

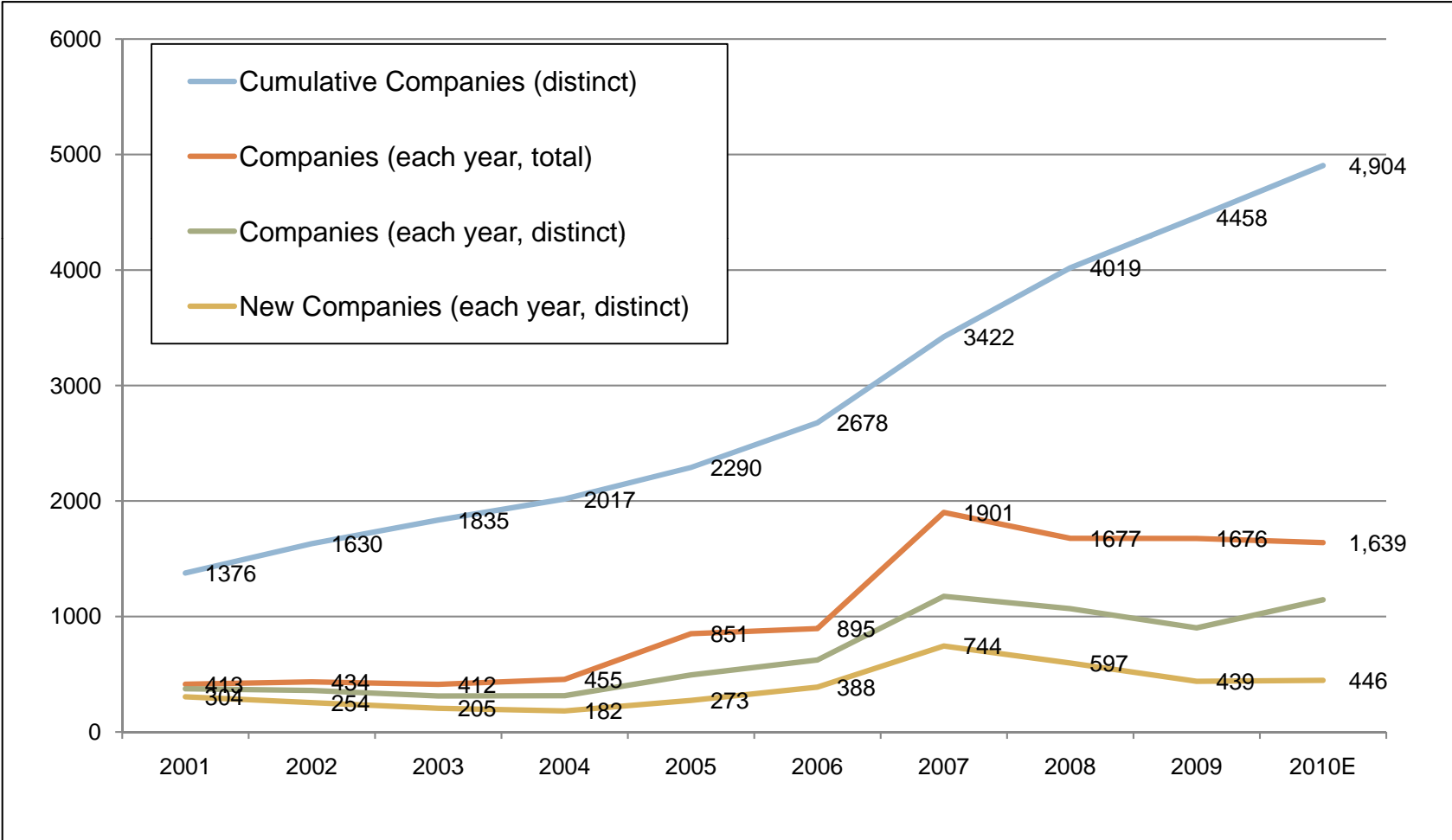
An Update and Considerations to Reduce Risks Posed by NPEs

