



Europäisches
Patentamt
European
Patent Office
Office européen
des brevets

The Value of Uncertainty

'Plenary on the value of inventions, patent premium and the market for IPR'

4th Annual Conference of the EPIP Association

Nikolaus Thumm
Chief Economist, EPO

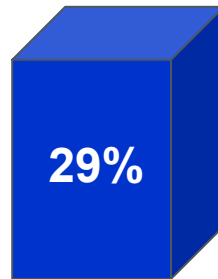
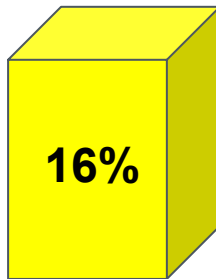
25th September 2009



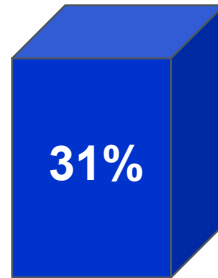
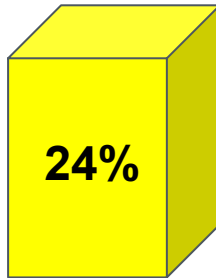
EPO WORKLOAD/INCOME PERSPECTIVE

2008 workload
(207,000)

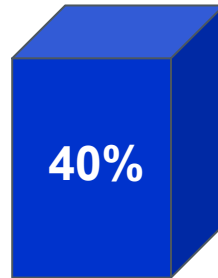
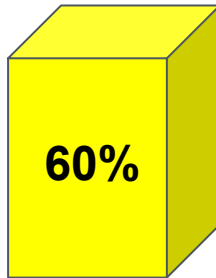
2008-28 income
(€1,39B)



