Copyright X

Spreadsheets

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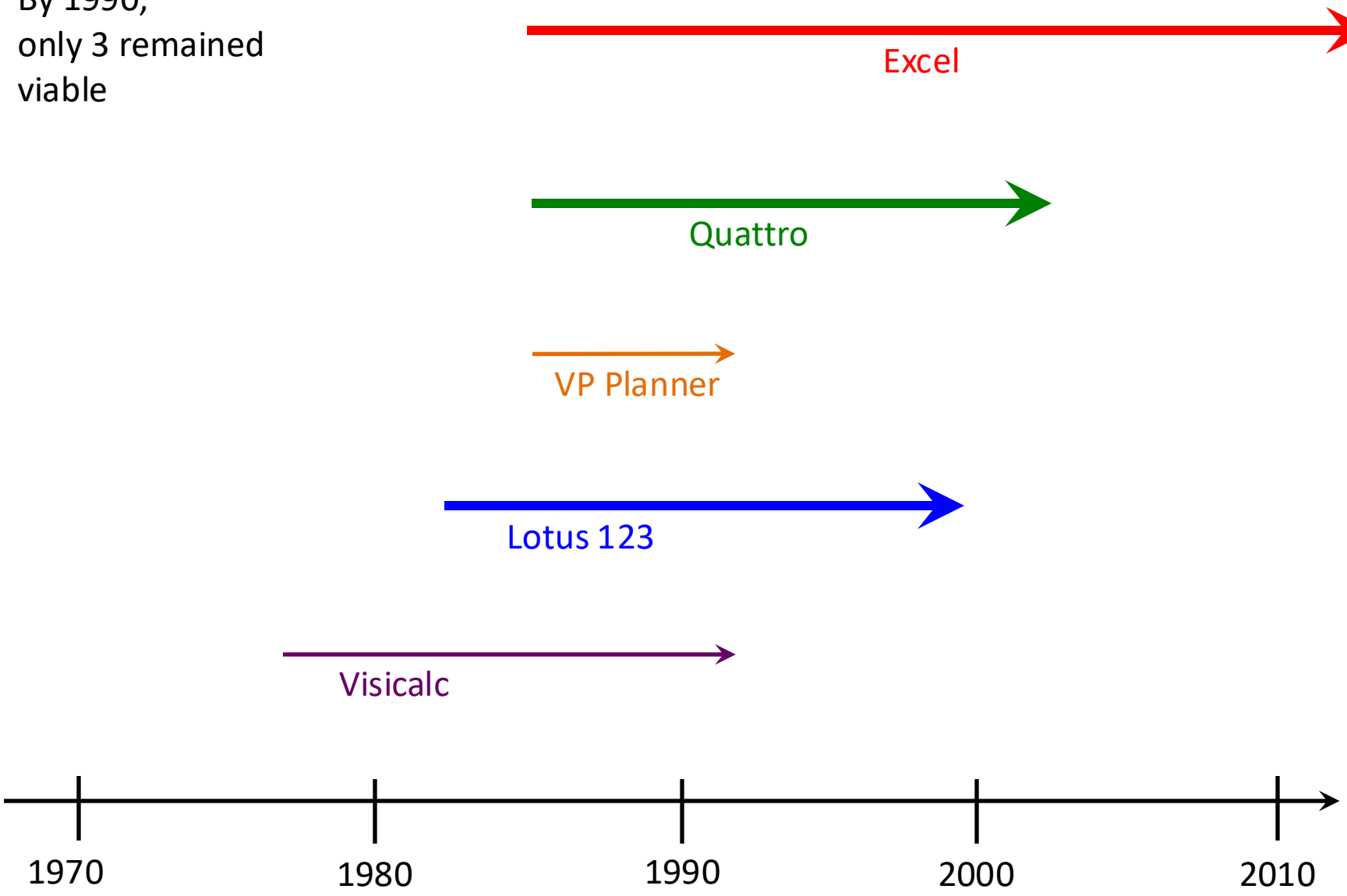
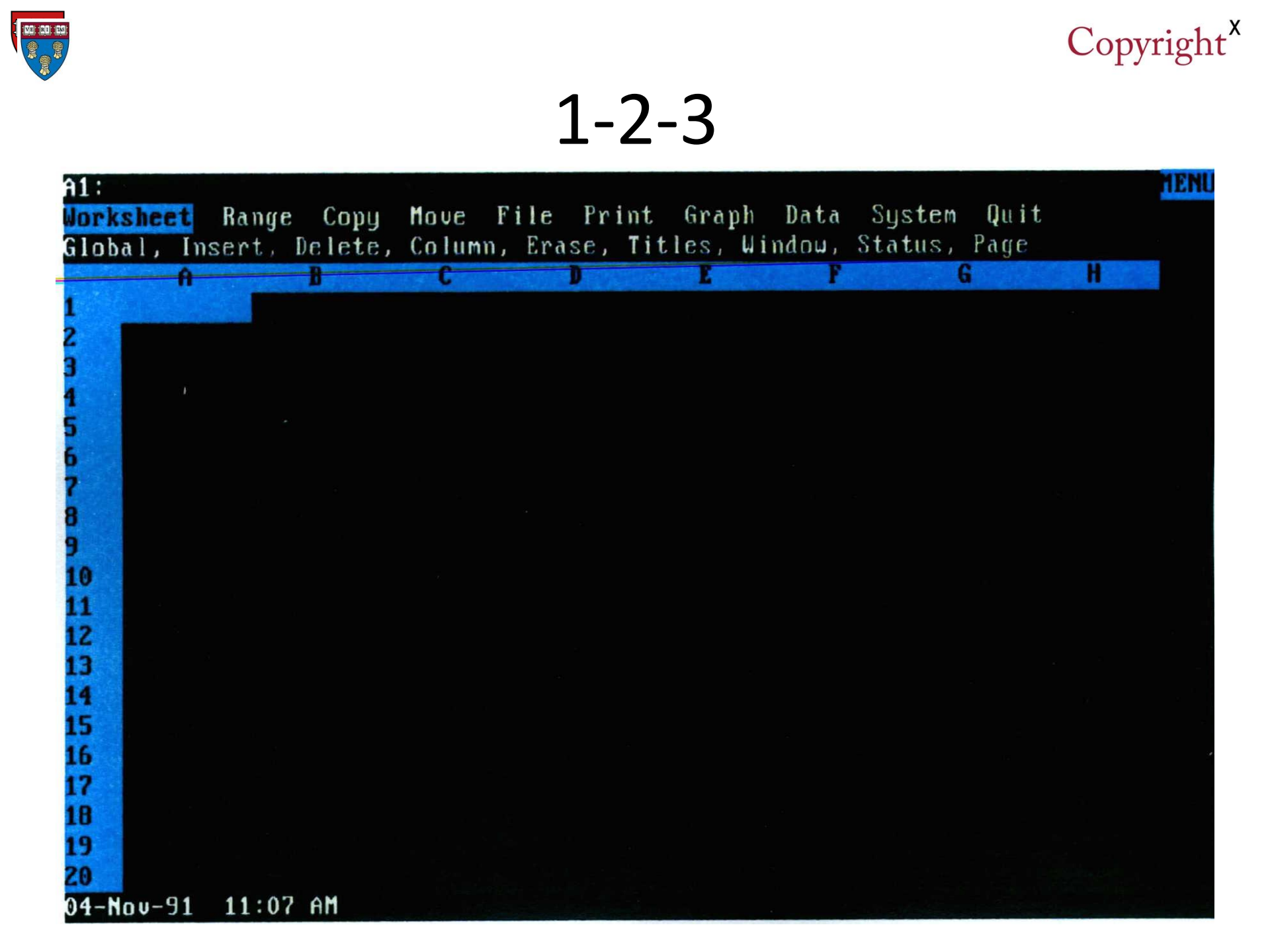
November 2023