**Chairman and CEO
PatentFreedom
July 9, 2010**

Defining Non-Practicing Entity

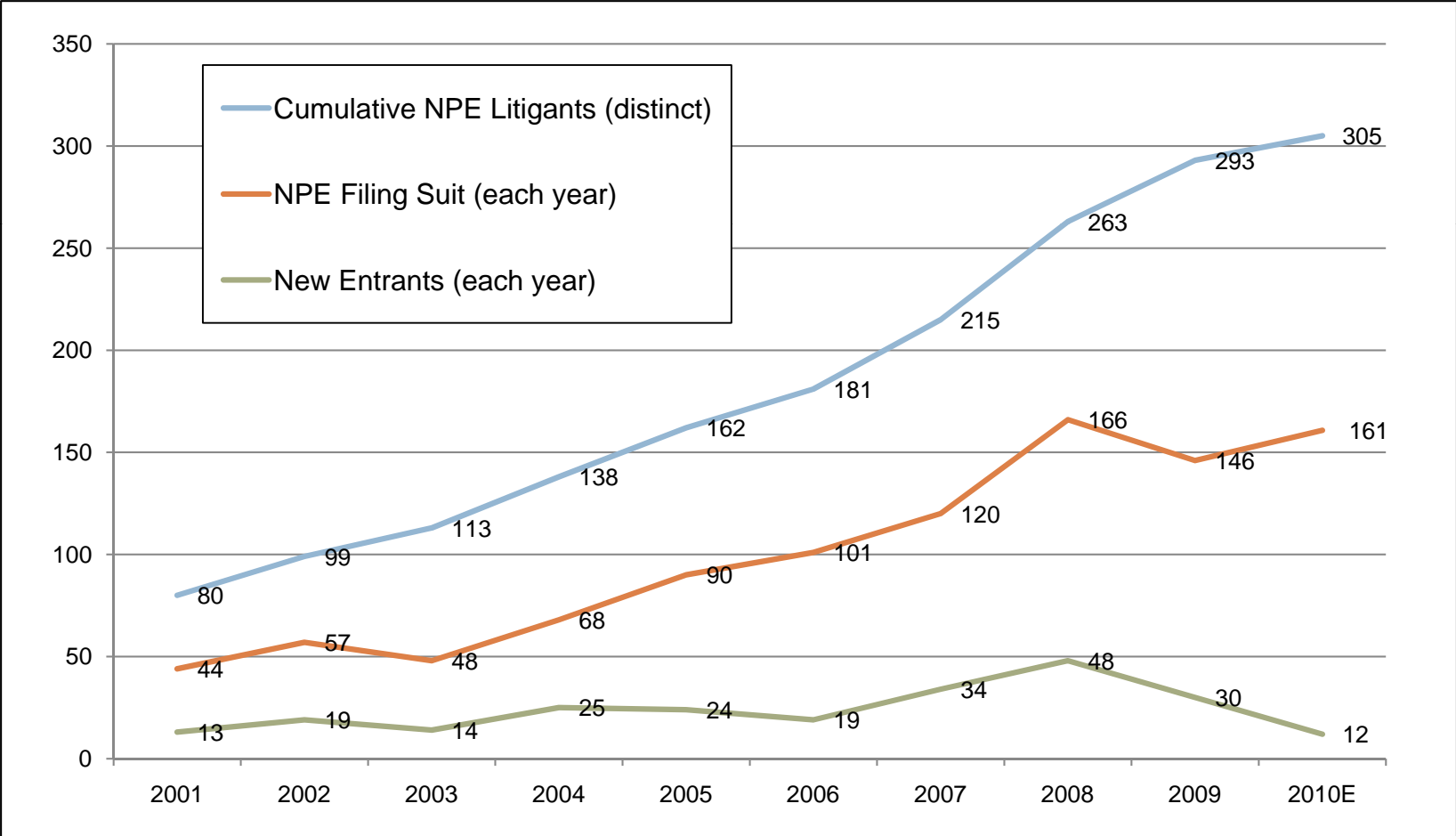
- An entity that derives, or plans to derive, the majority of its revenue from the licensing or enforcement of patents, and which is generally invulnerable to patent counter-assertion
- While NPEs share this basic characteristic, they are not all cut of the same cloth. Their heritage, modes of operation, management, financing, and philosophies vary widely

The Number of Companies in NPE Lawsuits



Data provided by PatentFreedom

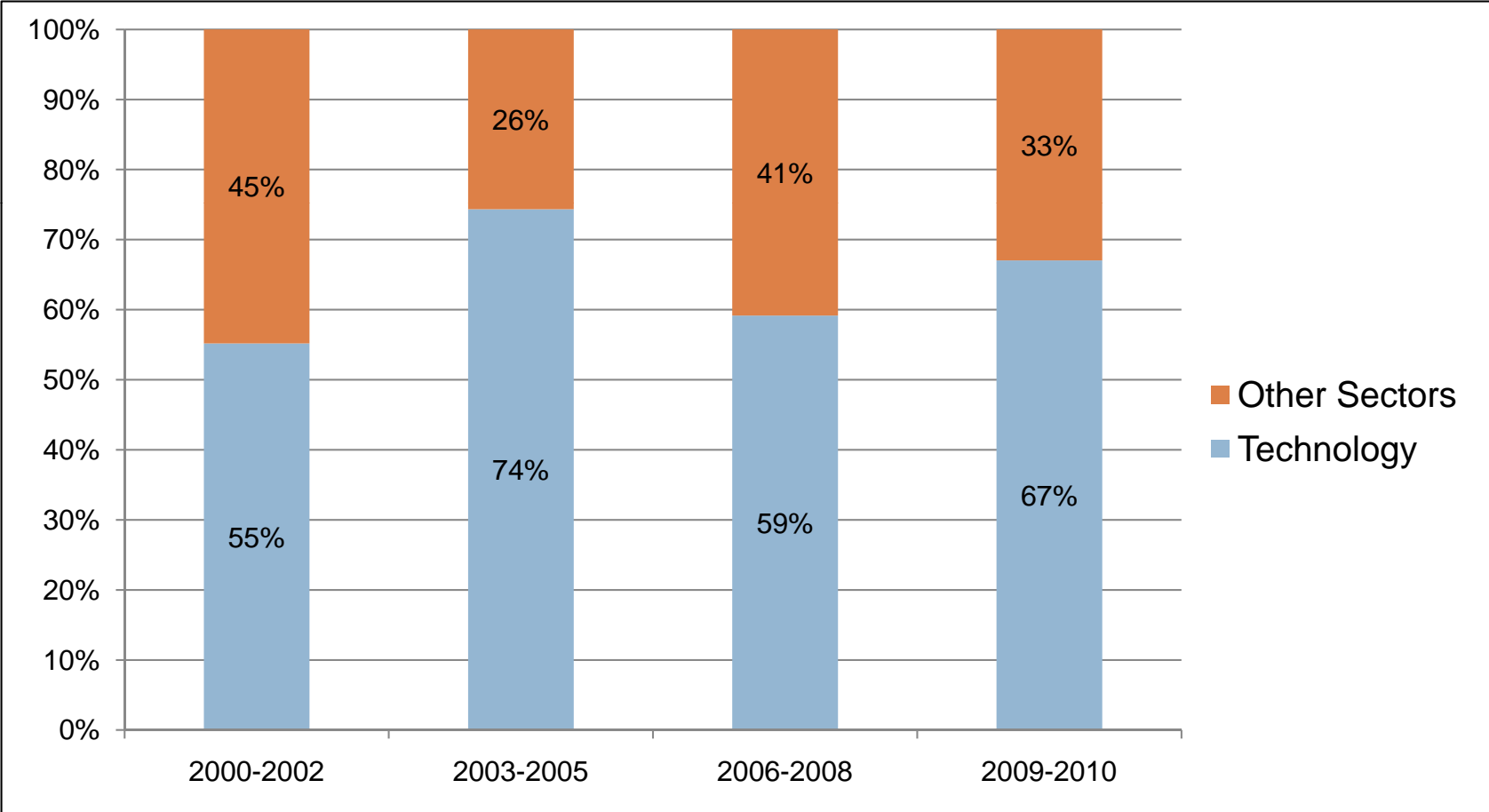
A Growing Problem – The Number of Active Distinct NPEs as Plaintiffs



