

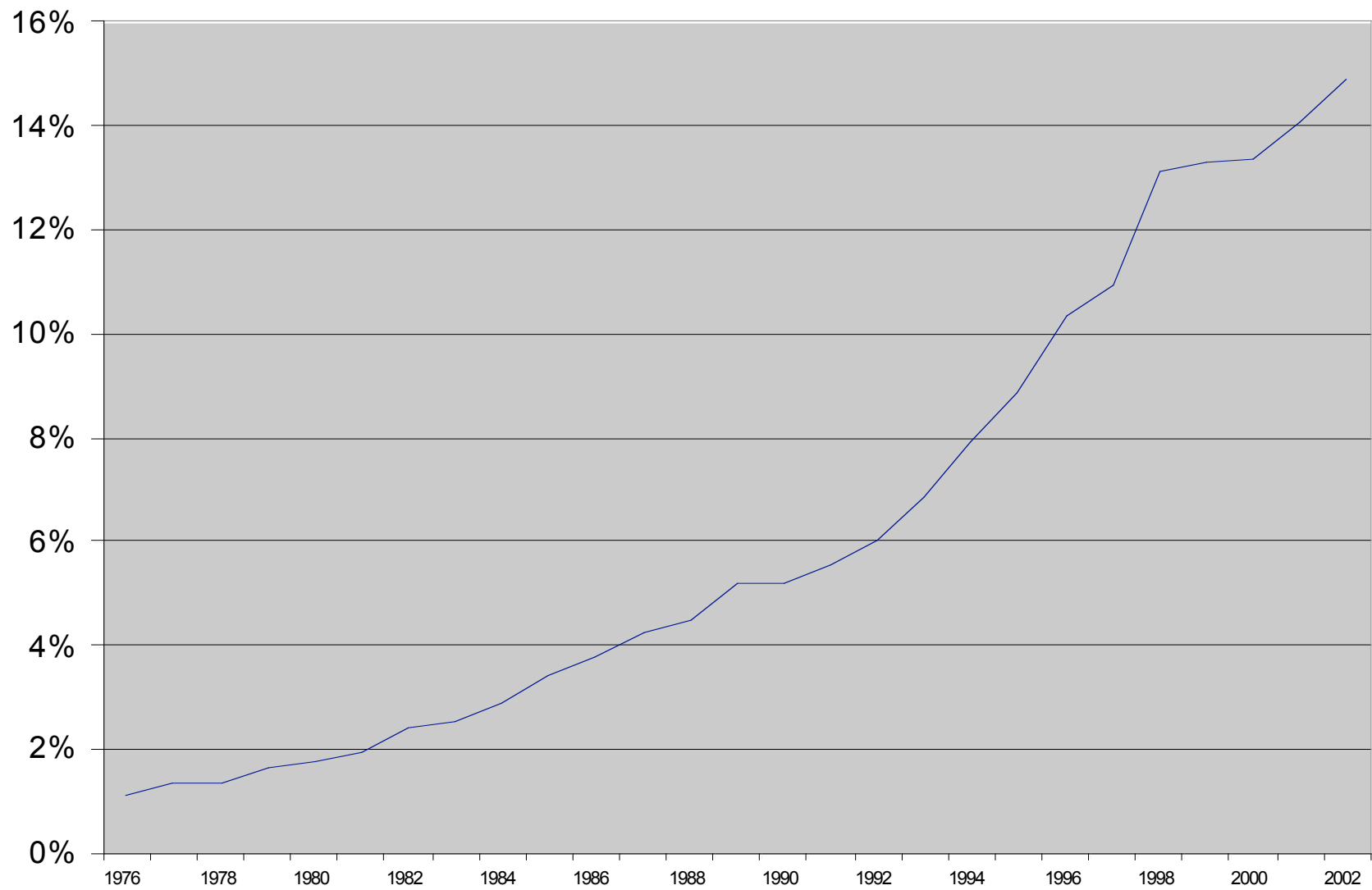
# **Software Patents in the U.S: Empirical evidence**



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# US software patents / All patents



# Questions:

## Do software patents...



1. ...help small firms, startups, individuals?
2. ...help the software industry?
3. ...increase firms' R&D?
4. ...do any harm?

