

A Transparent and Secure Market for Patents: Why and How ?

Tuesday October the 16th
3.30-4 pm

Patrick Terroir, Deputy General Manager

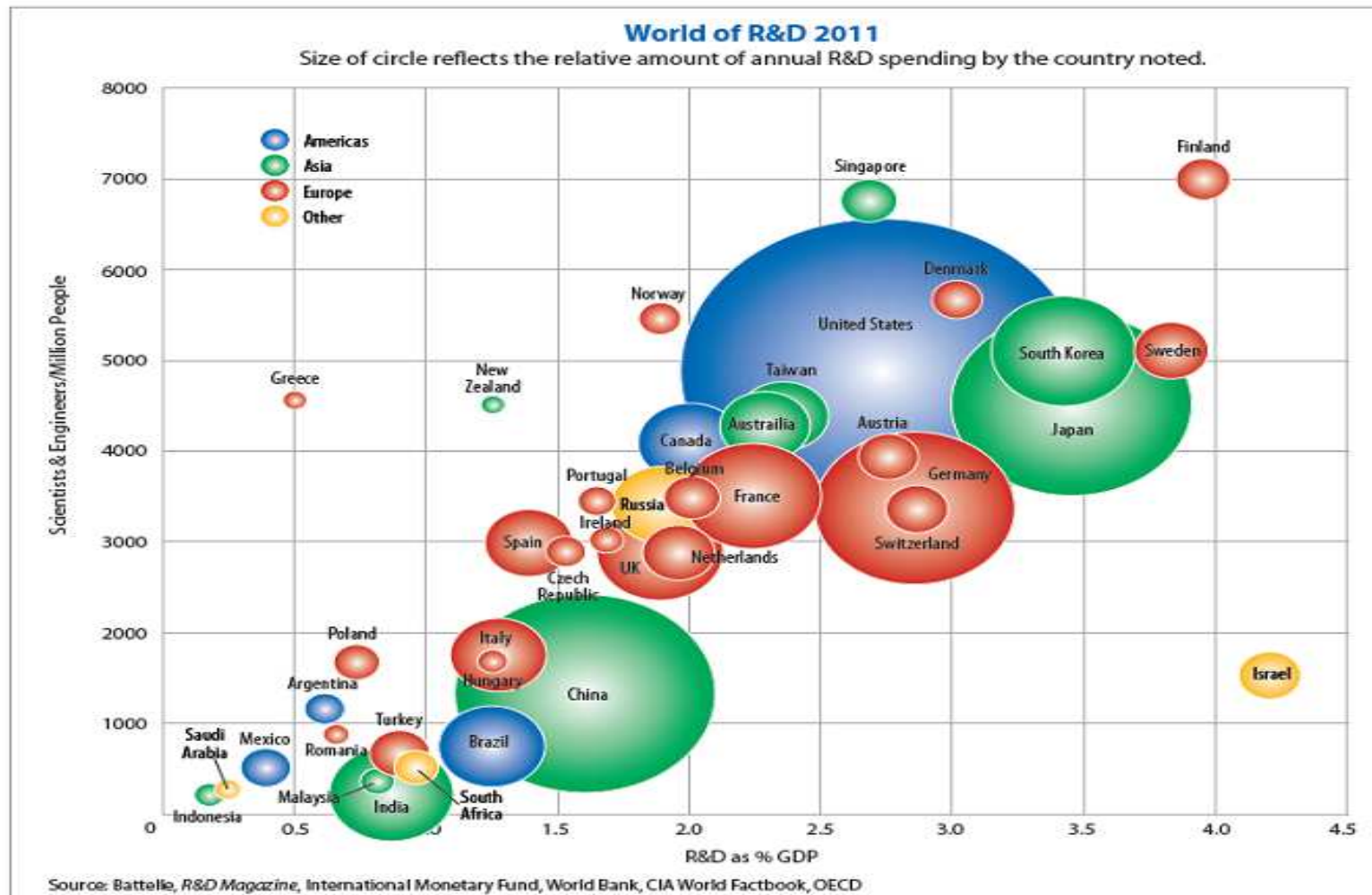
WHY ?