Data provided by PatentFreedom

NPEs are Most Active Against The Technology Sector...

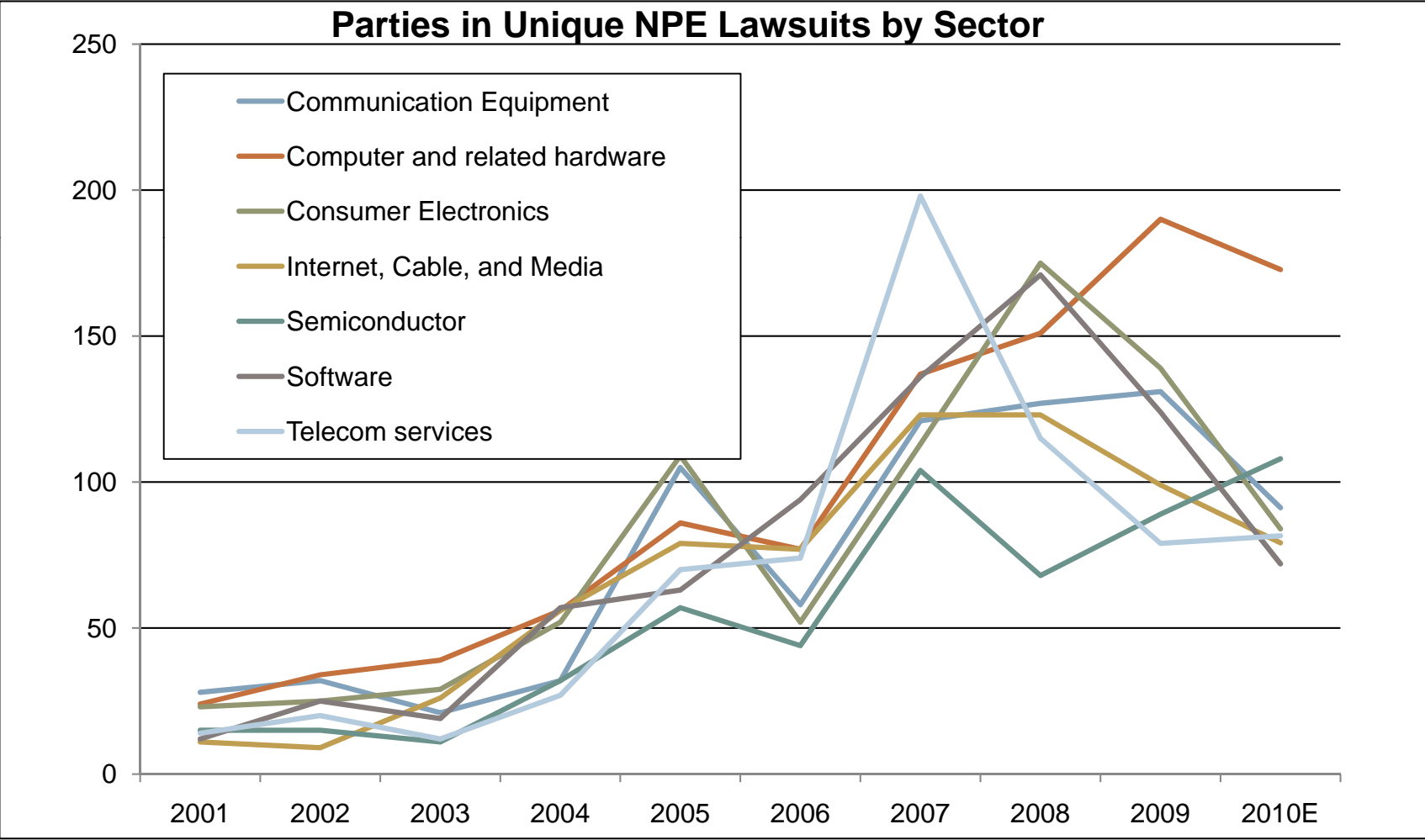
Parties in Unique NPE Lawsuits by Sector



