



CALIFORNIA WESTERN
SCHOOL OF LAW | San Diego

Is There “Patent” in Islam?

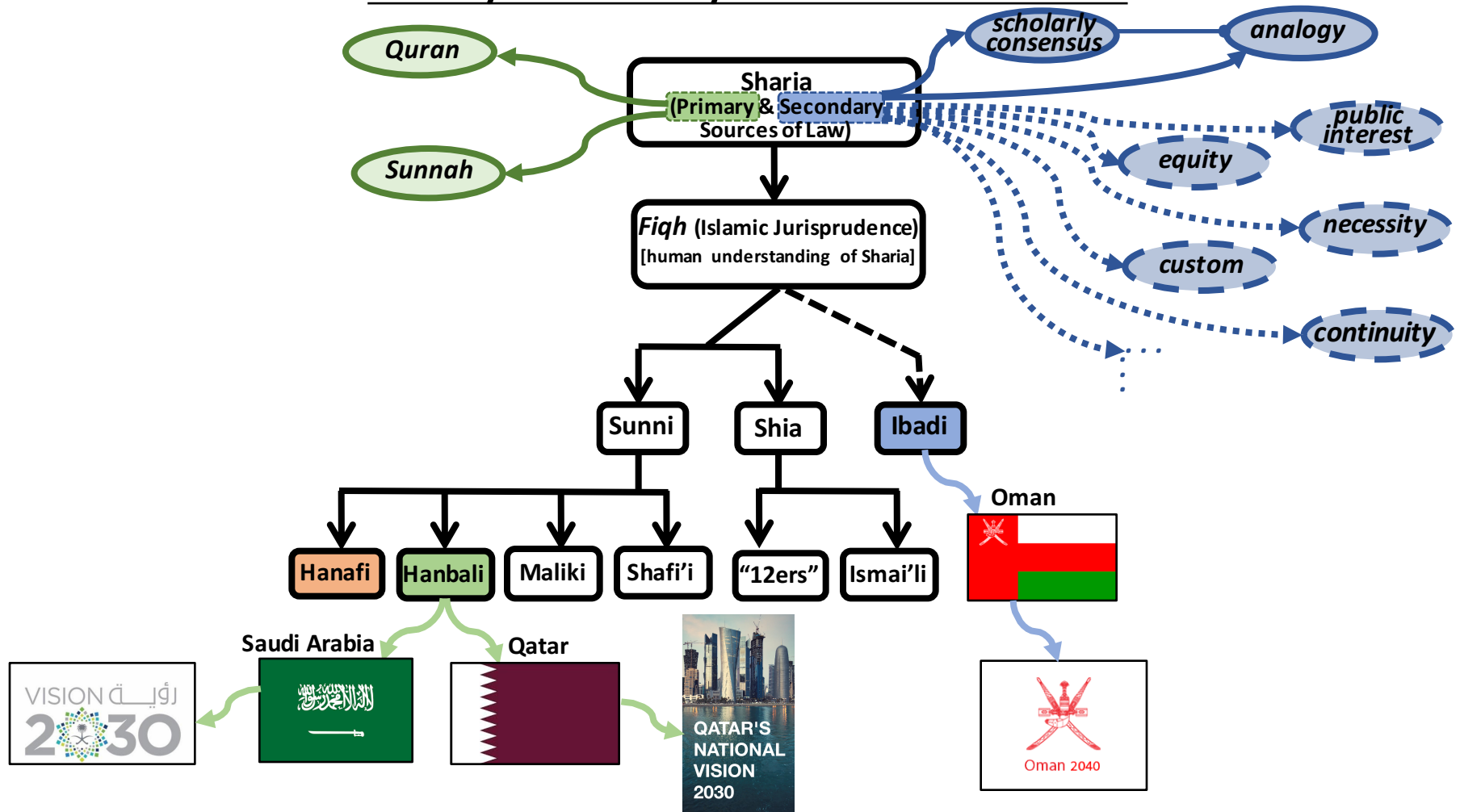
Tabrez Y. Ebrahim
TEbrahim@cwsf.edu

Source: Inventor Spot

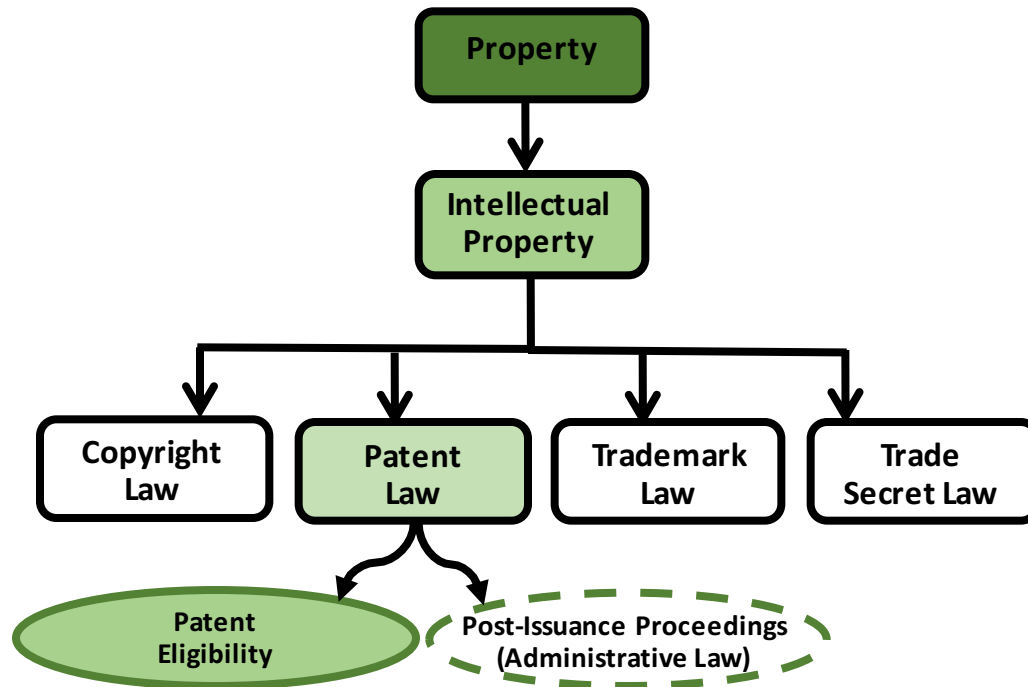
Roadmap

- 1) Introduction: Law in Islam, Sources of Law, & Schools of Jurisprudence