CONCERNS AND RUPTURES

Some concerns

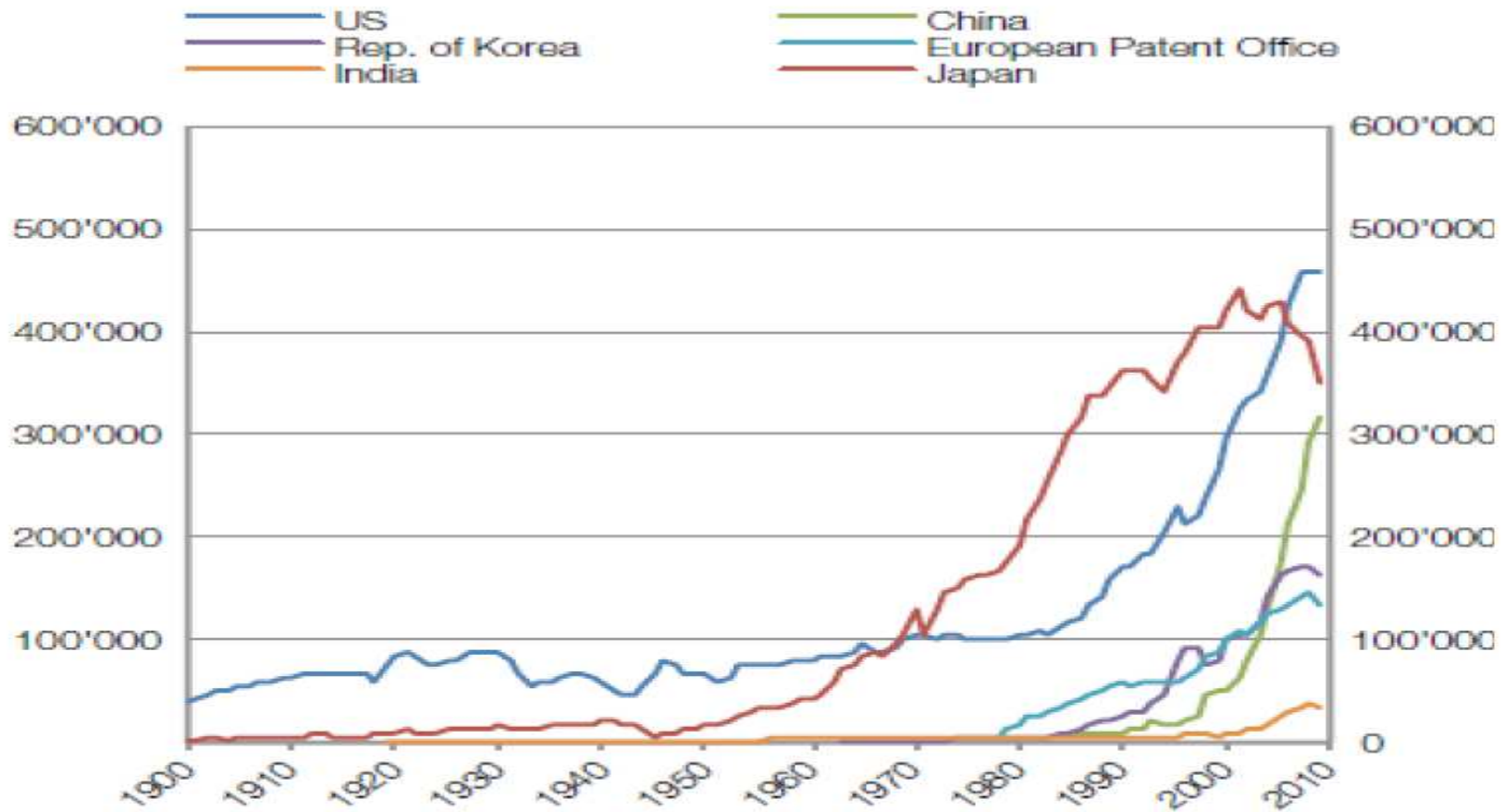
- *"Economy of knowledge"*
but where are the economics ? No finance,
no market, no investment...
 - *"Innovation is key for growth and jobs
creation"*
but few mechanisms to transform
inventions in innovations
 - *"Intellectual Property has become central to
the knowledge economy"*,
but still considered as a defensive
protection (or aggressive weapon !), not as
an active vehicle to diffuse inventions
-