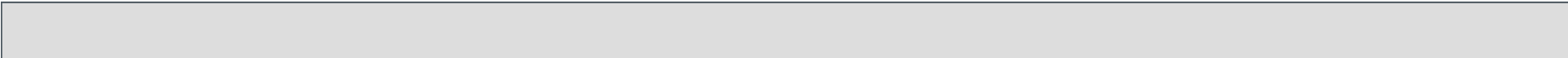
GRANTED; ≥ 16 YEARS AFTER FILING



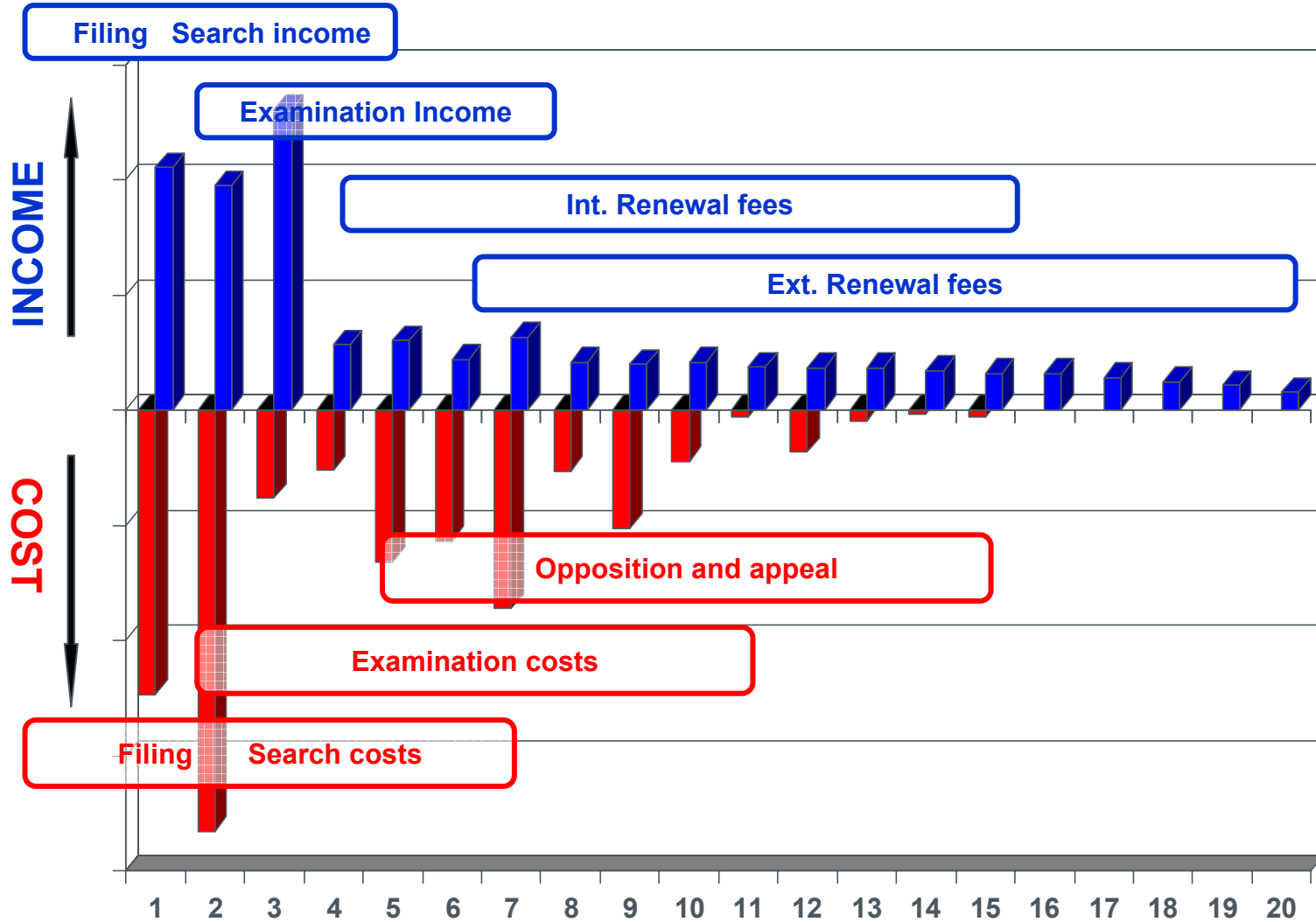
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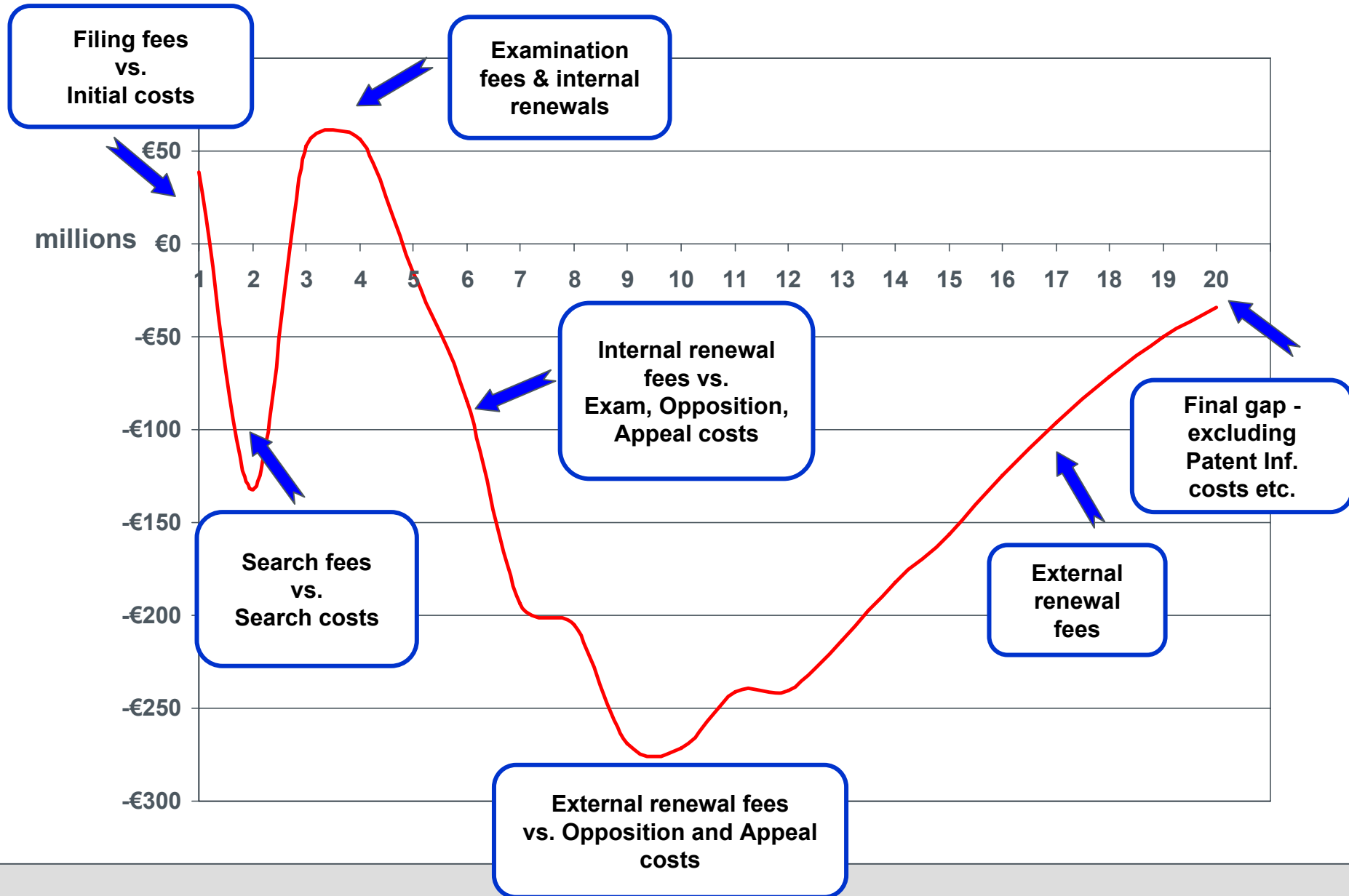
NOT GRANTED