Note: excludes ~18% of unknown industry

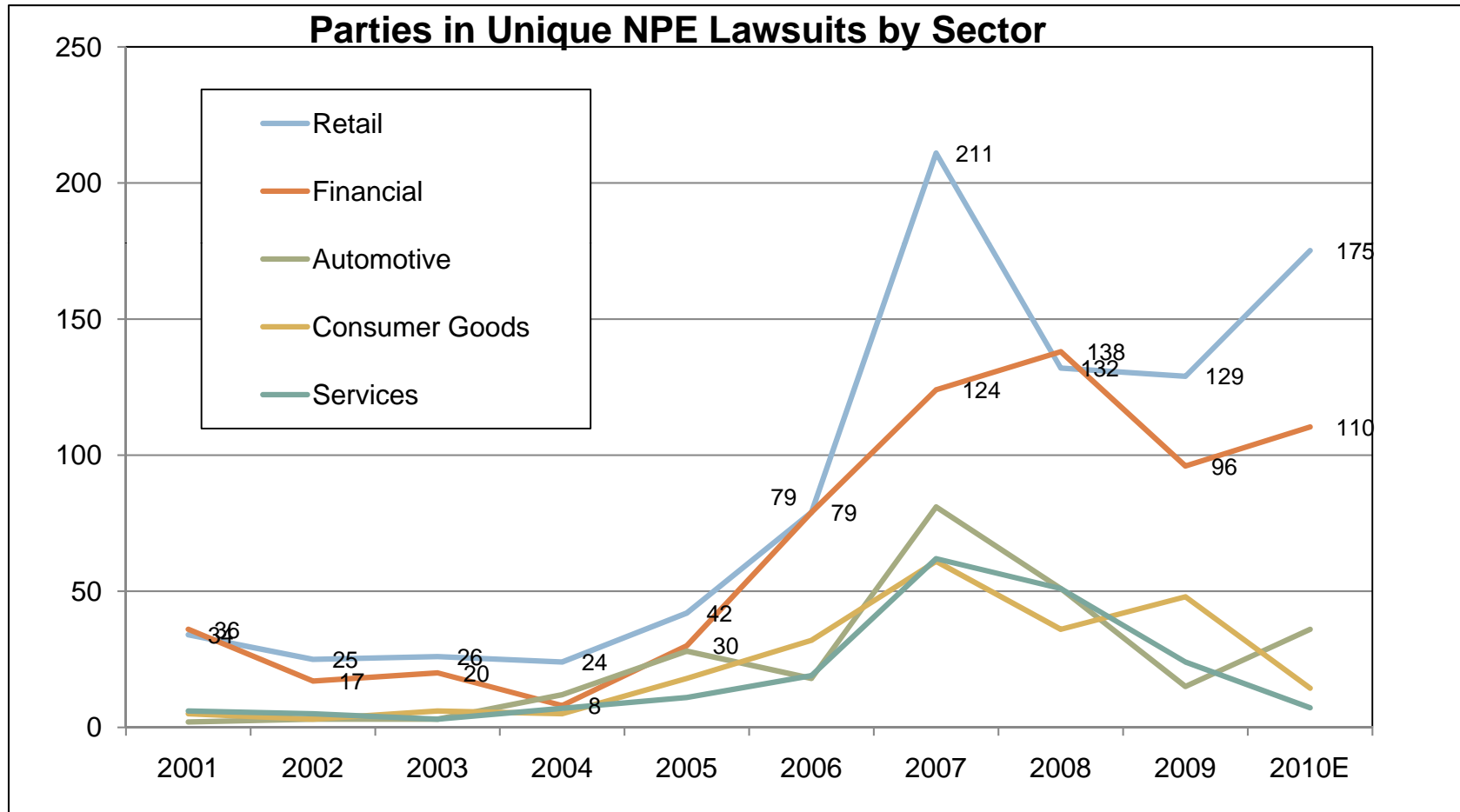
Data provided by PatentFreedom

All High-Tech Sectors are Under Sustained Exposure



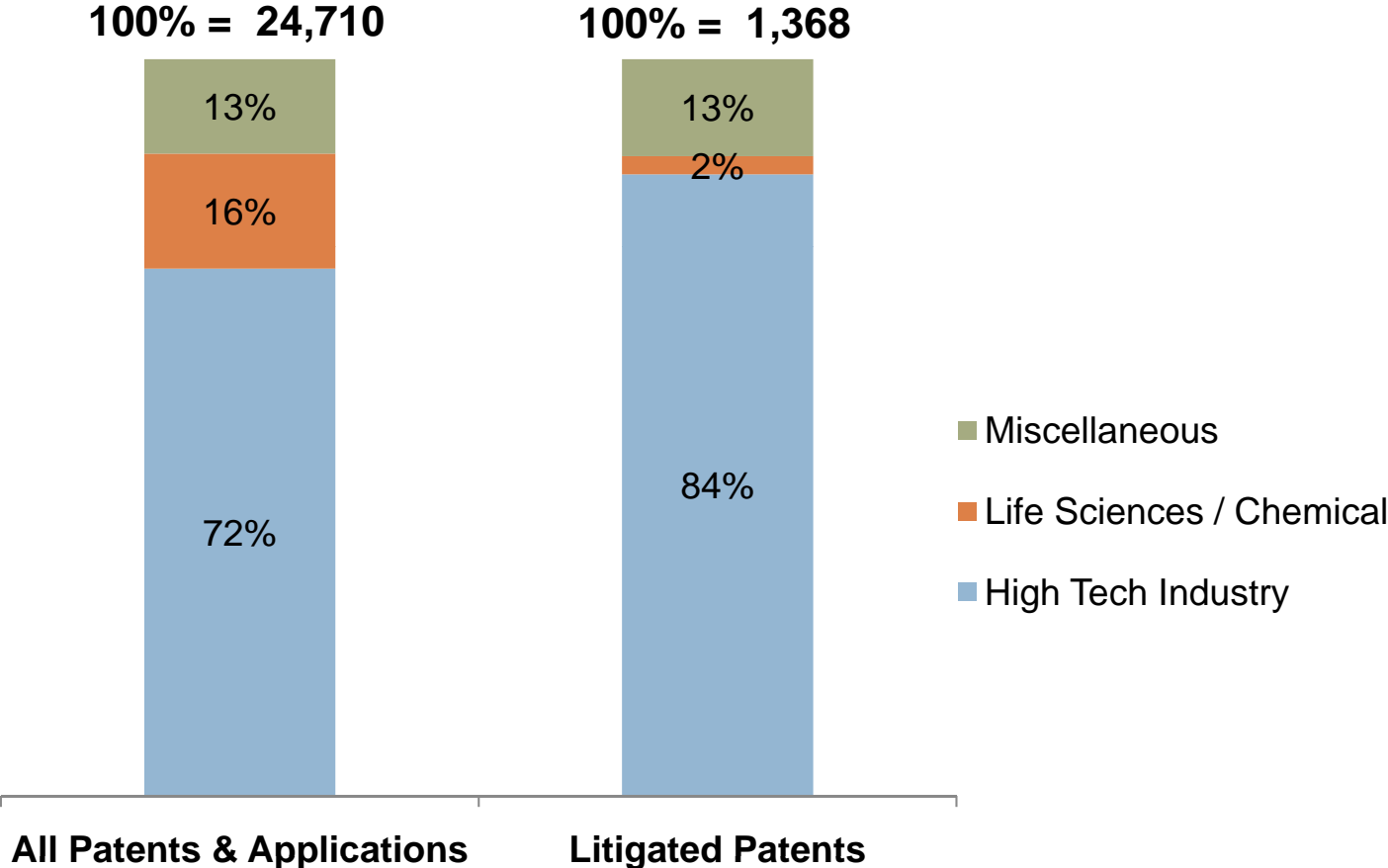
