

# An Entrepreneur's Guide to the Intellectual Property Galaxy

February 7, 2008

*moderated by*  
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# Startup Life Cycle

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**Conception**



**Launch**



**Liquidity event**

**Development**



**Funding**



# Ways to Use IP

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- **Offensive**

  - *Leverage Innovation*

    - **Block competition in product sales**
    - **Support joint ventures or other cooperative arrangements**
    - **License or sell IP**
    - **Marketing advantage**
    - **Increase corporate value for buyout, spinouts or investments**



# Ways to Use IP *(cont)*

- **Defensive**

- *Freedom to Innovate*

- **Cross license**
  - **Formal**
  - **Informal**
- **Blocking others from patenting**
- **Increase corporate value for buyout, spinouts or investments**



# Idea Stage



- **Fewest resources to devote to IP tools, but time when much IP is being generated**
- **IP on a budget**

# Evaluating IP Needs

- **Where is primary marketplace(s)?**
- **What is primary technology?**
- **What is company's business plan?**
  - **Manufacture and sell**
  - **License**
  - **Partner**
- **What is exit strategy?**



# Funding



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- **What do investors care about?**
  - **Likelihood that you have sustainable advantage**
  - **Risk their money will be wasted fighting over infringement of IP**

# Intellectual Property Tools

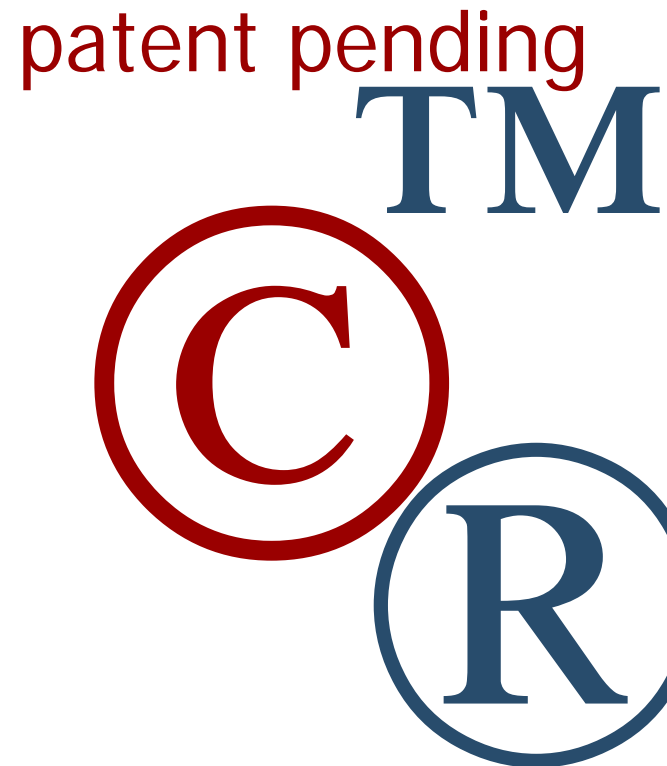
- **Most common IP tools**
  - Patents, copyrights, trademarks, and trade secrets
- **Each tool gives right to *exclude*; *control* over what differentiates one company from another**
  - Patent: *exclude* use of invention
  - Copyright: *exclude* use of creative work
  - Trademark: *exclude* use of “mark” in way likely to confuse customers
  - Trade secrets: *exclude* use of secret ideas or other business information wrongfully obtained



# Major IP Areas

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- **Patent**
  - Protects inventions – utility, design, plant
- **Trade secret**
  - process; composition; customer lists
- **Trademark**
  - Source identifier – Kodak, Wolf Greenfield, Microsoft
- **Copyright**
  - Protects expression of creative work (can include software code)
  - Mask works administered by Copyright Office



# Patents - Terminology



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- **Provisional application**
- **Patentability/Validity**
- **Freedom to operate (Right to practice)**
- **Designing around**

# Patentability vs. Infringement

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- **Patentability/Validity: Is my company's *invention* deserving of a patent?**
  - **Factors:**
    - novelty, non-obviousness (inventive step), et al.
    - in view of totality of “prior art”
- **Infringement: Is my company's *product or process* blocked by a claim of a patent I do not own?**
  - **Defined by claims of another's patent**
  - **Literal infringement**
  - **Doctrine of equivalents**