CASH FLOW VIEW OF CURRENT FEE MODEL

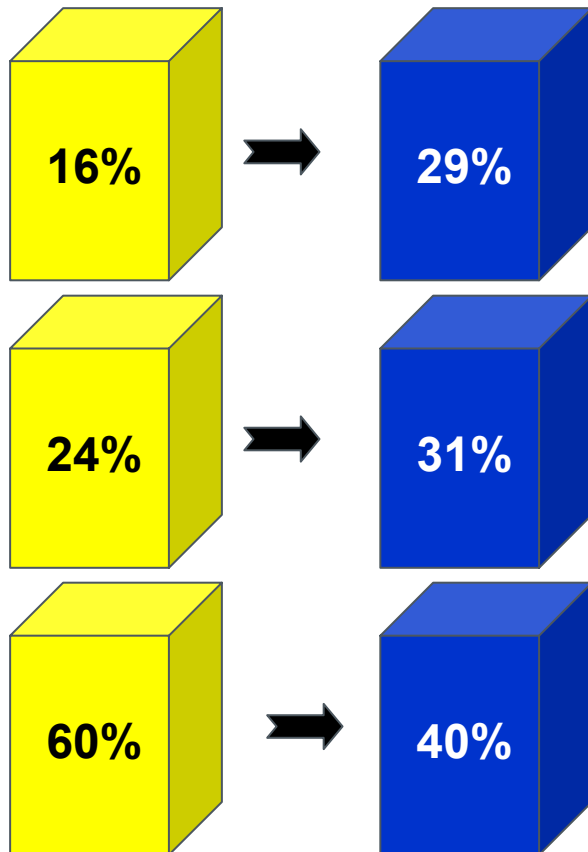


CUMULATED CASH FLOWS / TRADITIONAL FEE STRUCTURE



INCOME VULNERABILITY

2008 workload (207,000) 2008-28 income (€1,39B)

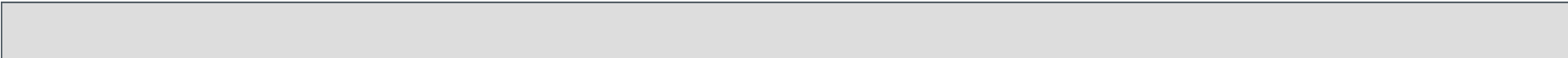
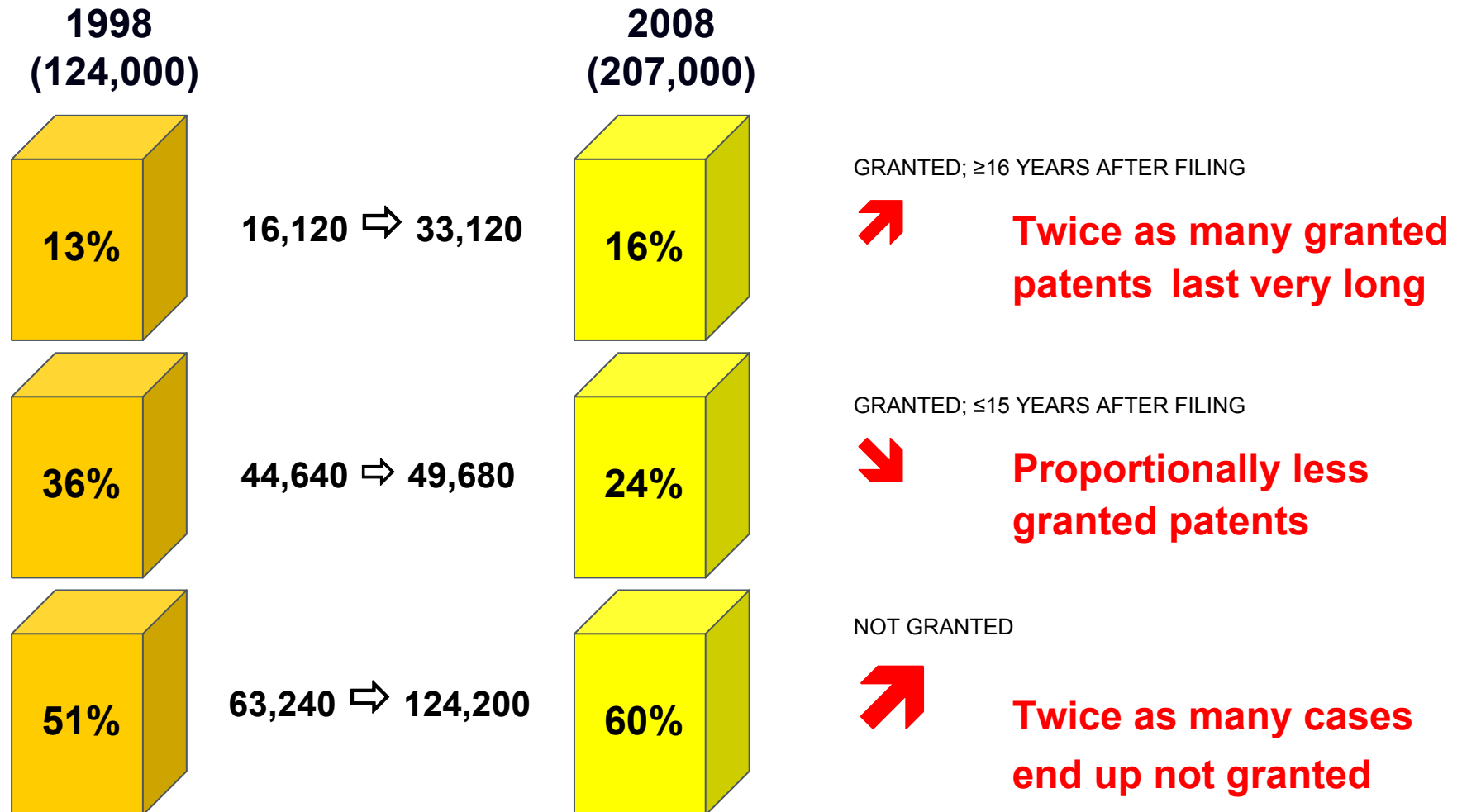