Tremendous growth of researchers and R&D



Run for inventions

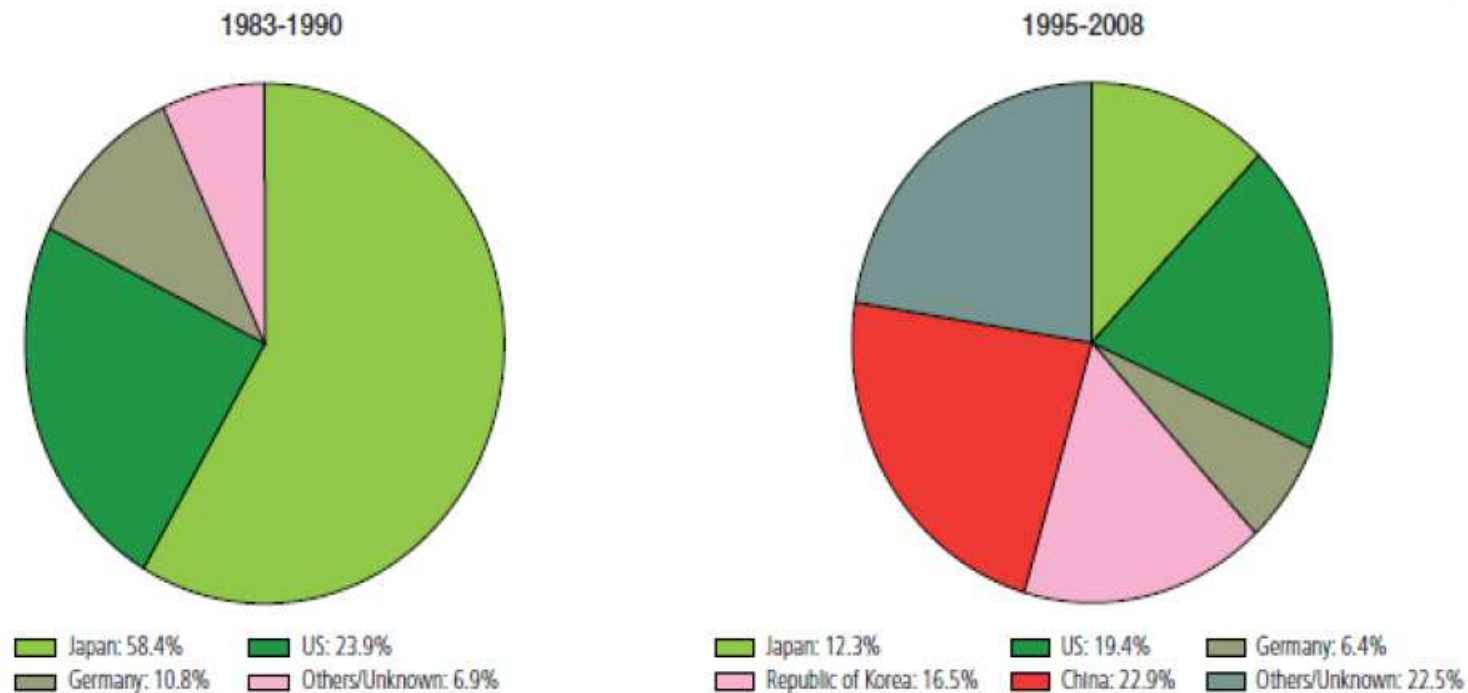
Patent applications at selected offices, 1900-2010



Source: WIPO Statistics Database, October 2011

Strong shifts in innovation world balance

Figure 3 Contribution of individual countries to the change in total volume of filings