Data provided by PatentFreedom

But Other Sectors are Increasingly Targeted by NPEs Too



Data provided by PatentFreedom

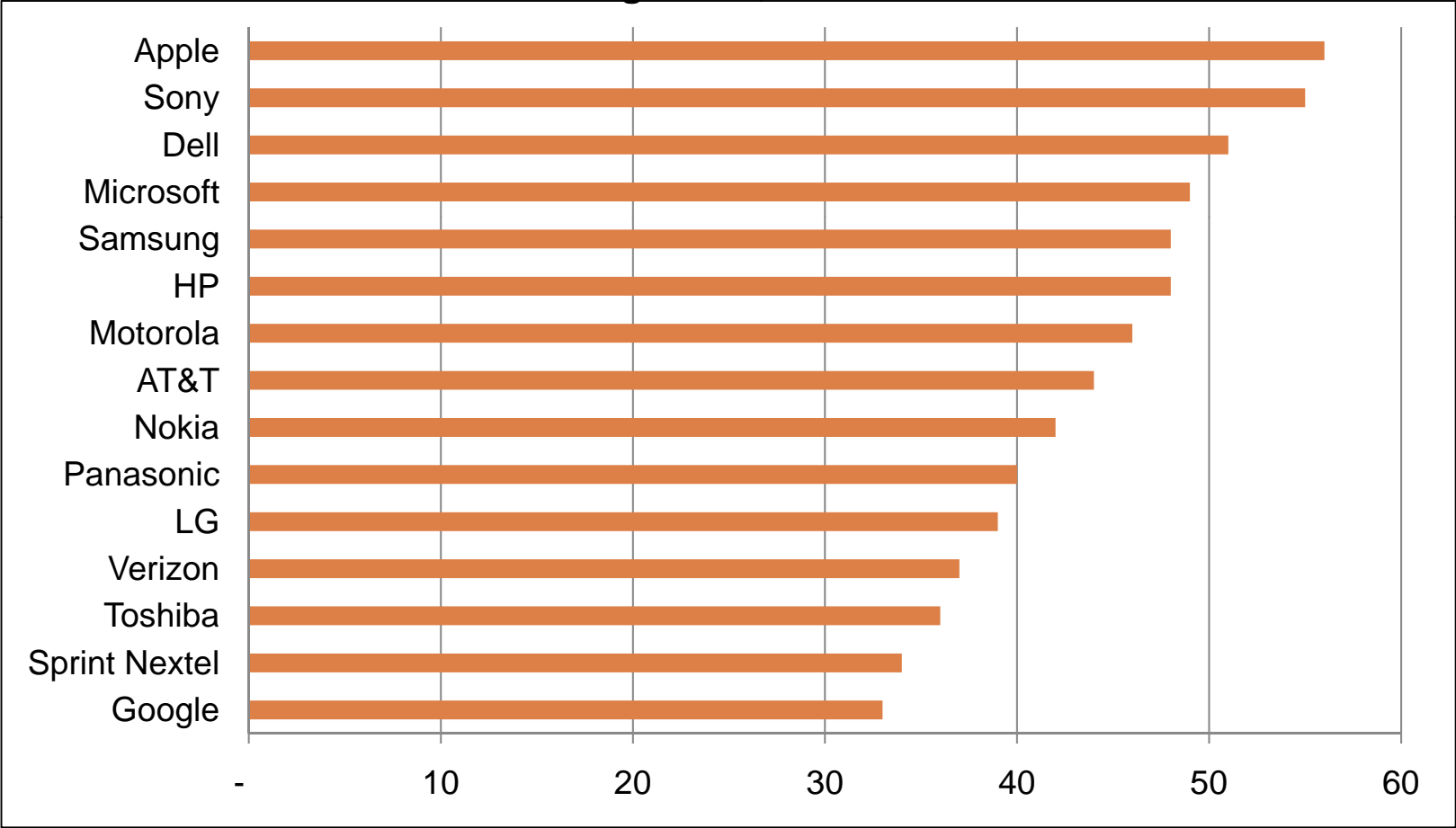
NPE Owned Patents by Technology Area - IPC Codes