# Who gets software patents?



- Firms, not individuals
- Large firms, not small
- Especially not startups in software industry

# Help the “little guy”?



- Overall, probably not...
- Little guys don't get them

# Who gets software patents?



- NOT the software industry (exc. IBM)
  - 7% of software patents
  - 33% of programmers

# Who gets software patents?



- NOT the software industry
  - 7% of software patents
  - 33% of programmers
- The “usual suspects”
  - Electronics, computers, instruments
  - 67% of software patents
  - 7% of programmers

# Help the software industry?



- Overall, probably not...
- The software industry doesn't get them

# Help the “usual suspects”?



- Maybe not...
- Patents offer little protection in these industries
- Patents used strategically instead
  - block competitors
  - bargaining chip -- litigation threat

# Firm R&D and software patents



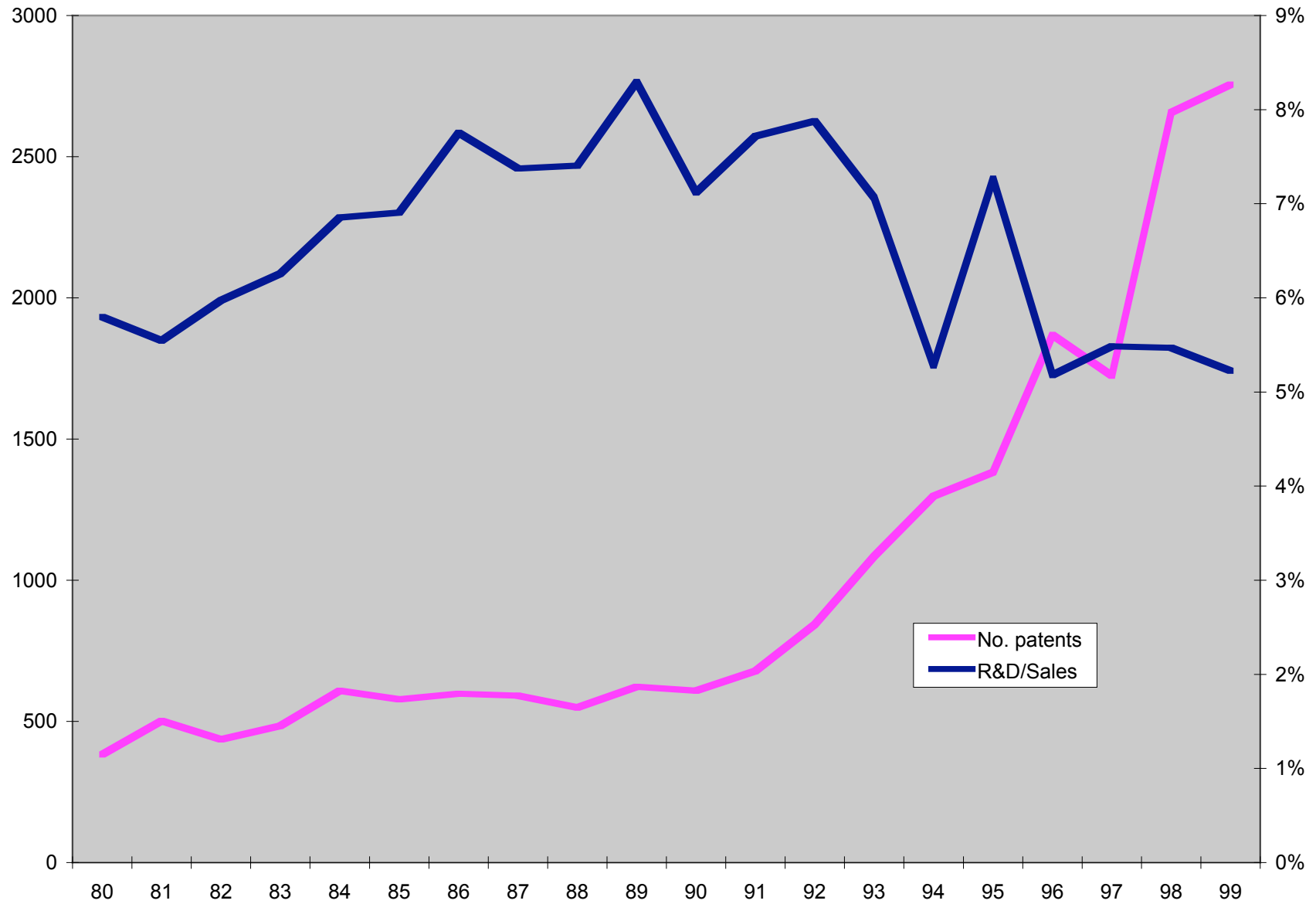
More software patents / all patents

<=>

*LESS* R&D / sales

for “usual suspects”

# IBM



# Interpretation



- NOT necessarily *causal*
- BUT
  - competing in court instead of market
  - substituting patenting for R&D

