


EUPACO2 Conference
Brussels – May 15-16, 2007

New Economic Use of Patents - Opportunities and Policy Challenges

Dominique Guellec

Economic Analysis and Statistics Division, DSTI

New economic use of patents



Patents are exclusive rights over inventions, aimed at protecting access to market and reducing competitive pressure for the inventor

=> Traditional use = in-house exploitation.

Current changes in innovation systems:

Expanding markets for technology, open innovation modes, start-ups, strengthened role of financial markets and external investors.

⇒ Patents can play a role in fostering these changes and making the best from them

New economic use of patents

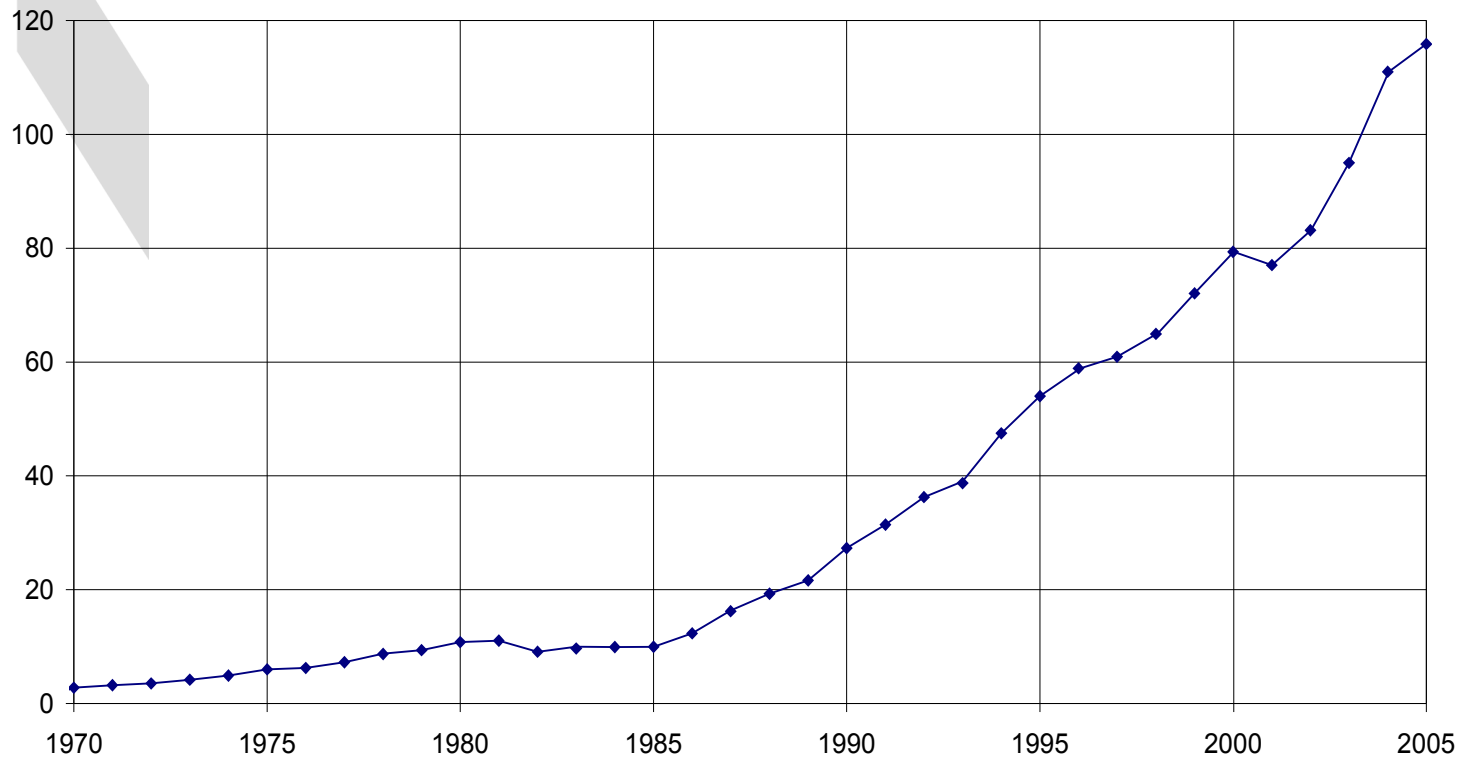


Structure of the presentation:

- 2) New uses – the evidence
- 3) Economic effects
- 4) Policy challenges

Increased economic use of patents

Growth in non-US held patents and worldwide (cross-border) royalty and license receipts (Billion USD; source: World Bank)



(Source: Patval Survey, Alfonso Gambardella; patents granted in 1993-97, situation in 2002-3)

9% of EPO patents are out-licensed, 5% are cross-licensed

Cross-country variations: **UK** (13% of patents are licensed), **Germany** (9%), **France** (6%)

Cross-industry variation: Higher in **instruments**; High cross-licensing in electrical engineering.


Licensing is more important for **small firms** (22%) than for **large** ones (6%).

Licensed patents have higher average **value** than those which are used internally

According to JPO yearly survey (Motohashi 2006):


- 8% of JPO patents are licensed.
- Small firms licence out more than large ones, new firms license out more than old ones
- Cross-licensing (2.7% of JPO patents) is specific to large firms and to the electronics industry.

Need more stats



Overall We have little reliable, quantitative knowledge of licensing markets
(private contracts, confidentiality issues, measurement issues)

⇒ Need to develop new statistical instruments.



“**Monetisation**” of patents: For raising capital.
New markets, new types of transactions, and
new actors - intermediaries, “market makers”

⇒ Patent auctions (US=Ocean Tomo, IP
Auctions GmbH, May 14-15 in Munich)

⇒ Securitization (Patent Value Funds)

⇒ Collateralisation

= EPO-UKPTO-OECD Conference in London,
November 2006.

STILL VERY SMALL ACTIVITY

Licensing allows

- broader diffusion of technology and higher efficiency of its implementation
- Certain firms to specialise in research (semiconductors, biotech)
- Solving patent thickets (cross-licensing).

Possible risks:

- Constrained licensing
- Collusion (patent thickets)

Monetisation allows firms

- to raise capital
 - to obtain liquidity
 - to reduce risk on an intangible asset
- ⇒ especially important for new, small firms
(e.g. securitization allows to obtain capital without diluting the control of the company)

A case for policy intervention?

- 8% of JPO patents are licensed, and 7% are unsuccessfully offered to license (JPO survey).
- The current development of markets for technology is small in view of the potential economic benefits.
- Small but significant complaints of difficulty to access patented inventions for research use (anti-commons etc.)
- Market actors complain about excessive risk and lack of information.

Possible policy actions:

- 1) Promote **high quality patents**, instead of the current rush towards quantity = a priority for patent offices around the world, which would increase legal security.
- 2) Promote **transparency**:
 - Proper identification of patent owners (IBM proposal)
 - A registry for security interests in patents
 - Guidelines or standards for the valuation of patents (Basel II, current ISO project on brands)

Possible policy actions:

3) Promote “**collaborative mechanisms**”

⇒ OECD Guidelines on biotech licensing

⇒ Reflection on patent pools, clearing houses etc.



Thank you

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