Data provided by PatentFreedom

Most Pursued Companies – Top 15

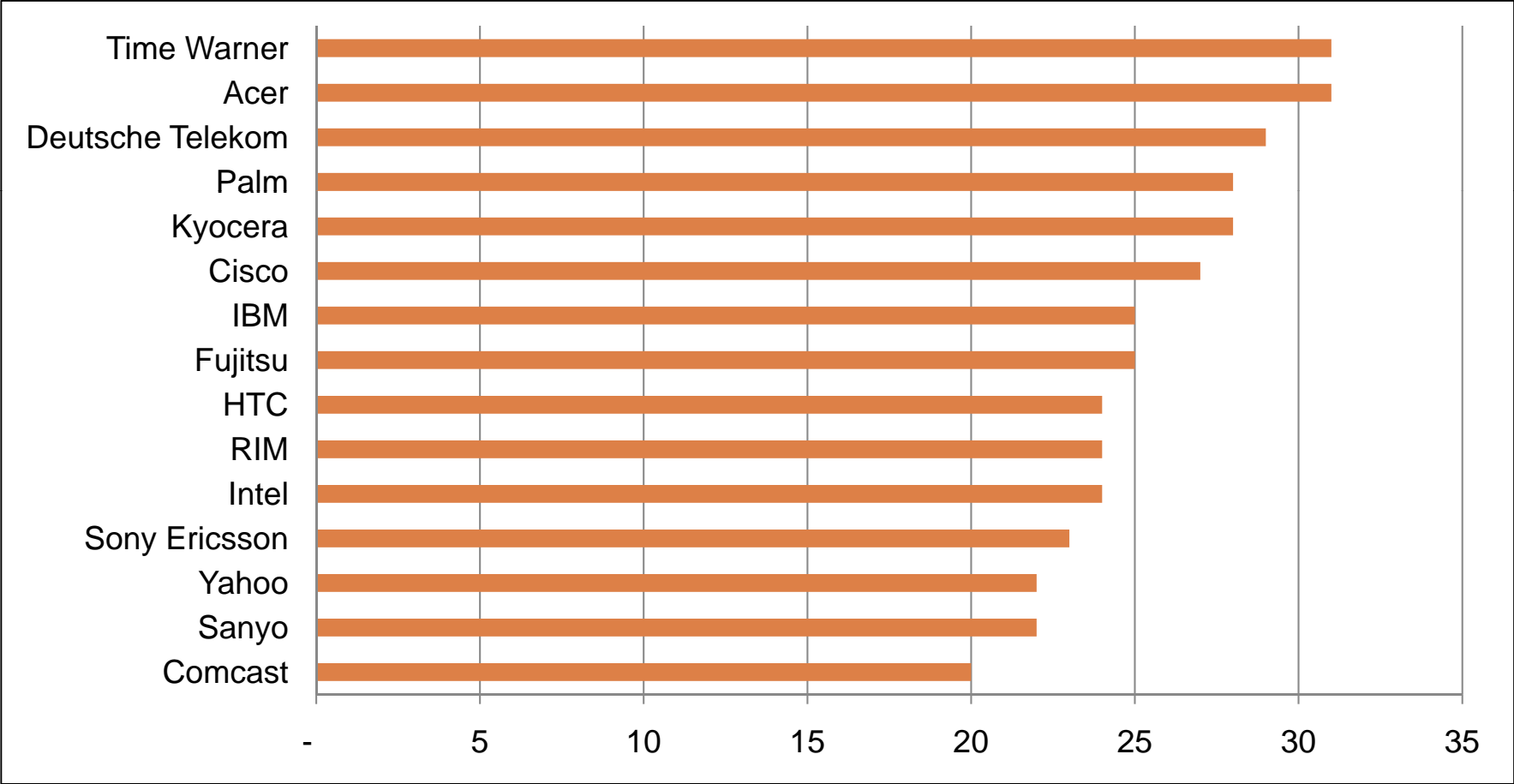
NPE U.S. Litigations, 2004-2009



Data provided by PatentFreedom

Most Pursued Companies – Next 15

NPE U.S. Litigations, 2004-2009



Data provided by PatentFreedom

Defending Against NPE Patent Enforcement is Costly

- Perhaps > \$5 billion plus settlements in 2009 alone!