# Panel Questions and Answers

# Panelists

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**Kevin Bitterman**  
*Principal, Polaris Ventures*



**Foster Hinshaw**  
*President and CEO, Dataupia, Inc.*

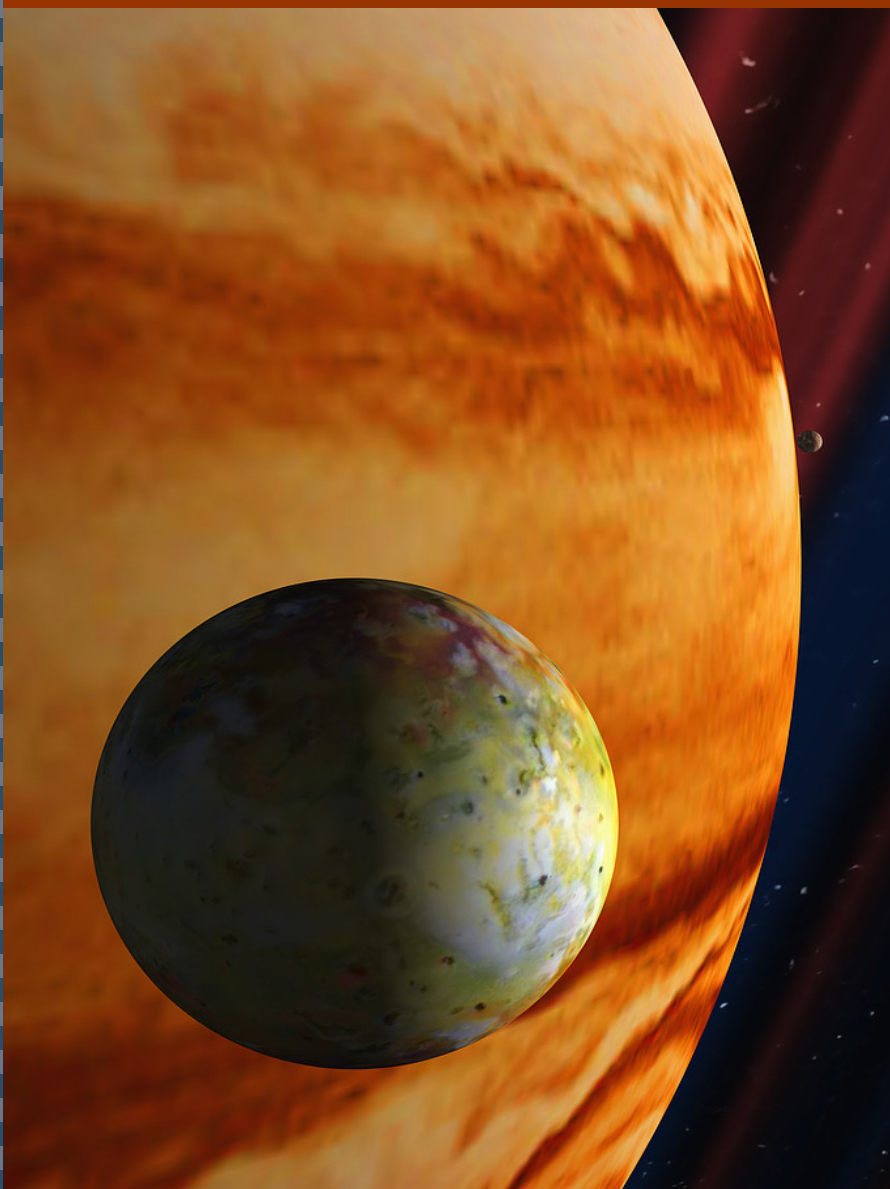


**Beth Marcus**  
*CEO, Zeemote, Inc.*



**Ed Walsh**  
*Shareholder, Wolf Greenfield*

# Panel Topics



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- **Idea**
- **Initial protection issues**
- **Funding issues**
- **Corporate questions**
- **Lessons learned**

# Contact

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Wolf Greenfield is a full-service intellectual property law firm that builds and enforces strong IP portfolios, assists businesses to manage IP risks, provides IP licensing and deal-making services, and defends them from suit.

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