GRANTED; ≥16 YEARS AFTER FILING
NATIONAL RENEWAL FEES
APPLICANT BEHAVIOUR

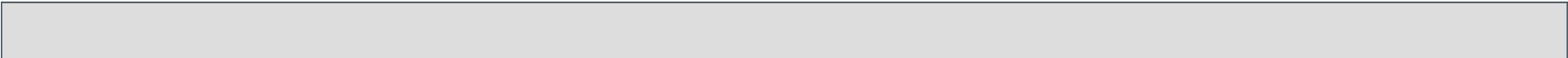
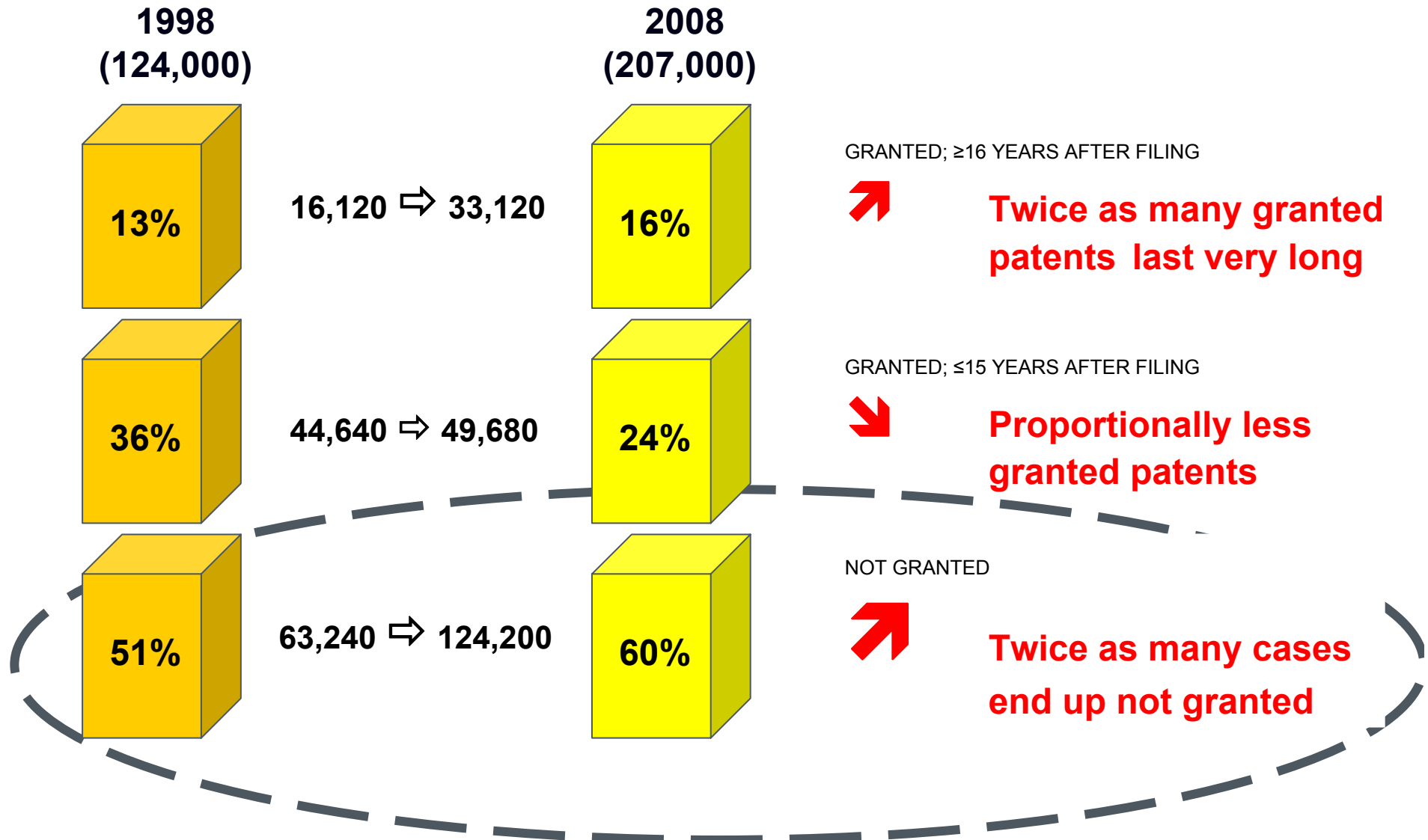
GRANTED; ≤15 YEARS AFTER FILING
NATIONAL RENEWAL FEES
APPLICANT BEHAVIOUR
GRANT, OPPOSITION AND APPEAL RATES

