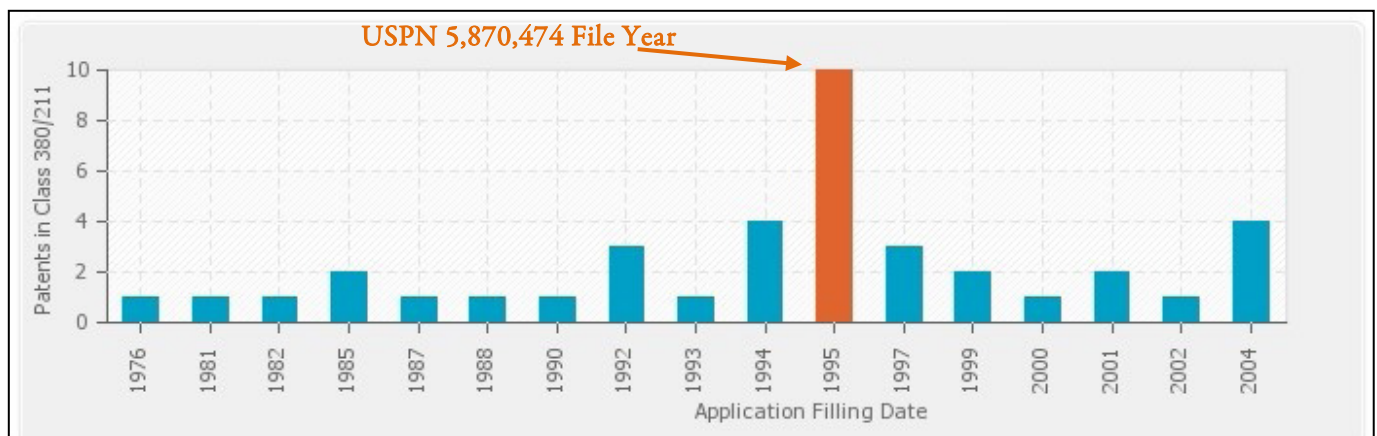
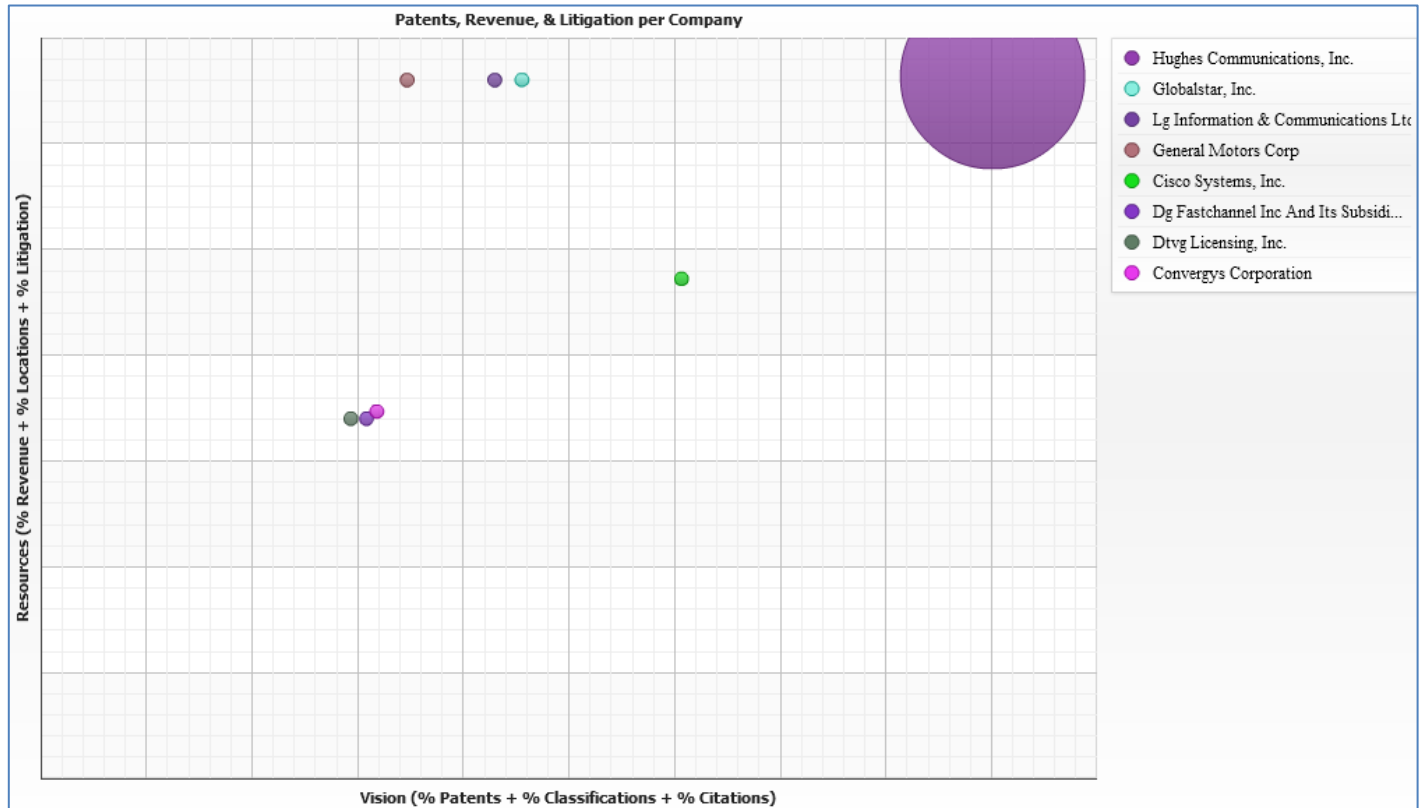