# Help increase R&D?

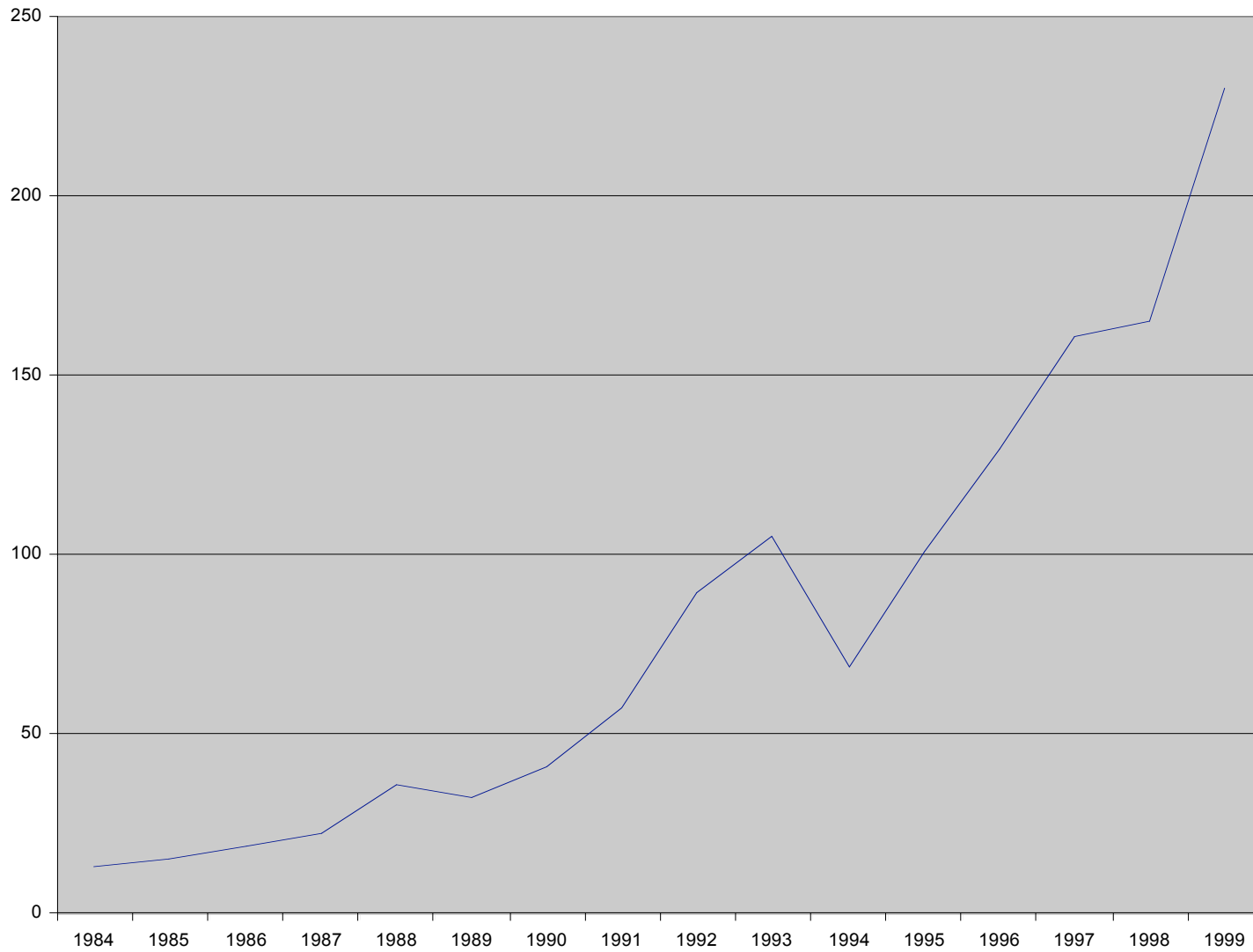


- Overall, probably not...
- Firms that get software patents decrease R&D

# Do any harm?



# US software patent lawsuits



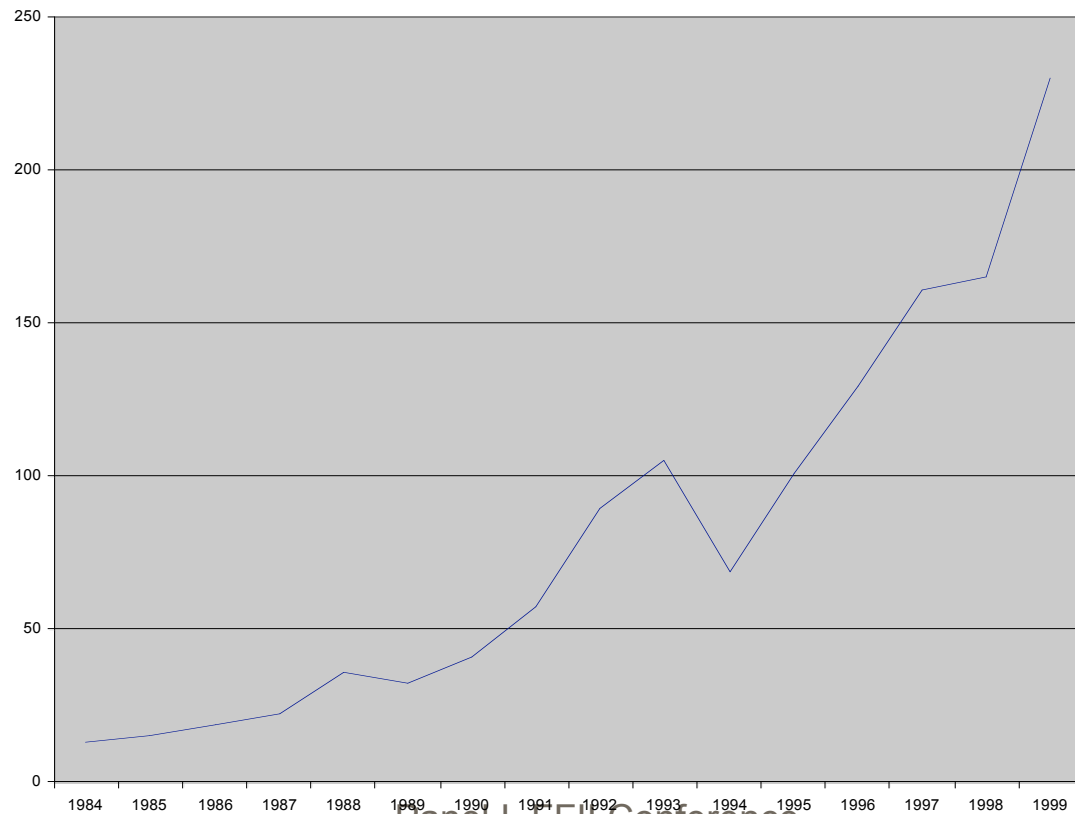
# The “tip of the iceberg”



- Many disputes settled
  - ...innovation tax?
- The “shadow of competitors”
  - entry deterrence

# Do any harm?

## ■ Who wants to climb this hill?



Panel I. FFI Conference,  
Wednesday November 10

# Do any harm?



- Probably...

# Do any harm?



- Probably...

# Litigation Explosion