NOT GRANTED
GRANT, OPPOSITION AND APPEAL RATES
WITHDRAWAL RATES
APPLICANT BEHAVIOUR

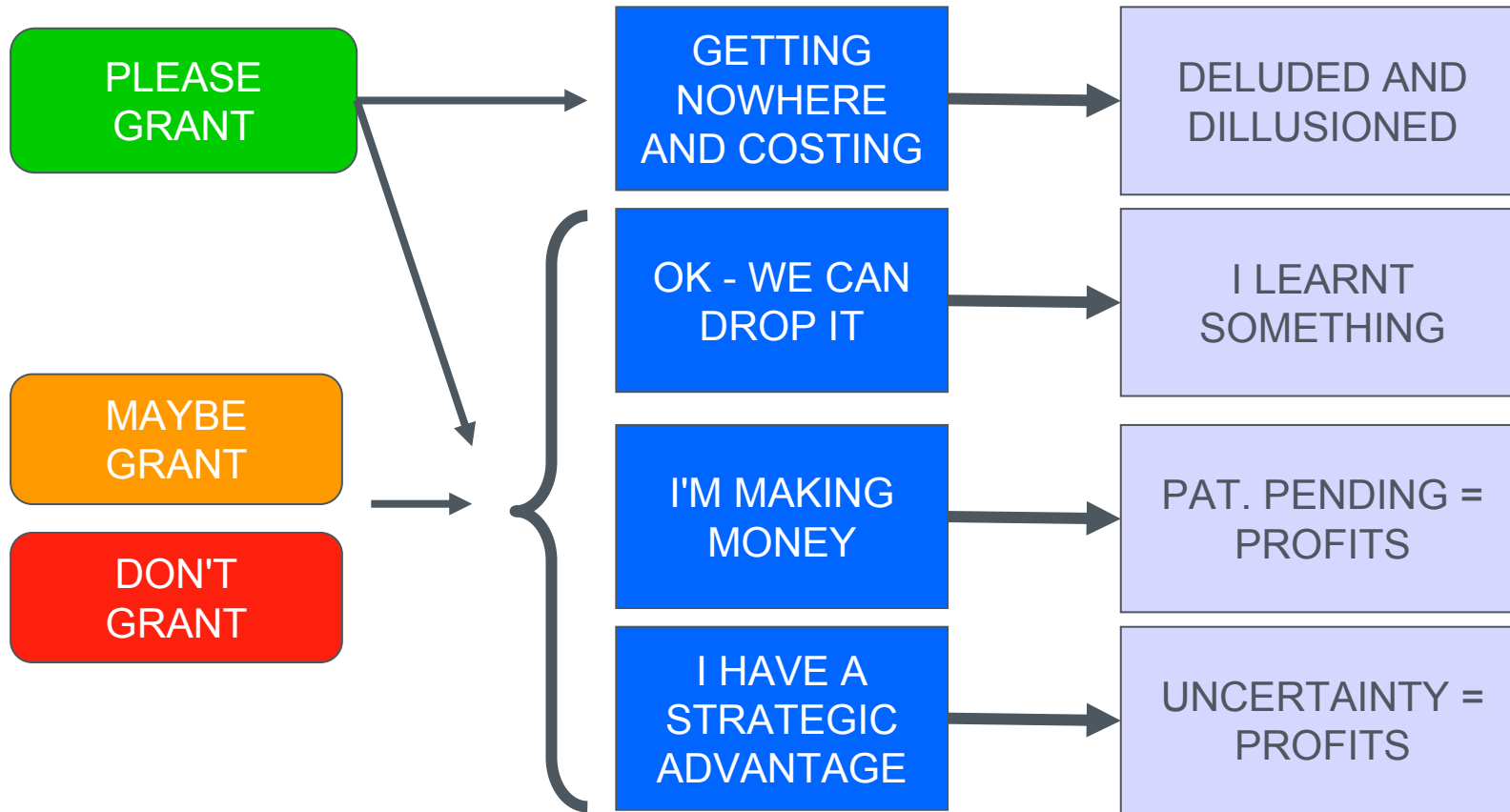
TRENDS.....



WE NEED TO LOOK MORE CAREFULLY.....



THE WITHDRAWAL/REFUSAL TIMELINE



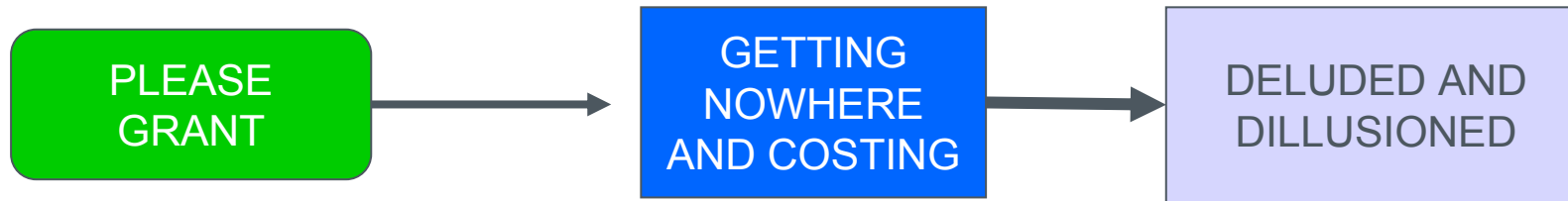
INTENT
UPON
FILING

REALISATION
DURING
PROCESS

VIEW
OF
OUTCOME

TIME

WITHDRAWAL/REFUSAL - 1ST GROUP



WHO MIGHT THIS BE?