- 2) Formulating a Positive Normative Theory of “Patent” in Islam, + Parallel to Islamic Finance
- 3) Establishing a Patentable Eligibility Examination Framework in Countries Governed by Sharia
- 4) Case Study Countries (Oman, Qatar, & Saudi Arabia): Patent Laws & Economic Development
- 5) Q&A

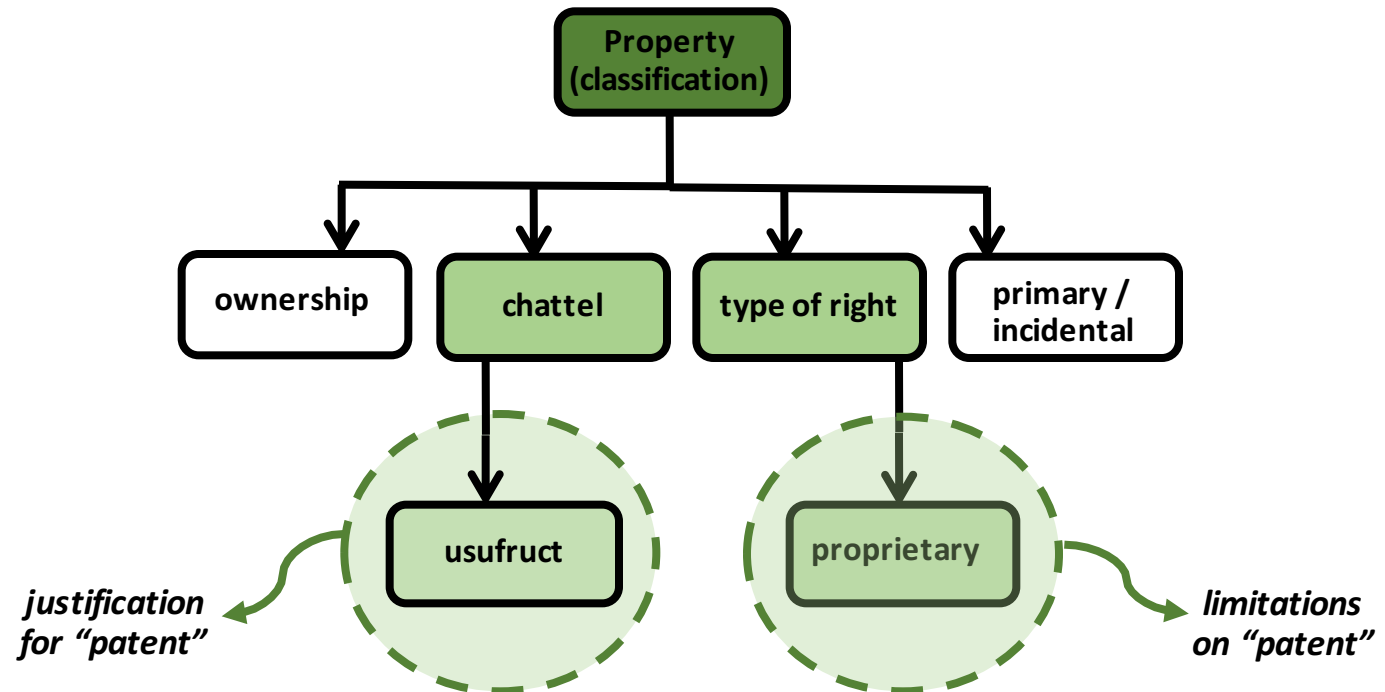
Primary & Secondary Sources of Law in Islam