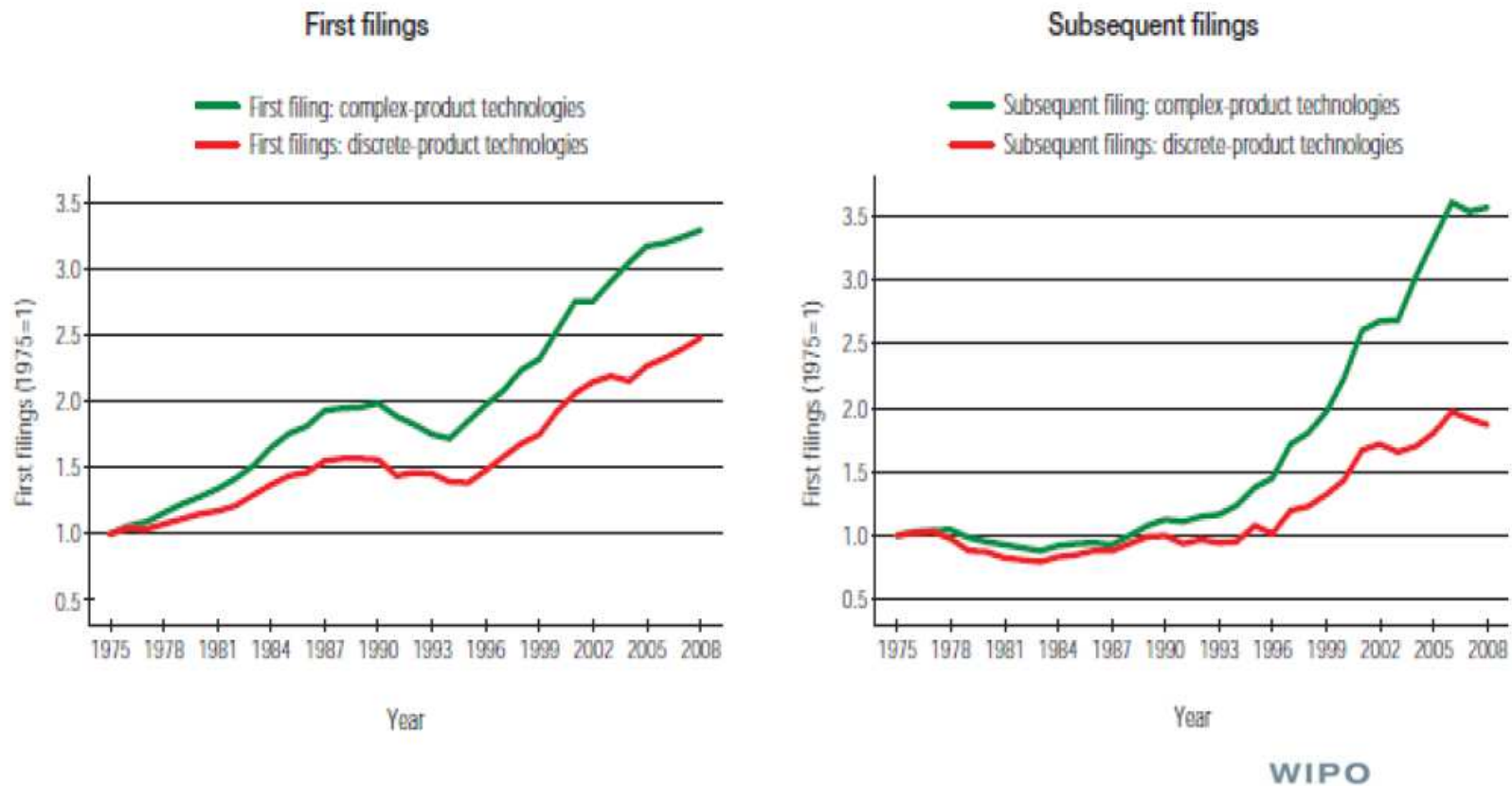


Note: Filings grew by 29% during the period 1983-2008 and by 85.6% between 1995 and 2008. The "Others" category includes all other origins and unknown origins. United States of America = US.

Source: WIPO Statistics Database, October 2011

More complex innovations

Figure 9 Trend in total complex and discrete technology patent filings



Innovations are produced by combination of key technologies inventions

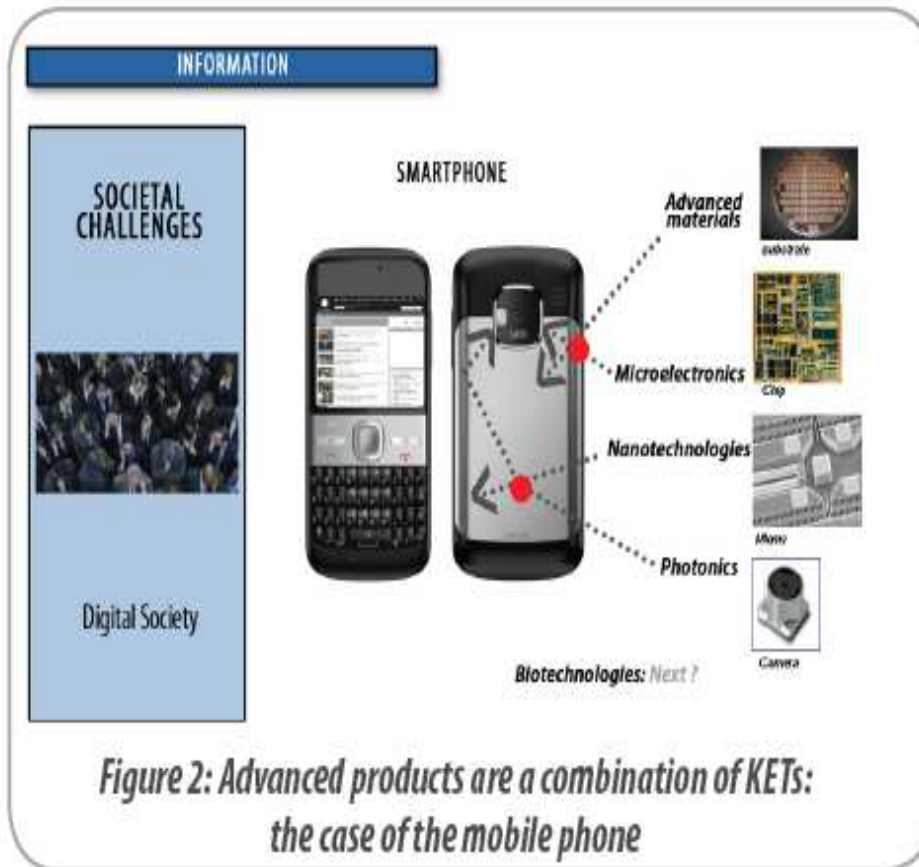


Figure 2: Advanced products are a combination of KETs: the case of the mobile phone