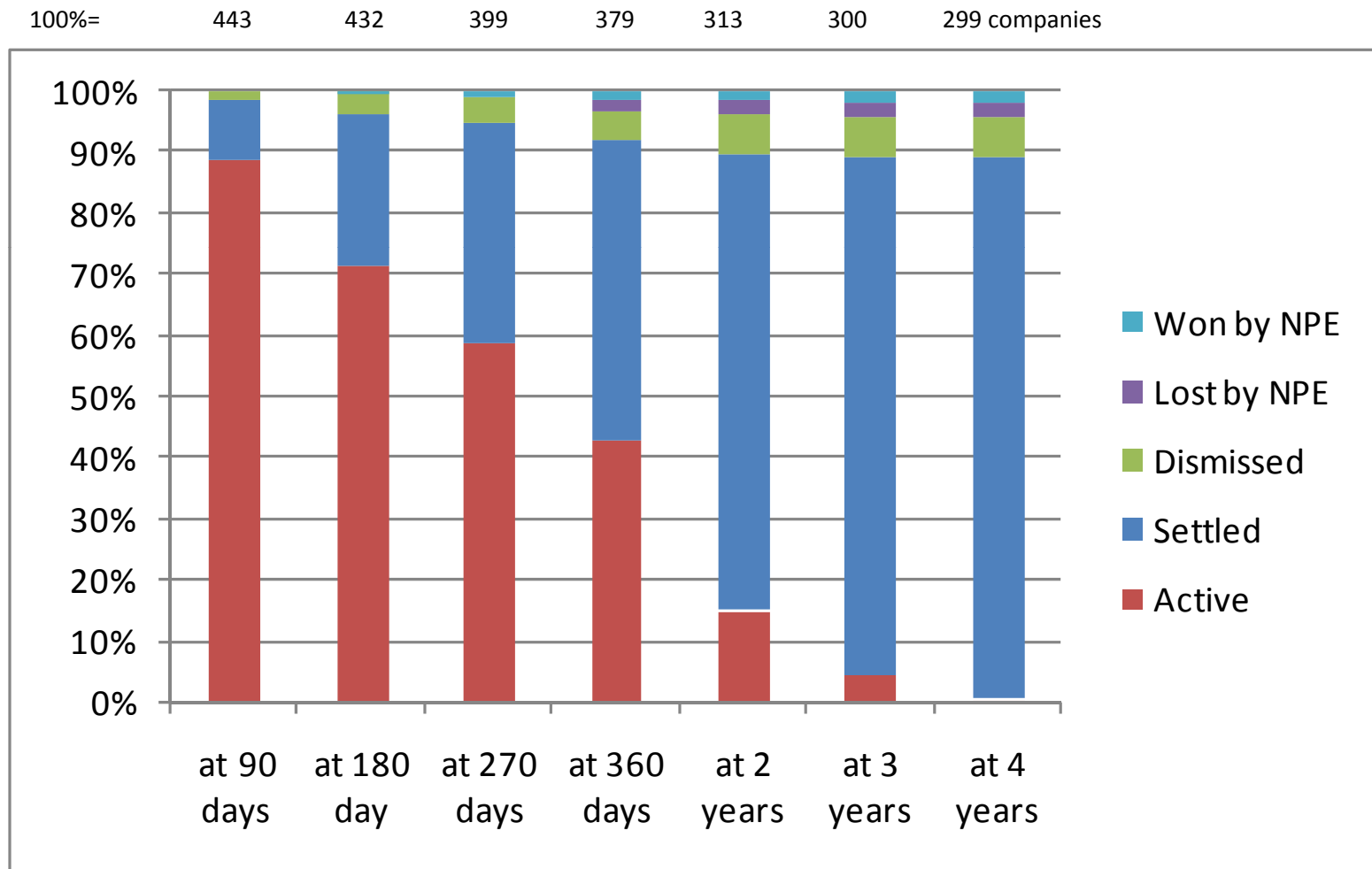
- The average cost of a patent litigation is at least \$2 million (AIPLA, 2003), even if a patent is invalid and/or non-infringed.
- The financial exposure can be 10 times or more the cost of such litigation (*eLaw Forum*)
- For every litigation filed, there may be 3-5 assertions or more, the defense of which can easily cost \$200k each



- The *direct* cost to operating companies of all NPE litigations in 2009 alone is considerable
 - 1,676 defendants x \$2m = \$3.4bn
 - At 5 additional assertions for each single litigation = \$1.7bn
 - *These estimates do not include license fees and judgments*

Settlement Patterns of Individual Defendants in NPE Suits

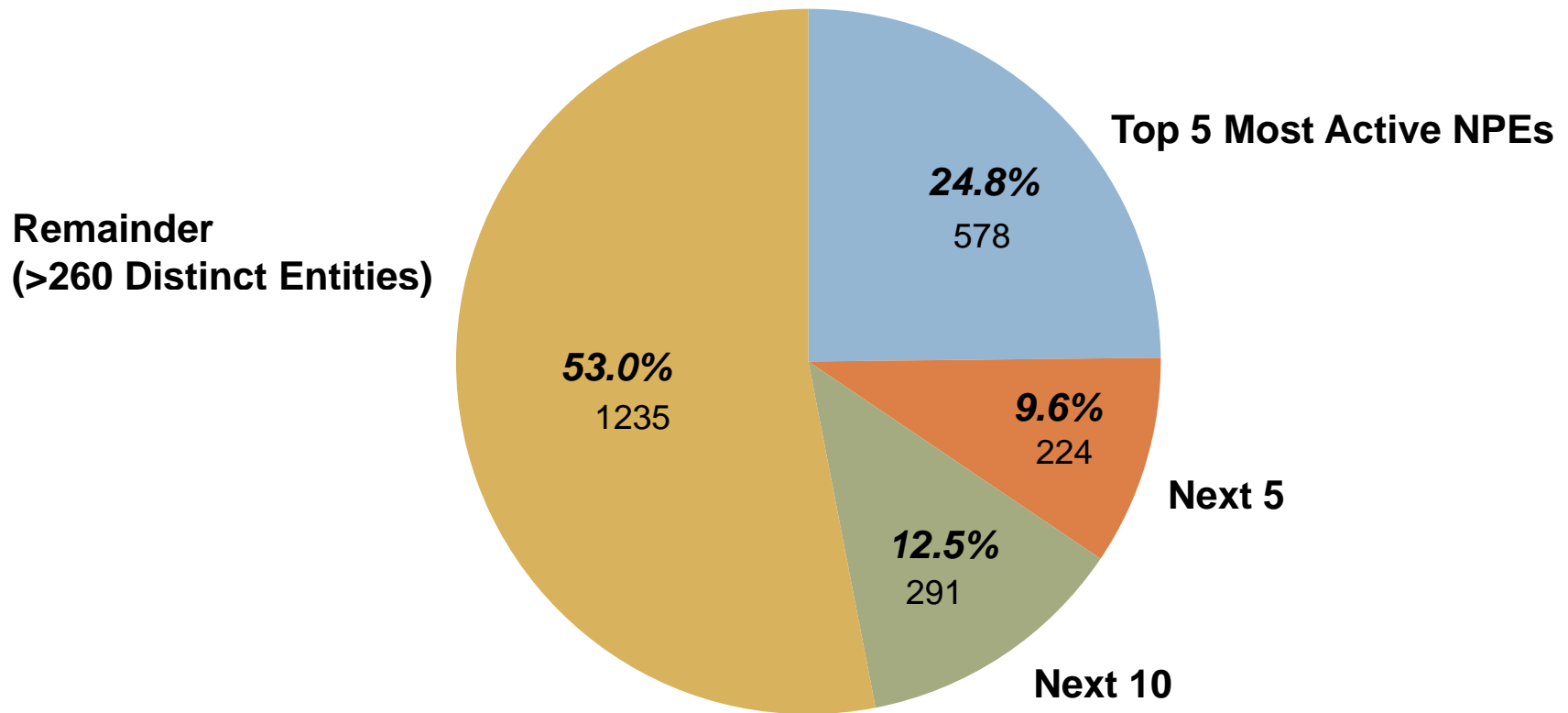
Computer and Related Hardware Industry Example