Analysis of Sharia → Research Questions



Property Classifications → Legal Tension



commons ← ————— → *trespass*

public domain usufruct exclusivity

incomplete ownership limited duration

- Roman/Civilian usage
- conceptual usage

**public
domain**

exclusivity

- Roman/Civilian usage
- conceptual usage

incomplete ownership

▶ **limited duration**

Property Theory Debate

*profit w/o
effort & labor?*

*concealment of
knowledge?*

monopolization?

idenfiniteness?

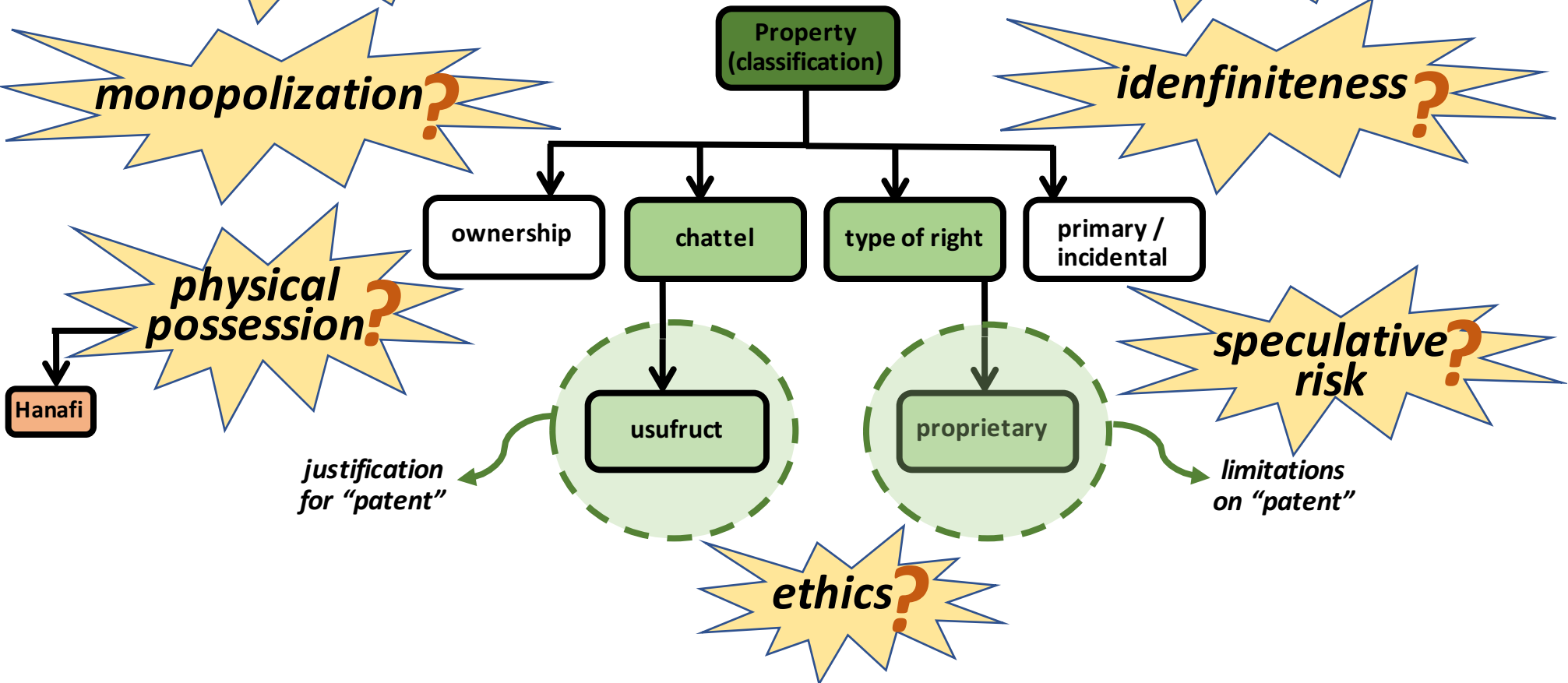
*physical
possession?*

*speculative?
risk*

*justification
for "patent"*

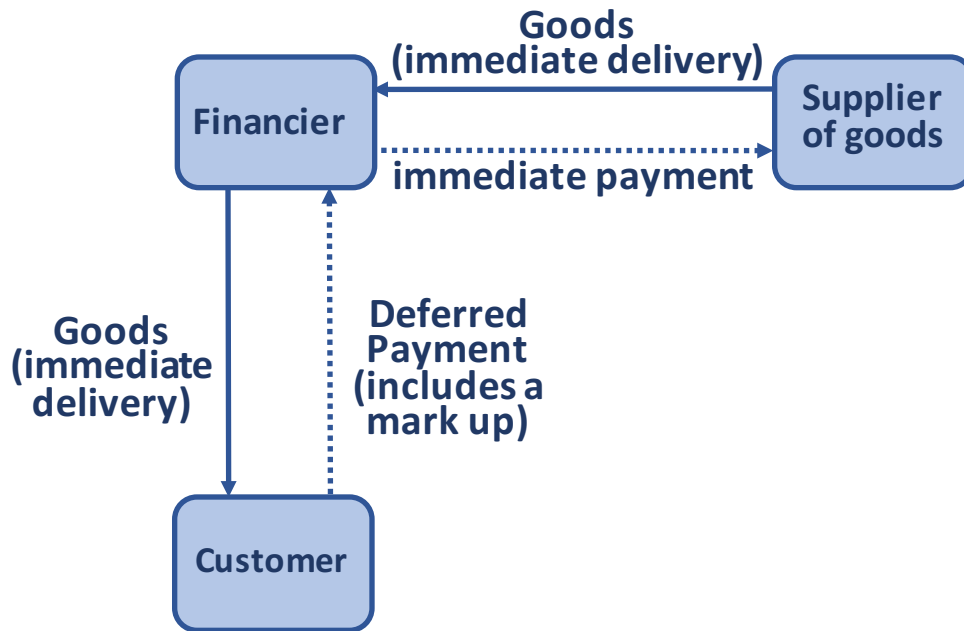
*limitations
on "patent"*

ethics?

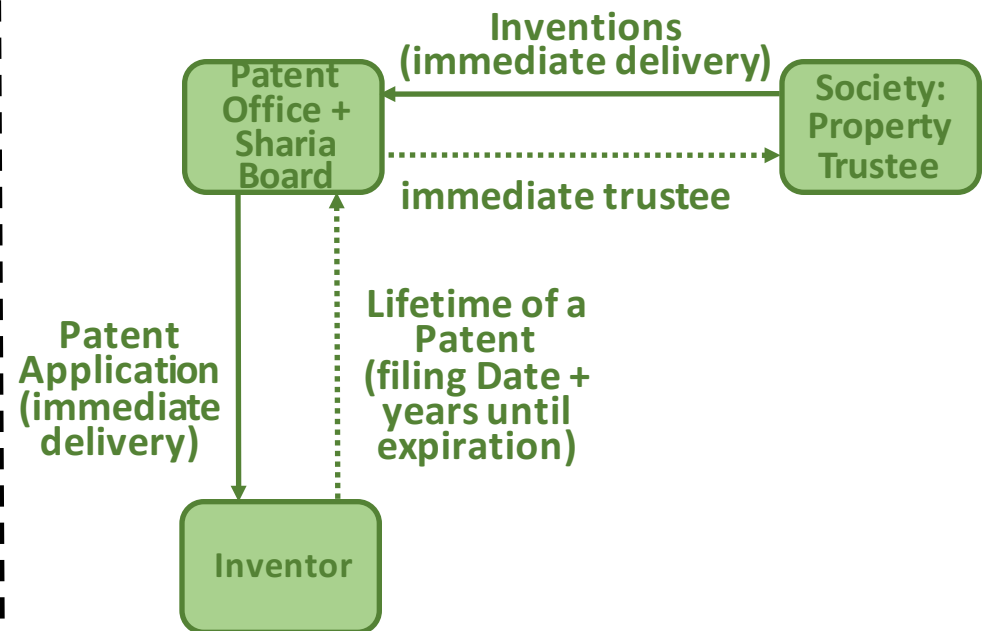


Parallel to Islamic Finance: Proposed Sharia Board as Assessor of Patent Eligibility