By 1990,
only 3 remained
viable



Life Cycle

- “Eventually VisiCalc was losing to newcomer Lotus’ 1–2–3 spreadsheet, created by two former VisiCalc employees. Lotus was packed with more features that took advantage the PC increased memory, screen, and performance.
- “Considered the first ‘life cycle’ software, VisiCalc was created in ‘78, released in ’79, peaked in ‘82 and was done by ’85. By 1985 Lotus acquired the insolvent, nearly dead VisiCalc.”
- Source: Ryan Crosbie, “The Story of Visicalc” (2017) https://medium.com/@ryancrosbie/the-story-of-visicalc-9c9322350210

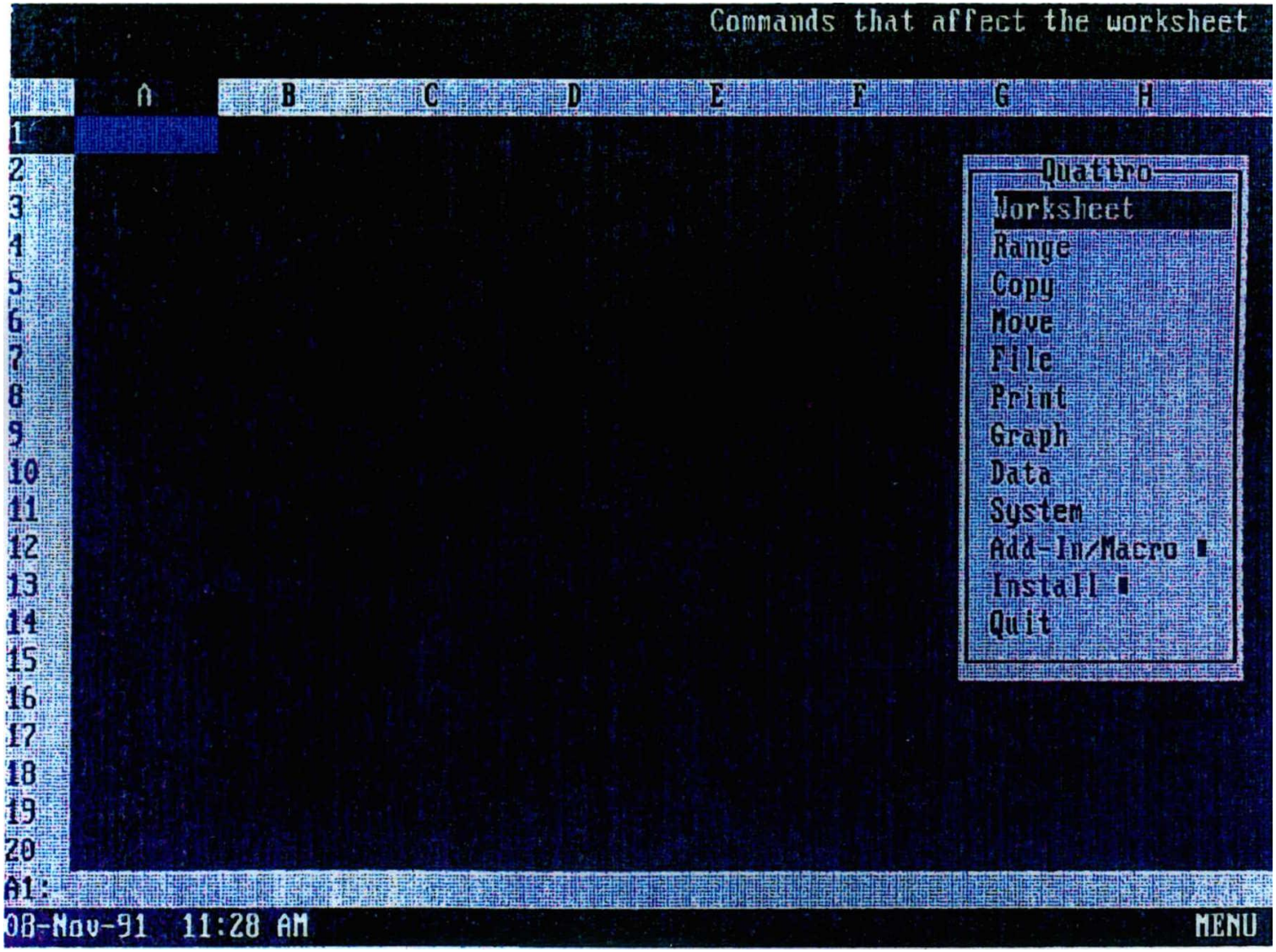


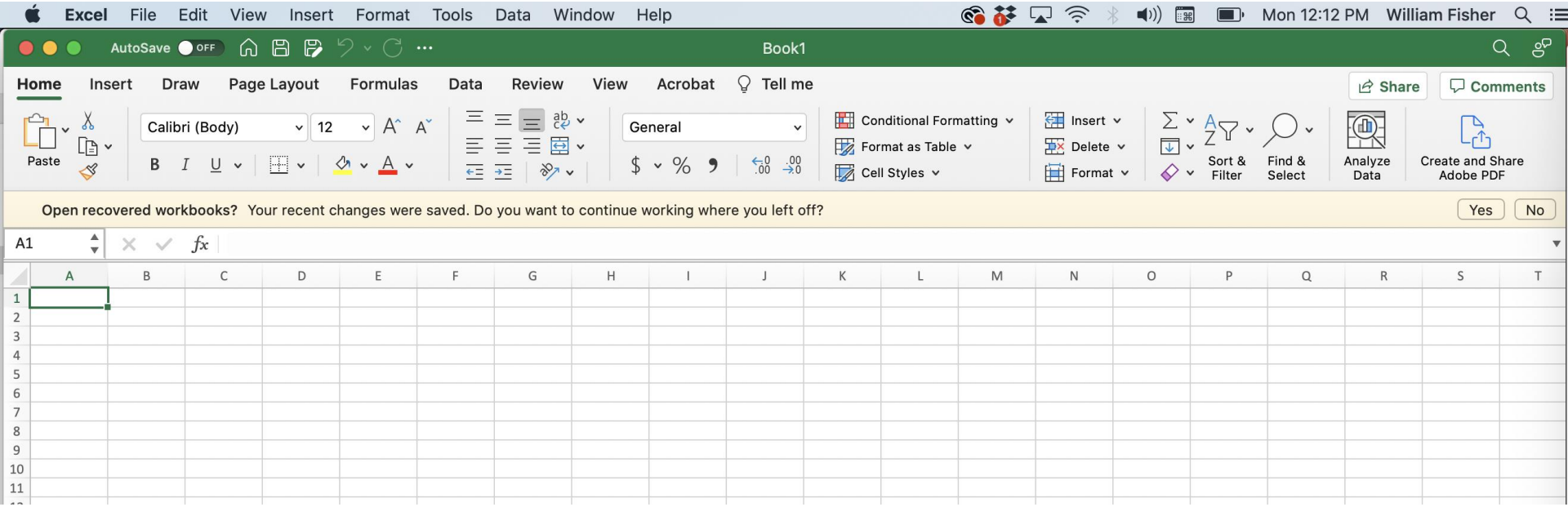
Copyright[X]

1-2-3

Copyright[X]