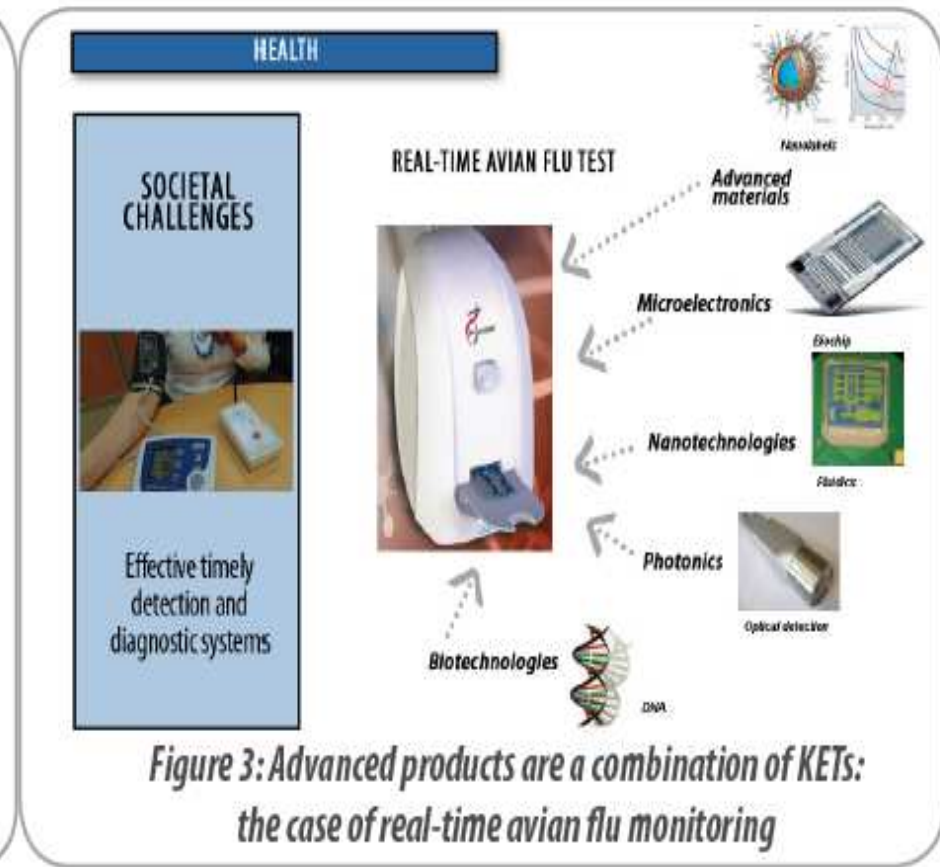
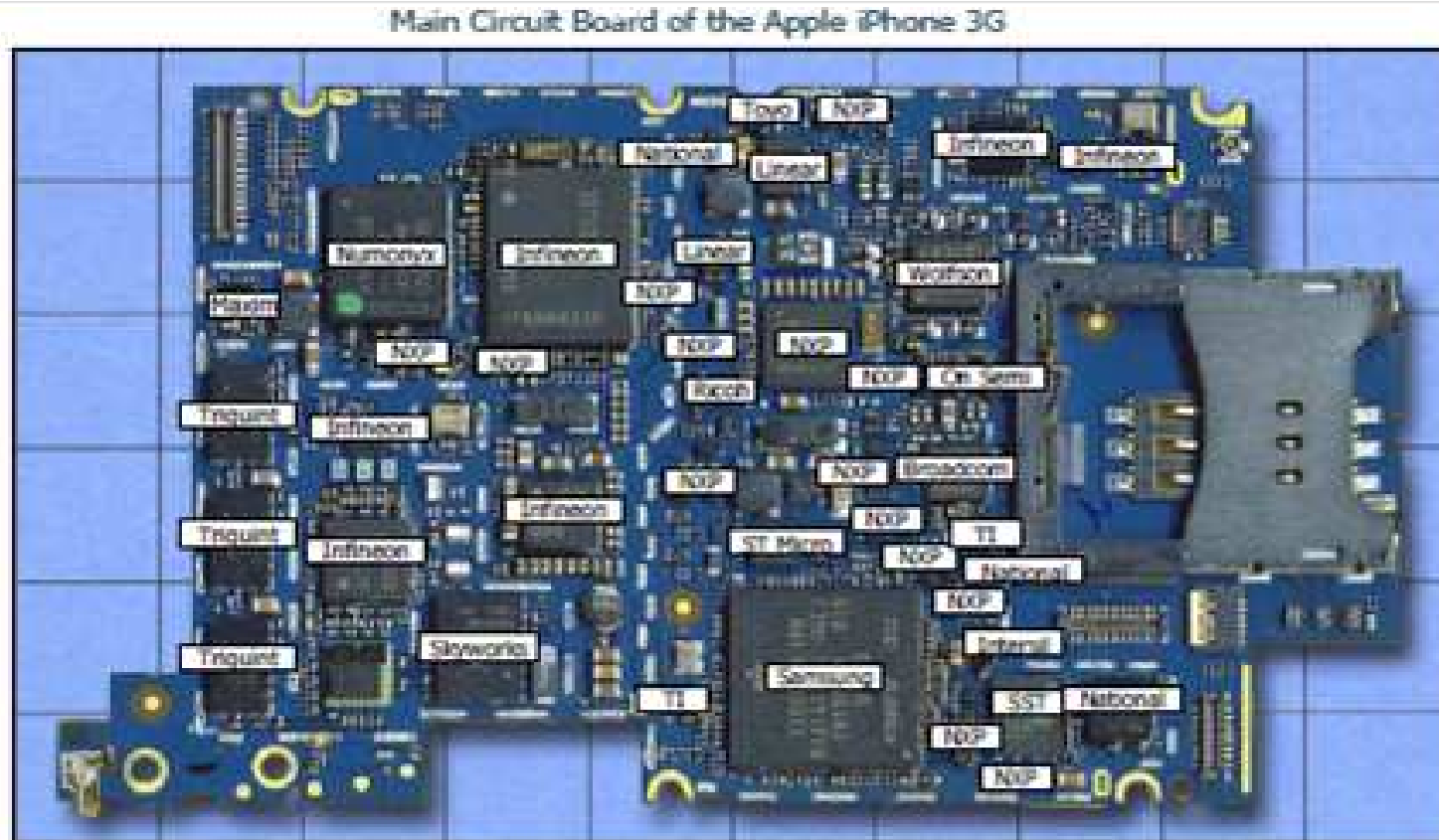
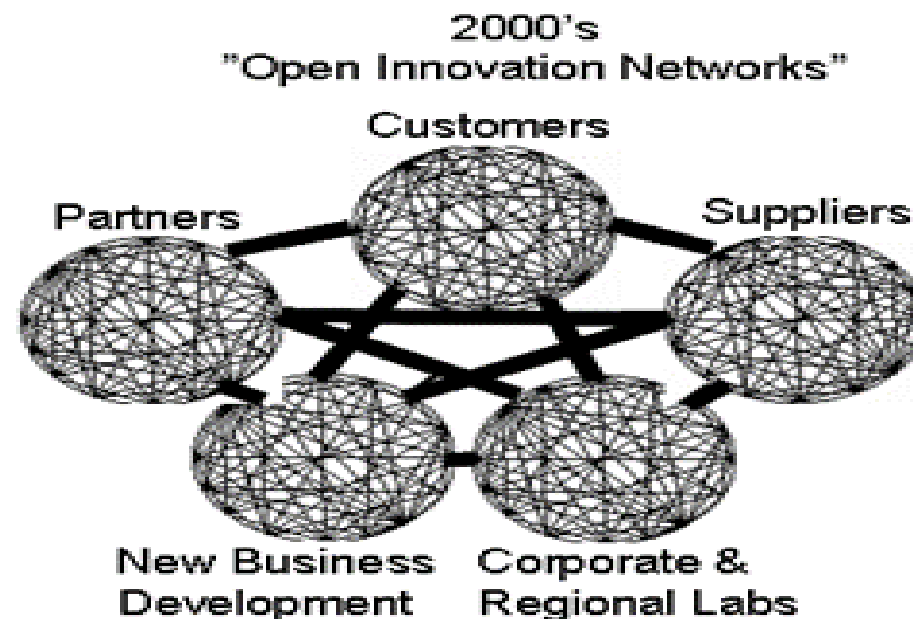