Figure 2. US Patents by Class 380/211

1.3.6. Companies with Patents in Similar IP Classifications



2. EXHIBIT A: TAEUSWORKS EVALUATION CRITERIA

2.1. Observability

Observability is the degree to which evidence of the patented technology will exist in the target product. While Observability and Ease of Investigation are often related, they are not the same. Technology that is highly observable on a product may still be quite difficult to investigate, such as requiring the fabrication of custom hardware, or the extraction and analysis of an extensive amount of circuitry from an integrated circuit. Claim limitations that are not present on the final product are not observable. Processes that are internal to a company and require access to proprietary production documents to prove are typically not observable in a product and are therefore very difficult to investigate. A low observability rating may also reflect the inherent difficulty in obtaining product/samples for investigation. The rating is based on the patent review and the reviewer's expertise and background in the art.

Rating	Description	
5	Plainly advertised or incorporated into an industry standard	The claim elements can be matched with an industry standard or part thereof. Alternatively, the manufacturer openly advertises features of the product that are infringing the patent claims.
4	Positive answer can be obtained via reverse engineering.	After obtaining a sample or applying black box testing, the results will demonstrate the use of the claim elements.
3	Negative answer can be concluded via reverse engineering or black box testing.	It is often possible to exclude infringement by black box testing. If an observed behavior cannot be the result of patented technology, the use of the technology can be excluded.
2	Reverse engineering will yield inferential evidence at best.	Reverse engineering can raise some suspicions that a given product infringes on a patent but results may be ambiguous. For example, when a specific behavior or effect is the outcome of the use of the technology, and a similar effect can be caused by alternative methods, it may be possible to infer, but not prove, that the patented technology is use by the target product.
1	Cannot be observed directly even after reverse engineering.	There is no way of proving or inferring from anything that is obtainable in the public domain that the patented technology is being used. An example could be a process patent that specifies conditions in the industry environment that cannot be demonstrated or inferred by investigating the finished product.

