## PATENT METRICS: THE MISMEASURE OF INNOVATION IN THE BIOTECH PATENT DEBATE

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The view that biotechnology patenting has reached unsustainable levels is well accepted among many legal scholars. This Article presents the first comprehensive empirical study of biotechnology patents. Our analysis reveals the striking rise and fall in patenting, the surprisingly diffuse pattern of patent ownership, and the consistent influx of new entrants conducting biotechnology research and development. This Article finds little evidence that the rise in biotechnology patenting is adversely affecting innovation. Counting patents, as it turns out, offers few insights on its own. One must also have a measure of the geographic scope of the scientific commons and the distribution of patents within it. These findings lead to a cautionary corollary for patent metrics generally certain fundamental uncertainties associated with the statistics of innovative success cannot be overcome using sophisticated empirical methods. Ironically, the current enthusiasm for empirical work may have caused academics to reify simple patent metrics over the manifest complexity of innovative processes.