The typical European SME

The university

The entrepreneur

WHAT MIGHT HAVE HAPPENED?

Attorney costs unmanageable

No capital risk available

Prior art discovered

Ignorance about the system

Absence of honest advice

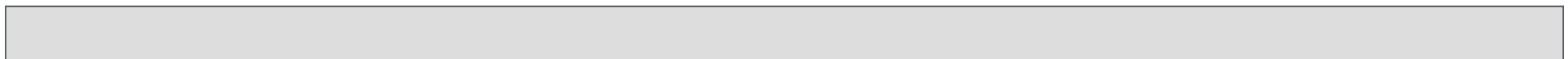
Litigation

INTENT
UPON
FILING

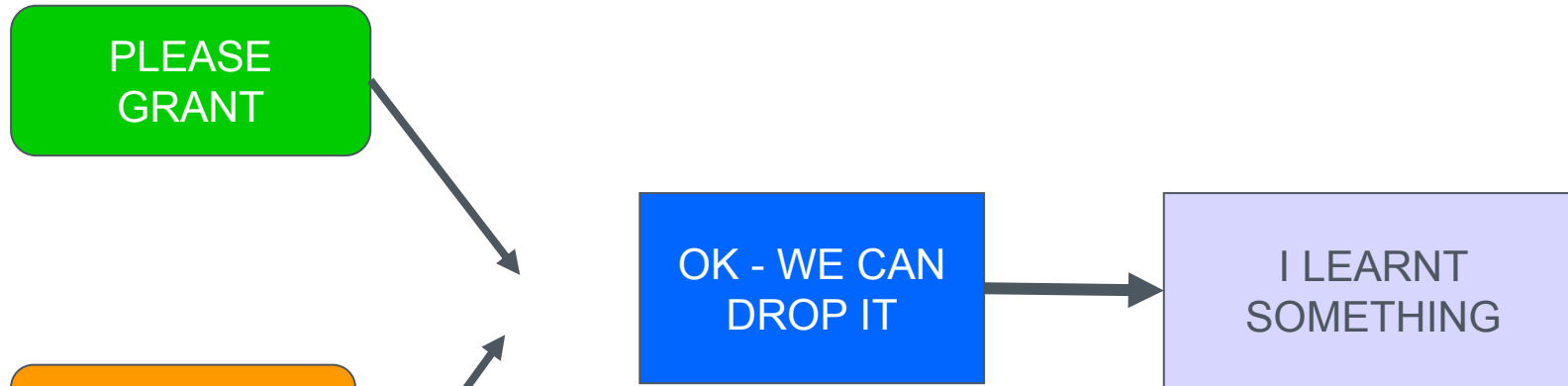
REALISATION
DURING
PROCESS

VIEW
OF
OUTCOME

TIME



WITHDRAWAL/REFUSAL 2ND GROUP



WHO MIGHT THIS BE?

Well informed (Large company, SME, R&D university)

Players of the game (speculators, standards..)

WHAT MIGHT HAVE HAPPENED?