2.2. Ease of Investigation

The Ease of Investigation rating deals with the type, difficulty and expense of work required to determine if a product is using the patented technology. While Ease of Investigation and Observability are often related, they are not the same. Technology that is highly observable on a product may still be quite difficult to investigate. A low rating in Ease of Investigation will typically translate to a relatively high cost for obtaining positive evidence of possible infringement, but in certain cases this may not be true. In particular, it is sometimes much easier to obtain negative results (show that the technology is not being used) than to obtain positive results (prove that it is being used). In these cases, the cost of proving use can often be disseminated across a fairly large number of targets, so that on a per-target basis the overall cost remains relatively low. TAEUS specializes in finding the most cost effective method for investigation of specific targets, so that even a patent that would be difficult to investigate in general can often be investigated effectively through “black box” testing.

Rating	Description	
5	Technical literature review will be likely to yield a conclusion	The information is advertised or provided in data sheets, user’s manuals or service manuals by the manufacturer, or the patented technology is clearly visible without requiring reverse engineering efforts.
4	Relatively simple reverse engineering, testing, or review of technical literature and/or standards provides inferential evidence	Reverse engineering is required, but only in its simplest form. For example, a warning LED to indicate the improper insertion of expansion cards may not be visible on the outside of the equipment.
3	Standard reverse engineering or black box testing techniques required	It is possible to show the use of the claimed technology using standard reverse engineering techniques. “Standard” reverse engineering in this case could comprise functional analysis of signaling pathways via logic analyzer or oscilloscope, or a detailed mechanical analysis of a given design that requires substantial teardown of the product to be investigated.
2	Complex reverse engineering required (e.g. circuit extraction, custom test equipment, or very sophisticated analysis techniques)	Reverse engineering is still possible, but it will require nonstandard equipment or techniques that may have to be developed in order to demonstrate technical similarity. In most cases, the process is time-consuming and encompasses extensive forensic analysis of multiple aspects of the product to provide proof or inferential evidence that the technology is used.
1	Extremely complex or can only be analyzed with access to target’s proprietary data	Even though a violation of a patent may be highly observable, the difficulty of investigation makes the project almost unfeasible unless the target market is extremely large to justify high investigation costs.

2.3. Technology Maturity

This factor indicates where the patented technology lies in the overall life cycle of products that are likely to use the invention. This factor can be used to target specific companies for licensing based upon your licensing strategy and knowledge of the target's product strategy. For example, early implementers are more likely to use embryonic technology, while fast followers are more likely to use growth or mature technology. Low-cost manufacturers are more likely to be using mature or aging technology. This factor reflects the changes in a patent's inherent technical value as related technology evolves. This rating often relates to patent strategy in general – a patent on technology in its early stages of development is often a strong candidate for follow-on patents in the same general area, and is more likely to be a better candidate for synergistic (carrot) licensing, while mature and aging technology is usually a better candidate for assertive (stick) licensing. This is particularly true if the patent is relatively old (i.e. will expire soon) and the rest of the world is just starting to “catch up” to the technology it discloses. The rating is based on the actual patent review and the reviewer's expertise and background in the art.

Rating	Description	
5	The technology is embryonic	The technology is unlikely to be incorporated into current applications, but future use is possible. This situation could be found in cutting edge technology development areas.
4	The technology is in the growth stage	Incorporation is possible in current and future products. Examples could be fuel cell technology, nanotechnology, biomechanical devices, and/or genotyped drug delivery systems that are just emerging.
3	The technology is mature - possible use in current applications, and may be used in the near future	Examples could be telecommunication systems, personal and handheld computers, etc.
2	The technology is aging	The technology is phasing out. It is possibly in current use, but is unlikely to be used in new products. For example, vacuum tubes in electronic devices are still available, but in low production numbers and mostly in niche products.
1	The technology is obsolete	The technology is highly unlikely to be used in current products. This would typically pertain to technology having a life cycle much shorter than the term of the patent. An example of obsolete technology is the use of punch cards instead of electronic data storage.