Quattro

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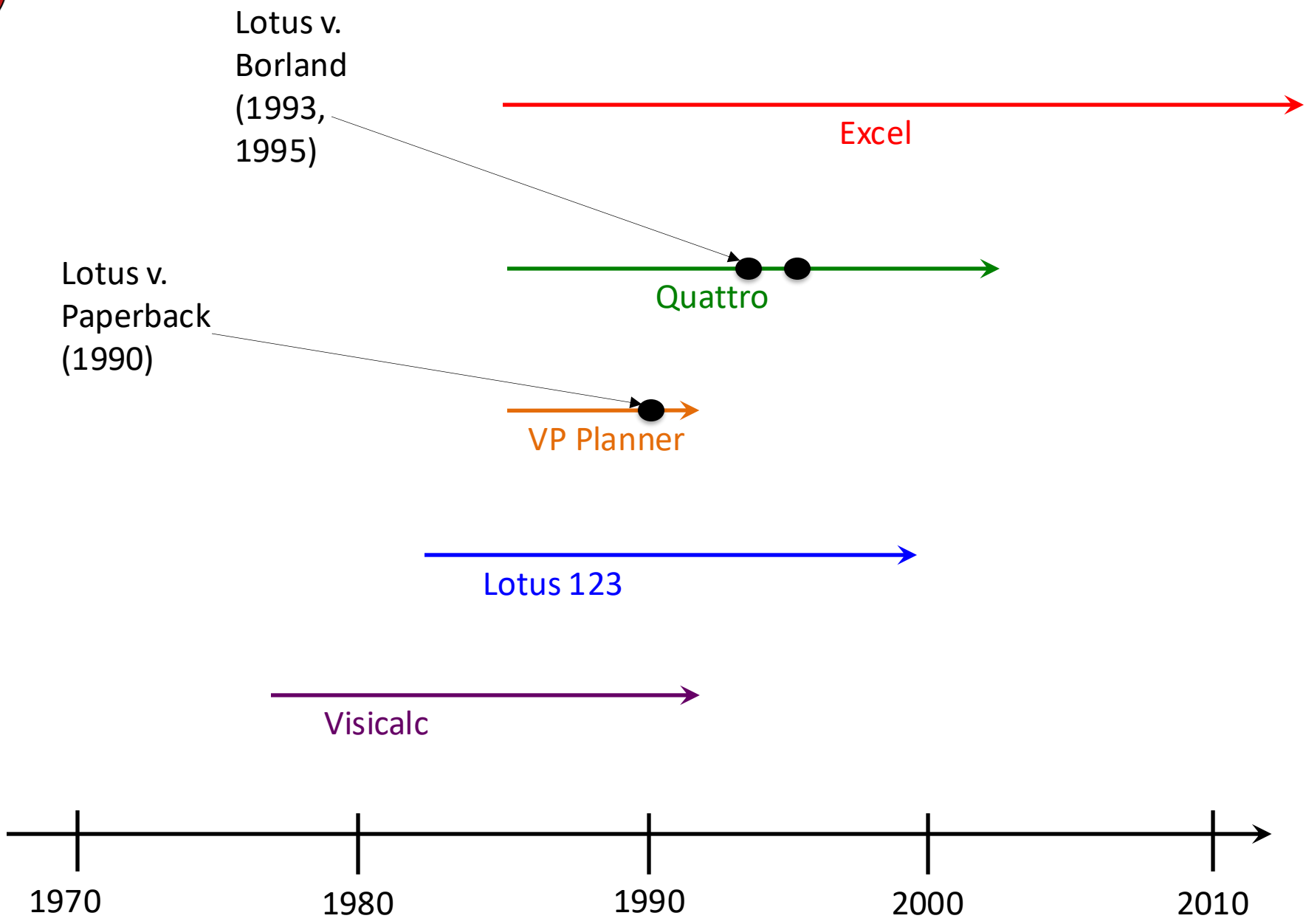

Lotus v.
Borland
(1993,
1995)
Excel
Lotus v.
Paperback
(1990)
Quattro
VP Planner
Lotus 123
Visicalc
1970
1980
1990
2000
2010