Idea was not commercial

Standards committee took a different direction

Prior art too strong

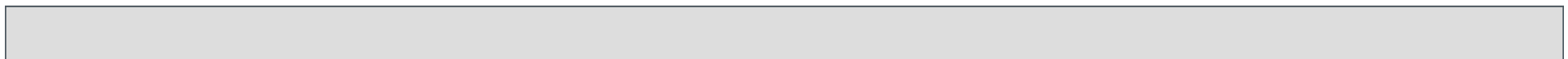
Try and see

INTENT
UPON
FILING

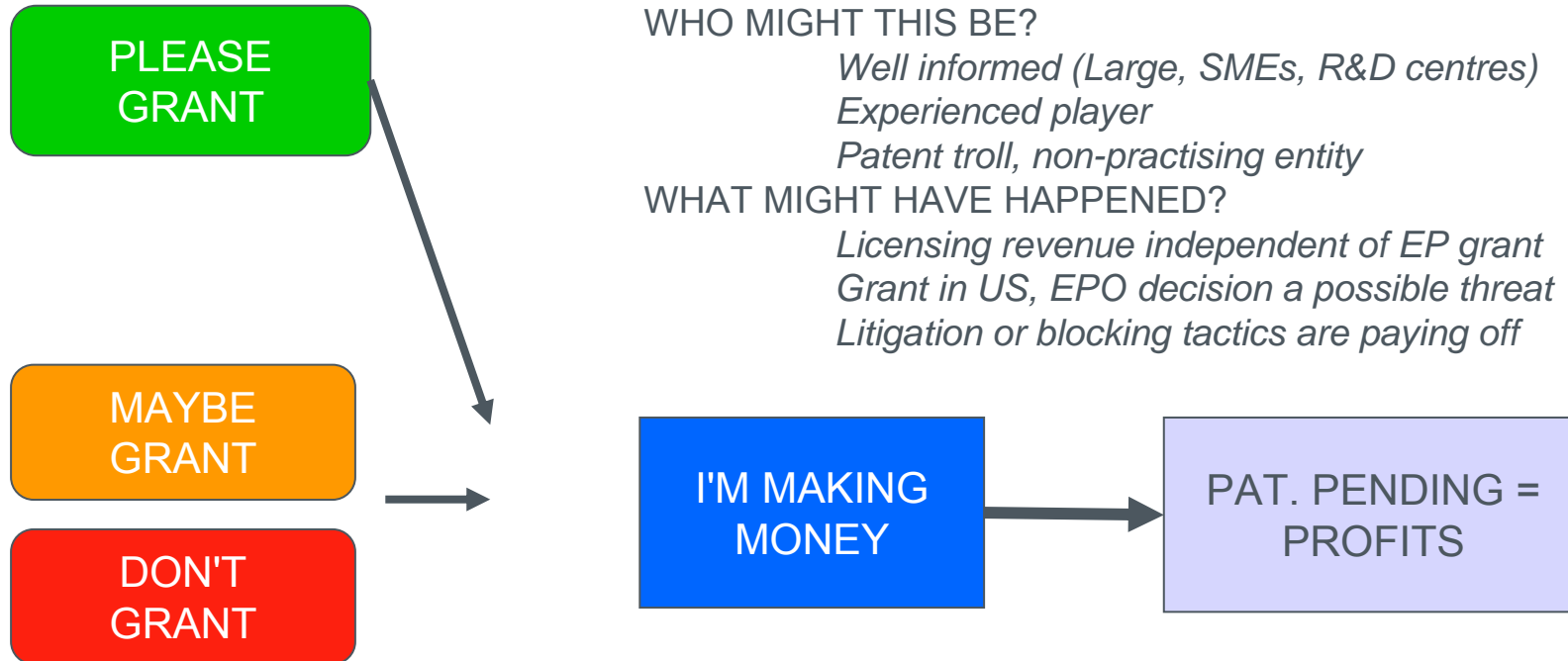
REALISATION
DURING
PROCESS

VIEW
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OUTCOME

TIME



WITHDRAWAL/REFUSAL 3RD GROUP



WHO MIGHT THIS BE?

Well informed (Large, SMEs, R&D centres)

Experienced player

Patent troll, non-practising entity

WHAT MIGHT HAVE HAPPENED?

Licensing revenue independent of EP grant

Grant in US, EPO decision a possible threat

Litigation or blocking tactics are paying off

INTENT
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REALISATION
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WITHDRAWAL/REFUSAL 4TH GROUP

PLEASE GRANT

MAYBE GRANT

DON'T GRANT

WHO MIGHT THIS BE?

- Large company*
- Experienced player*
- Standards player*
- Speculative player*

WHAT MIGHT HAVE HAPPENED?

- Pat. pending preventing work arounds*
- Pat. pending blocking market entry*
- Pat. pending hiding intentions*
- Pat. pending keeps options open*