2.4. Present Commercial Use

The Present Commercial Use factor shows the reviewer's best estimate of the industry's actual current use of the technology. This rating is related to Alternatives, but the two are not synonymous. Technology with a large number of alternatives may still be used extremely widely if it provides enough advantage over those alternatives. Likewise, technology may have few alternatives, but address a relatively small market, or the cost to implement the technology in a product is prohibitive.

Rating	Description	
5	Pervasive Use	The technology is implemented in an industry standard for a broad range of products, or is otherwise widely deployed in products. Examples would include patents that pertain to the digital encoding or decoding of audio and video, cellular and wireless telecommunications and networking.
4	Fairly Common	The technology is commonly used in a variety of products, but is not necessarily fundamental to a given area of technology.
3	Very Specialized	Use of the technology is known, but distribution of products using it is confined to niche markets.
2	Possible	It is not known whether the patented technology is used in the current market place but there is a reasonable possibility that an extensive search will identify users of the technology.
1	Not Likely	The patented technology is either difficult to implement or has a wide variety of better alternatives. Although there is a chance that the patented technology may be used, more elegant and effective solutions dominate the market.

2.5. Future Commercial Use

The Future Commercial Use factor shows the reviewer's best estimate of the industry's potential future use of the technology. This reflects many of the same factors as the current use of the technology, and adds consideration of such factors as likely growth of this particular market as well as the rate at which alternative technologies are likely to be developed.

Rating	Description	
5	Pervasive Use	The technology will be an essential factor for future mainstream products because of its obvious advantages over earlier technologies that are phasing out. An example is LEDs used for automobile taillights.
4	Fairly Common	The technology offers enough advantages to become a major factor in a variety of areas. One example would be the RFID tag technology used for inventory monitoring. Bar coding and other inventory control methods will continue to exist, but the technology will gain a substantial market share.
3	Likely to be Specialized	The technology will be used, but the distribution will not become widespread during the lifespan of the patent. One example is the positional monitoring of the virtual reality P5 Glove. While this technology is slowly catching on in the computer gaming world, it is not expected to reach wide distribution in the near future.
2	Possible	The patent describes a technology that may be advantageous but may require major redesign of mainstream products or acceptance of what are considered today non-standard methods by consumers. There is still a good possibility that the patented technology will be used in niche products Whether or not the technology becomes more widely used depends on many economic and demographic trends that are too complex to be considered in this evaluation.
1	Not Likely	Because of inherent limitations in the patented technology, it is very unlikely that others will use the patented approach.

2.6. Lack of Prior Art

This factor gives the reviewer's best estimate of the likelihood of prior art based on the patent review and the reviewer's expertise and background in the art. This rating is not the result of a formal prior art search.

Rating	Description	
5	Very unlikely to have prior art	The invention is novel and unique and the priority date of the patent is early enough to precede any publication on the subject matter. This situation primarily occurs in cases where the priority date of the patent is old, the patented invention is a breakthrough technology that was never envisioned by others, and the patent pushes the technology to a higher level.
4	Unlikely to have prior art	The patent is novel and unique and appears not to be jeopardized by prior art. This usually occurs when the patent improves upon a technical system by replacing the original technology. There is still a possibility to find equivalent technology in technical publications even if the nomenclature at the time of publication was different.
3	Possible prior art	The patent is unique, but the claims are broad enough with a relatively late priority date. This makes the patent potentially vulnerable to prior art, in that somebody else might have invented the same or an equivalent technology. There may also be public knowledge of the invention based on sales anywhere in the world.
2	Strong possibility of prior art	The patented technology is main stream and the claims are overly broad. There is a very high likelihood that any extensive search will turn up equivalent technology preceding the priority date of the patent.
1	Known prior art	The reviewer is aware of potentially invalidating prior art without having to do further research. In this case, the invention is usually a simple improvement of a technical system; the patent is riding on the current technology trend and does not offer truly novel technology. Often, sales of equivalent technology precede the priority date, or the invention would be obvious to anybody based on standard publications.