Possible Arguments for Borland

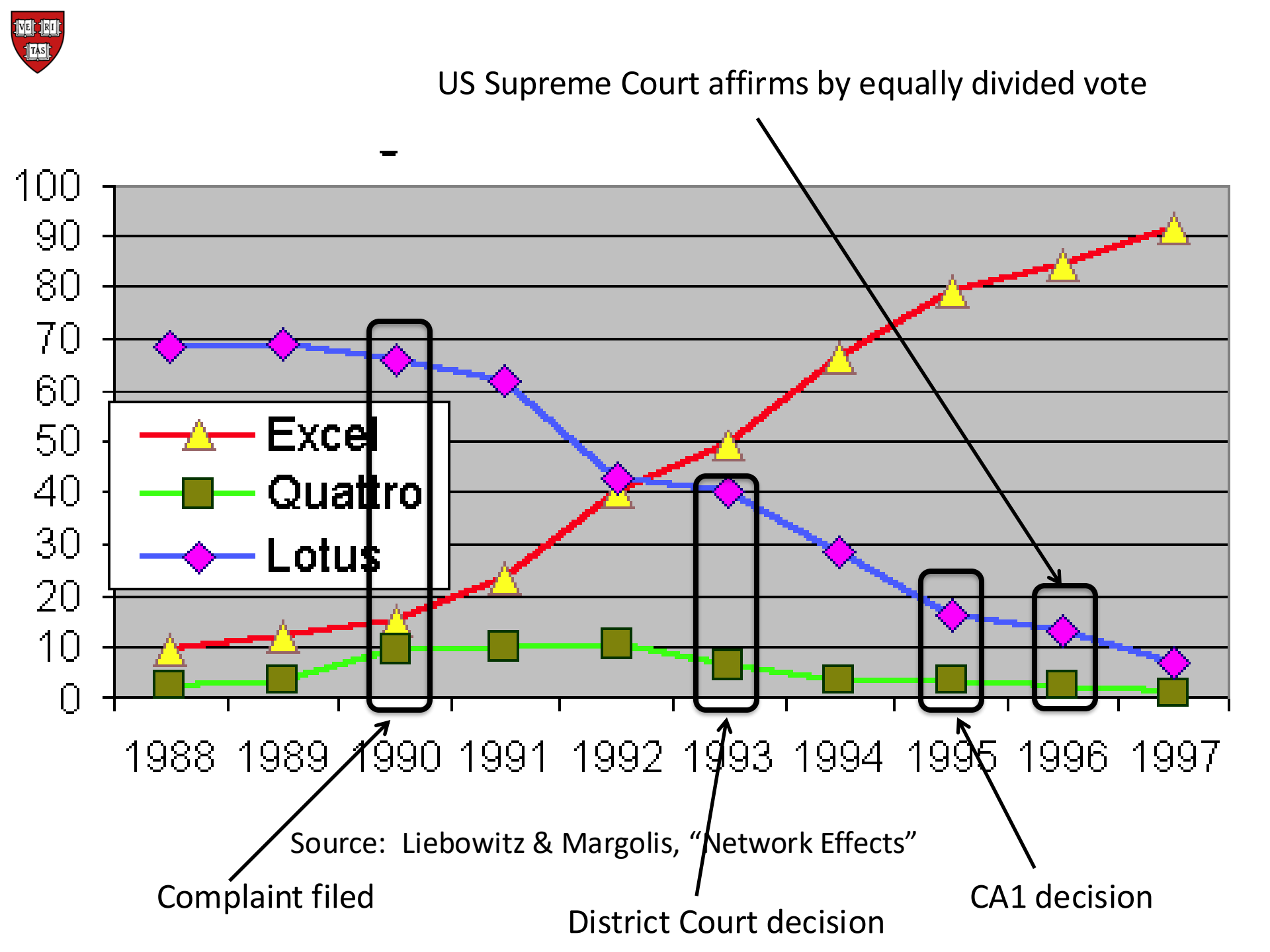
1) Lack of Originality
2) Menu is not protected "expression"
3) Merger
4) Scene-a-faire
5) No protection for "words and short phrases"
6) Method of Operation – 102(b) Stahl
7) De minimis copying
8) Fair Use Boudin
9) Privilege for Interoperability
10) Copyright protection for software is bad policy

District Court decision

- The ‘idea’ or ‘system’ of the Lotus 1-2-3 interface is “a system of menus, each menu consisting of less than a dozen commands, arranged hierarchically, forming a tree in which the main menu is the root/trunk of the tree and submenus branch off from higher menus, each submenu being linked to a higher menu by operation of a command, so that all the specific spreadsheet operations available in Lotus 1-2-3 are accessible through the paths of the menu command hierarchy.”
- “Does the Lotus 1-2-3 user interface include identifiable elements of expression?...I conclude that it does. A very satisfactory spreadsheet menu tree can be constructed using different commands and a different command structure from those of Lotus 1-2-3. In fact, Borland has constructed just such an alternate tree for use in Quattro Pro’s native mode....it is possible to generate literally millions of satisfactory menu trees by varying the menu commands employed.”
- “The question posed by this element of the copyrightability test is whether the creativity involved in establishing the menu commands, menu command hierarchy, macro language, and keystroke sequences was more than trivial. No reasonable jury could find otherwise.”

First Circuit

- Lotus 1-2-3's menus are an uncopyrightable "method of operation" under §102(b)
- "The "expressive" choices of what to name the command terms and how to arrange them do not magically change the uncopyrightable menu command hierarchy into copyrightable subject matter."


US Supreme Court affirms by equally divided vote
100
90
80
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30
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Excel
Quattro
Lotus
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
Source: Liebowitz & Margolis, "Network Effects"
Complaint filed
District Court decision
CA1 decision