I HAVE A STRATEGIC ADVANTAGE

UNCERTAINTY = PROFITS

INTENT UPON FILING

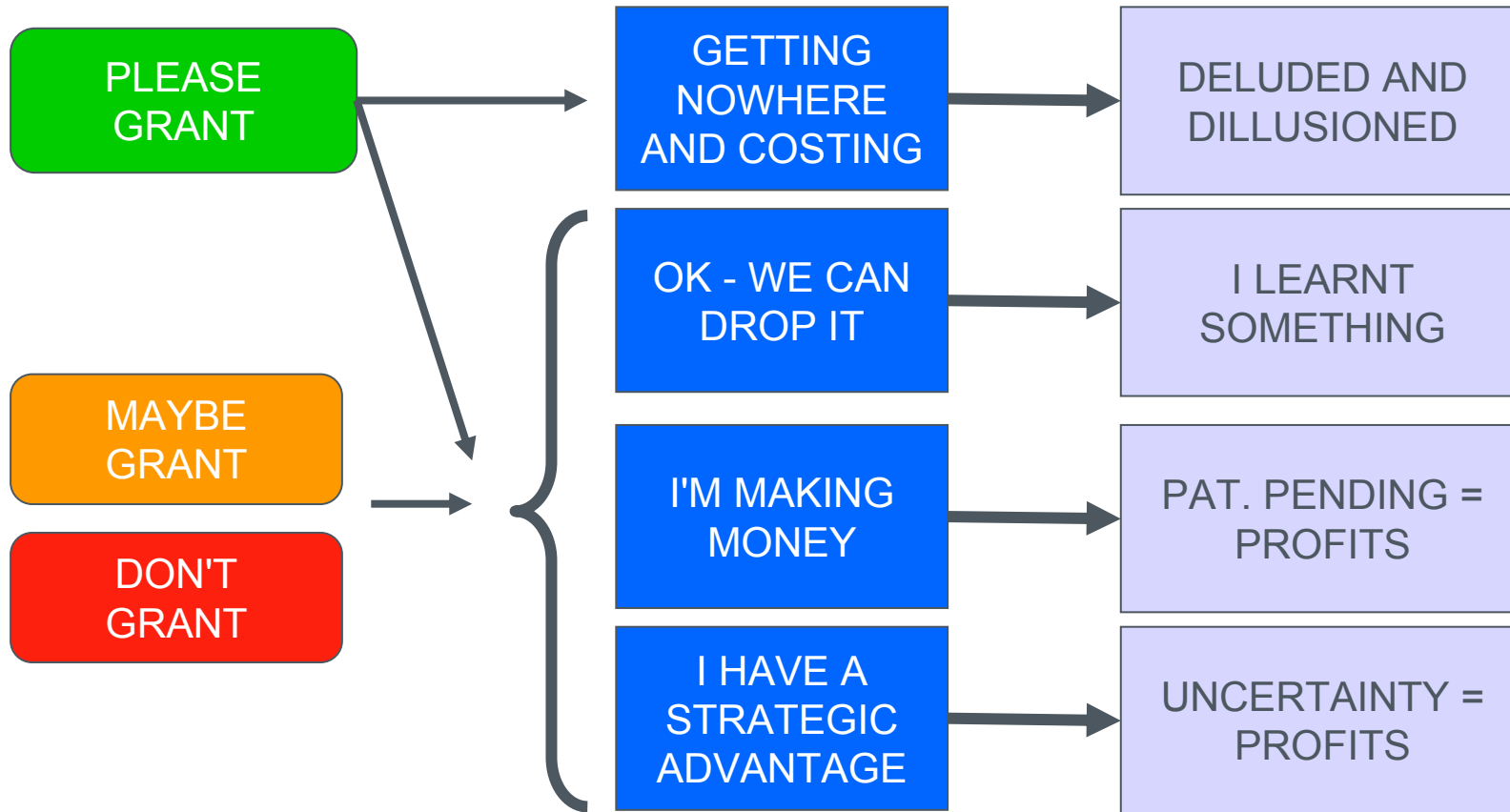
REALISATION DURING PROCESS

VIEW OF OUTCOME

TIME



SUMMARY

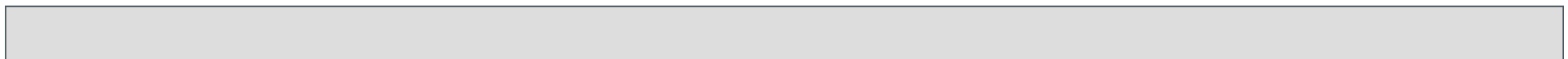


INTENT
UPON
FILING

REALISATION
DURING
PROCESS

VIEW
OF
OUTCOME

TIME



WITHDRAWAL/REFUSAL SUMMARY

APPLICANT'S FINAL ATTITUDE TO SYSTEM

1998

63,240
applications

DELUDED AND DILLUSIONED	PAT. PENDING = PROFITS
I LEARNT SOMETHING	UNCERTAINTY = PROFITS

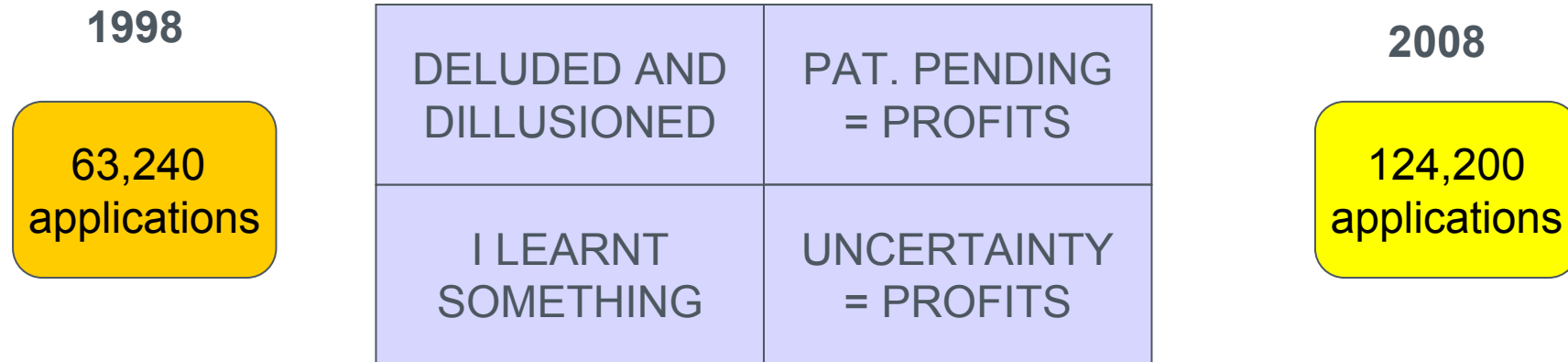
2008

124,200
applications

**QUESTIONS: IS THIS WHAT THE EPC WAS DESIGNED FOR?
WHAT CAN WE DO ABOUT THIS?**

WITHDRAWAL/REFUSAL SUMMARY

APPLICANT'S FINAL ATTITUDE TO SYSTEM



FUTURE RESEARCH:

WE NEED TO KNOW MORE ABOUT THE CONSTITUTION AND MOTIVATION OF THESE GROUPS IN ORDER E.G. TO DISCUSS A REDESIGN OF THE FEE SYSTEM

THANK YOU FOR YOUR ATTENTION

www.european-patent-office.org

Nikolaus Thumm

nthumm@epo.org