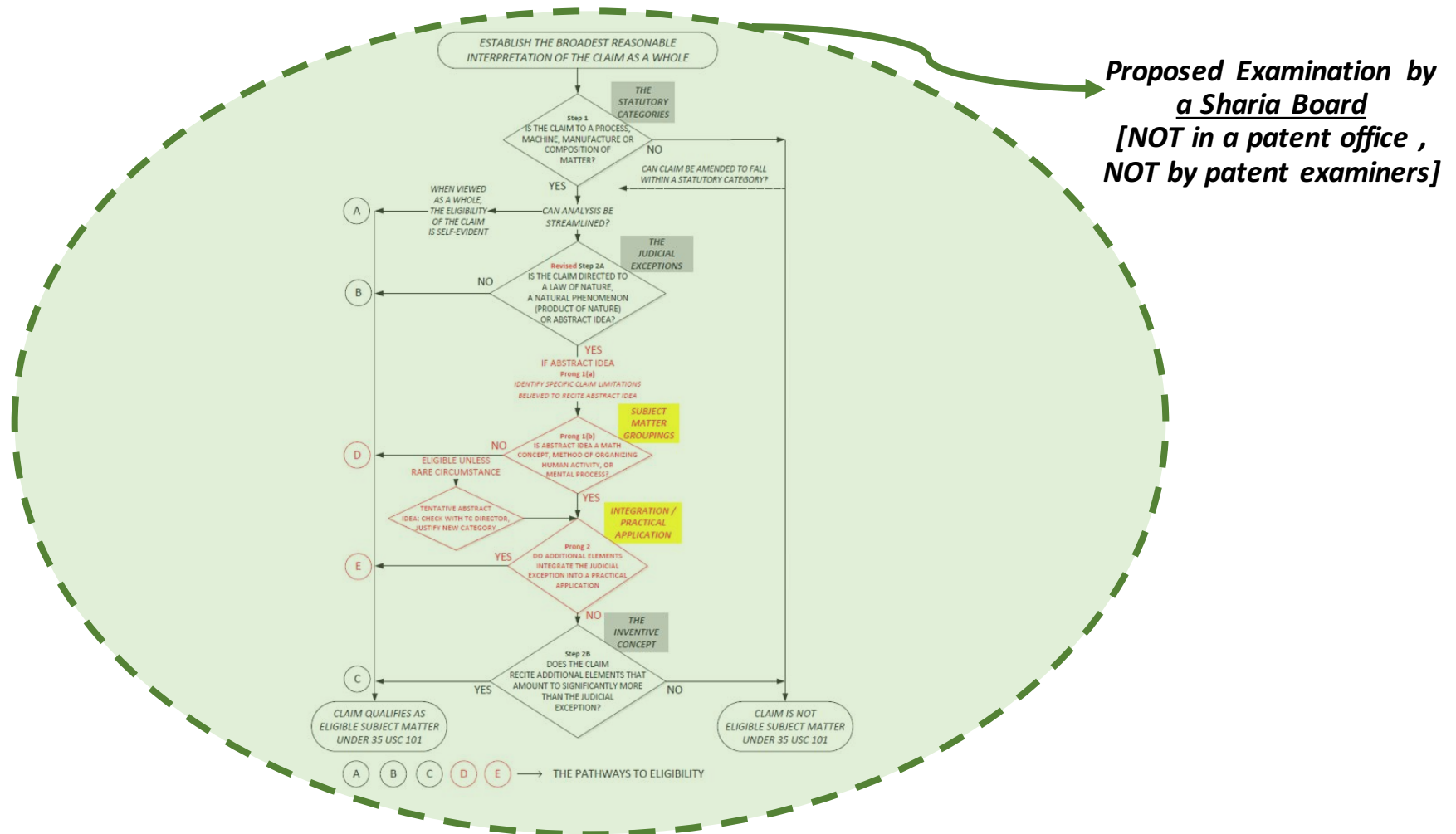
Traditional *Murabaha*



Justifying Patents



U.S. Patent & Trademark Office (USPTO): Revised Patent Eligibility Guidance



Contributions

- → **Property-centric clarification of usufructs as justification for the construct of “patent” in Islam**
 - (1) clarification of usufructs
 - (2) recognition of commerce, profit, & trade

- → **Application of clarification towards patent eligibility**
 - (3) lessening of what may be patent eligible in biotechnology (cloning, gene editing, stem cells) & software applications (A.I., M.L., predictive analytics)
 - (4) move patent eligibility examination to be administered by a Sharia Board



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Q&A

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