Data provided by PatentFreedom

NPE Litigation Activity is Fragmented Among Many Players

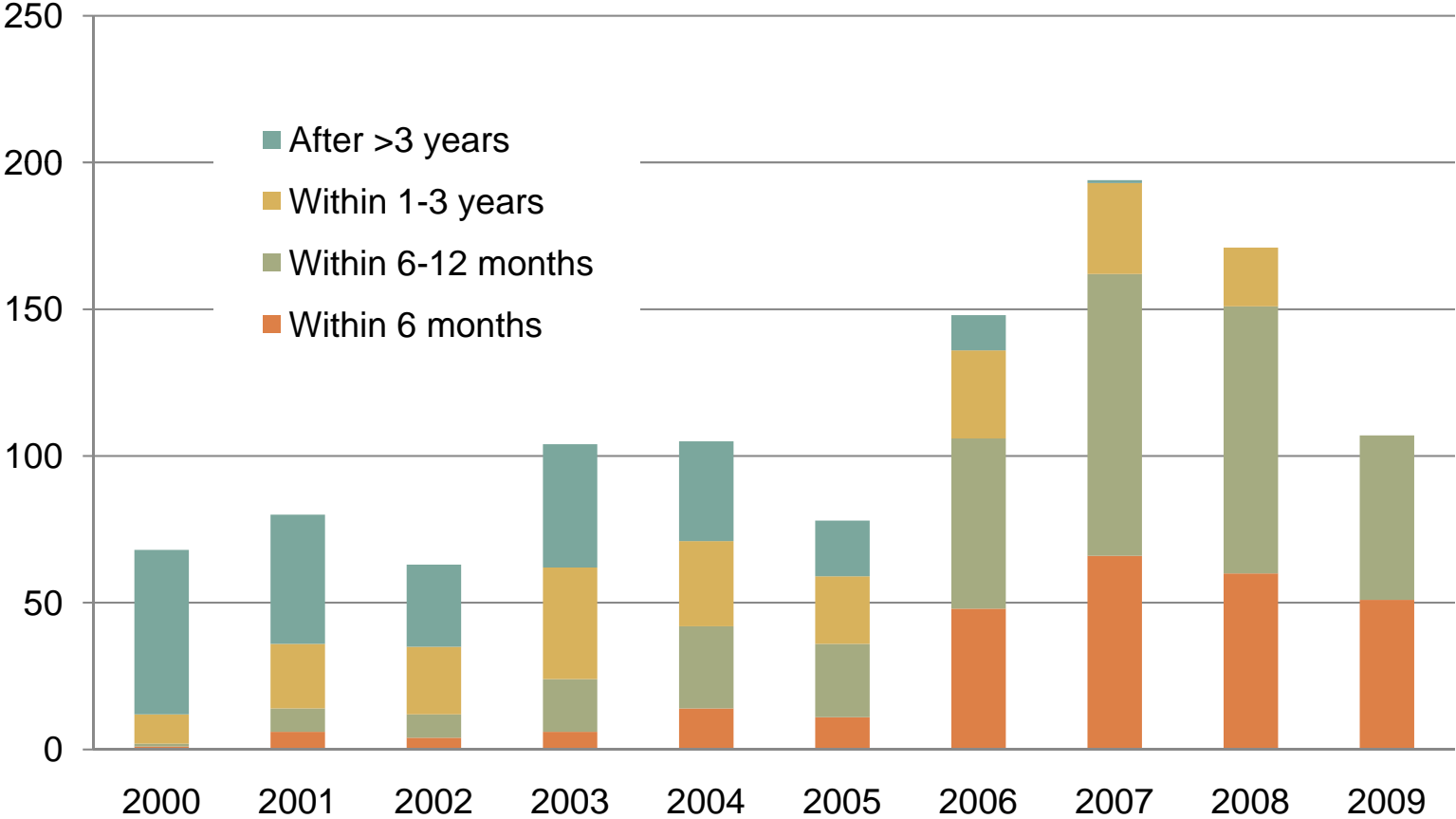
U.S. NPE Litigations 2004-2009
100% = 2,328



Data provided by PatentFreedom

An Increasing Trend to Litigate Soon After Acquisition

of Litigated NPE Patents by Year of Acquisition
by Elapsed Time Between Acquisition and First Litigation



Data provided by PatentFreedom

Solutions to a Growing Problem

- Consider a multi-faceted approach to address the NPE issue:
 - **Intercept** patents being sold on open market before they are purchased by potential adversaries
 - **Encourage** greater transparency in patent sales and holdings
 - **Educate and inform** operating companies about NPE assets and operations
 - **Ensure** financial investors and law firms are aware of the impact of their support of NPEs on your business
 - **Challenge** issued patents owned by NPEs through reexaminations and oppositions
 - **Consider** seeking early licenses on preferential terms, *where appropriate (for strong and likely relevant patents)*

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