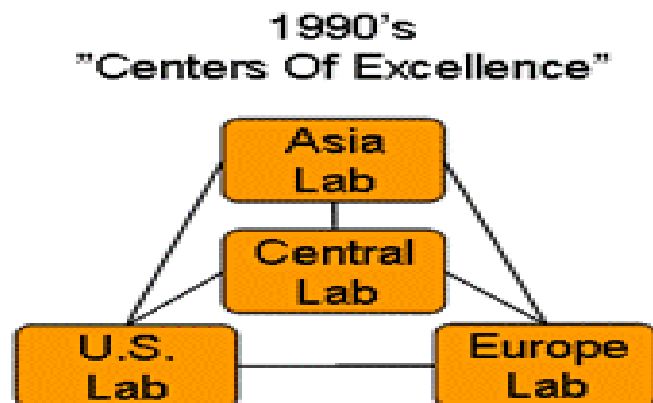
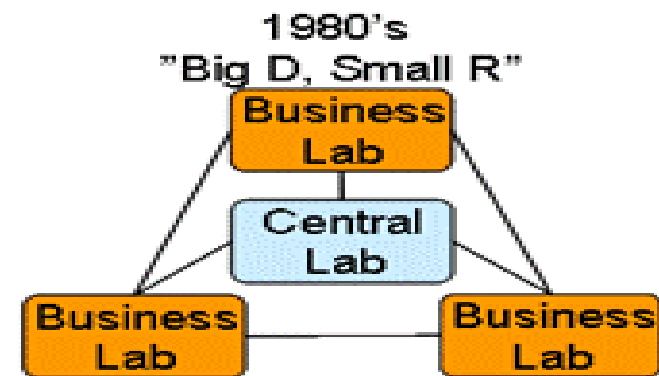
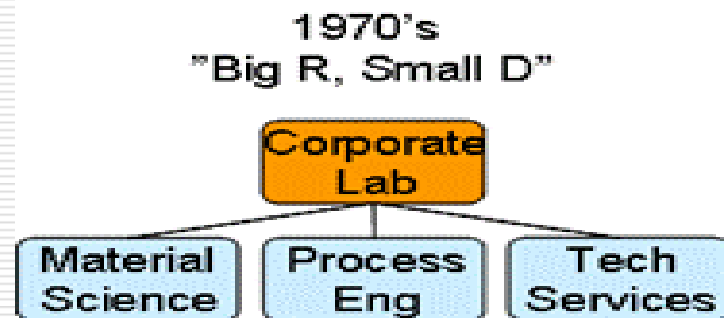