2.7. Availability of Alternatives

This factor indicates the ability of the possible infringer to use alternative technologies to achieve the desired objective. The rating is based on the patent review and the reviewer's expertise and background in the art. This is also called the "design around" factor, that is, how difficult it would be to "design around" the patented technology to avoid infringement.

Rating	Description	
5	Alternatives are impossible	The invention covers the only possible technical solution to a problem. An example would be the transistor or other fundamental invention.
4	Alternatives are unknown	The patent covers the generally accepted solution for a technical problem. Significant R&D efforts would likely be required to provide an alternative. No other possibilities are known but there may be methods to work around the invention.
3	Possible, but very difficult to implement.	Alternatives would require substantial R&D costs, retooling costs, increased product cost, or significant compromises on product performance. For example, a heart computer tomography can be triggered by an acousto-mechanical signal that is derived from the heartbeat and monitored in the thoracic area. A work-around could use the pulse signals in the fingers, but because of the propagation delays and greater variance compared to the actual heart movements, this technology requires compensatory mechanisms and may still not be as accurate, or may be more costly to manufacture, and therefore do not provide the same level of competitive advantage to the product.
2	Possible, but moderately difficult to implement.	In this case, it may or may not be cost effective to attempt to design around the patented technology. In the case of heart computer tomography, the patent might cover the mechanical movements of the thoracic region to trigger the x-ray. A moderately difficult to implement approach could be an EKG as trigger, which is more expensive and technologically more sophisticated, but which also may yield better results. Some product redesign may be required, but this may be more cost effective than licensing the patent.
1	Alternatives are readily available.	Very little cost or effort is associated with implementing a non-infringing alternative. This occurs if the patent claims are very narrow, or if the patent is a minor improvement that offers little advantage in the marketplace. For example, a patent claiming structure having a substrate glued to its back would, from a technical perspective, be weak; it is irrelevant whether the substrate is glued to the back or to the front of the structure.

2.8. Scope of Claims

The Strength of Claims licensability factor is based on the language, scope, and technical merits of the claims. While the other rating factors relate primarily to the technology covered by the patent, this factor relates to the degree to which the patent claims actually provide coverage of that technology. For example, some patents are narrowed substantially during prosecution so the body of the patent discloses a number of possible implementations, but only a small number of these are actually covered by the claims. In this case, the patent itself may provide information on how to use fundamentally similar technology without infringing any claims. Evaluation of this factor takes into account the types of claims in the patent to assess the breadth of scope of the claims, and assess the technical strength of the claims from the perspective of a person of ordinary skill in the art.

Rating	Description	
5	Claims are extremely broad and fundamental to the technology	The patent claims describe what may be called the principle of operation for the new invention without going into detailed descriptions that would pose limitation on the applicability and assertion of the claims. It is likely that the patented technology will apply across a broad range of products.
4	Good claims. Broad applicability	The claim language centers on the patented technology or device but the claims are broad enough to not limit the assertability to the specific technology area or product. The claims may have limitations that narrow the breadth and scope of coverage.
3	Good claims, but may have restrictions or references that limit the scope of applicability	The claim language focuses on the invention, but the novelty aspect of the invention is the solution to a detailed problem. In this case, the claim language may be strong, but the applicability may be restricted to a specific area of technology.
2	Relatively specific/narrow claims	The claim language is complex and contains many limitations that narrow down the focus to very specific aspects of the technology.
1	Very complex, narrow, unclear, and/or specific.	Very difficult to enforce. This category encompasses a number of different possibilities characterized by overly long claims with too many and very specific elements, and/or claims that are very convoluted and ambiguous. A hypothetical example would be a wine with exact 12.5 % Vol. Ethanol content during its shelf life. Because of the continuous fermentation in the bottle, the alcohol levels will change over time and therefore the narrowness of the limitation would make a patent unenforceable.