Figure 3: Advanced products are a combination of KETs: the case of real-time avian flu monitoring

Innovation is the result of aggregation of inventions coming from many sources



Open innovation and exchanges are now the rule



AS WIPO CALL...

“However, as greater technological complexity and more fragmented patent landscapes have increased the need for collaboration, there arguably is **scope for creative policy** thinking on **how best to incentivize the licensing or sharing of patent rights**”

Annual report 2011, « the changing face of innovation »

TODAY'S KNOWLEDGE ECONOMY REQUIRES GENERALISED EXCHANGES

« Now the need for innovators is less to protect their invention but rather to disseminate and to explain them to others ».

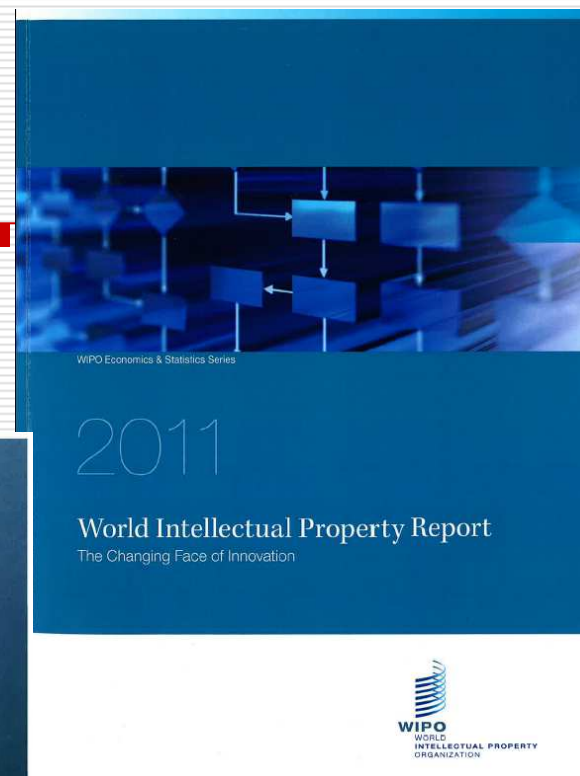
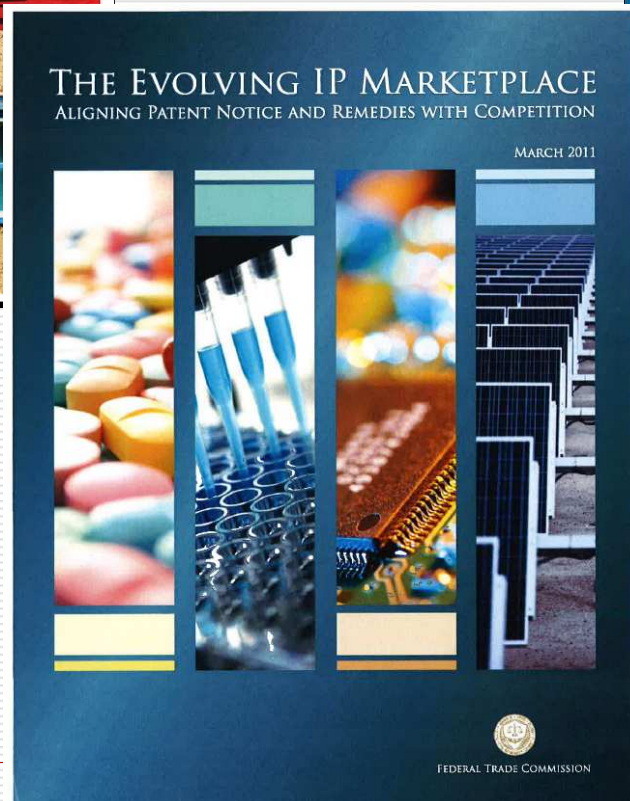
It is then ESSENTIAL to DEVELOP:

- ✓ Diffusion through exchanges (buying and licensing)
- ✓ Bundling
- ✓ Monetization
... of inventions and patents.

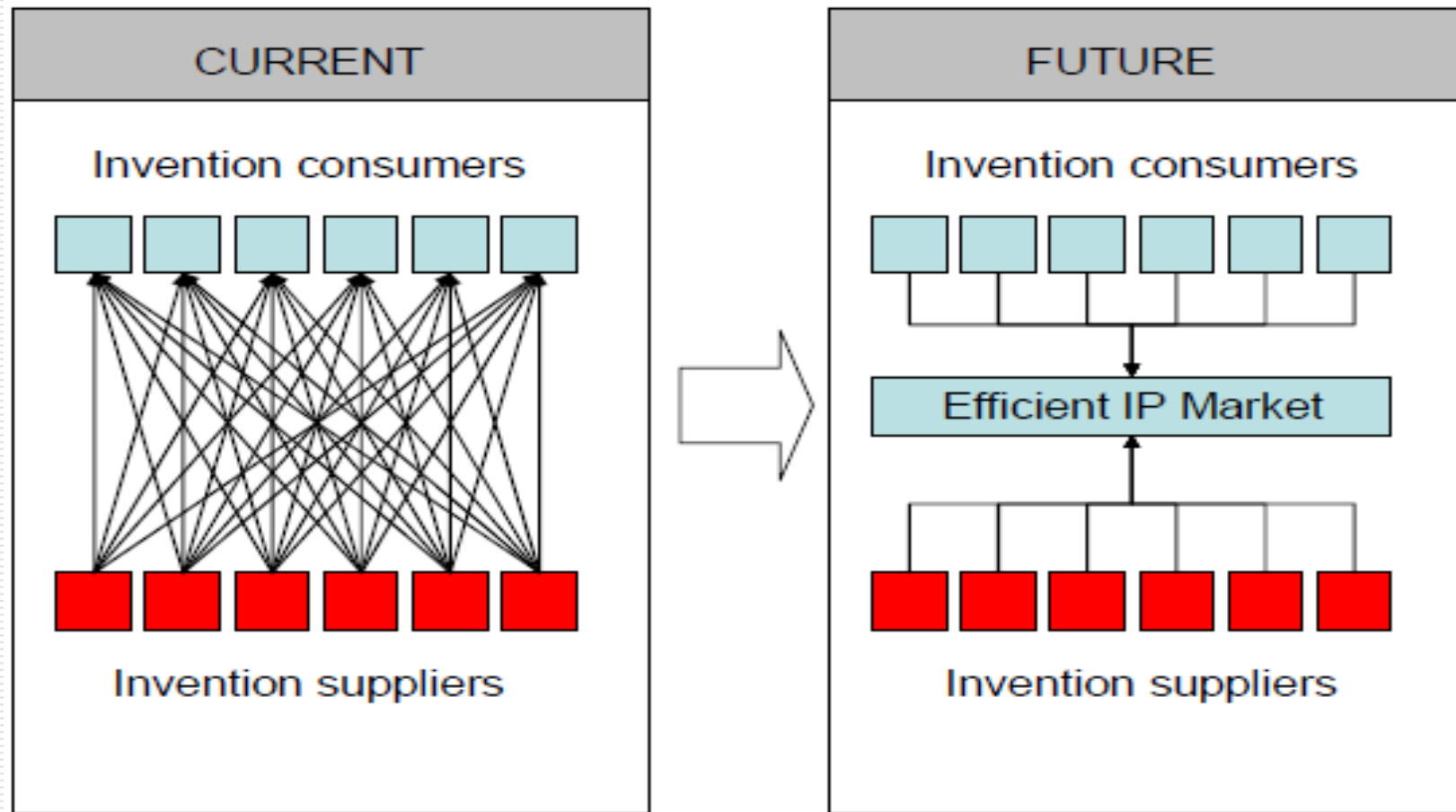
IP Rights should be the counterpart of organized exchanges



Future of Patent Economy is crucial



THE IP MARKET CHALLENGE



EXPERT CONSENSUS : IP ECONOMY FAILURES

- **Opacity** : difficulty to identify supply and demand of inventions; secrecy of transactions (price, legal conditions)
- **Asymmetry** : dominance of large actors, limited access for SMEs and PRO
- **Uncertainty** : length, cost and complexity of negotiations, no insurance of reliability
- Impossibility to **bundle** patents

Dramatic consequences : huge lost of economic value, exclusion of key actors (SMEs, PRO), development of litigations and blackmail

UE INNOVATION 2020 PROPOSAL

”breathing new life “

“By the end of 2011, working closely with Member States and stakeholders, the Commission will make proposals to **develop a European knowledge market for patents and licensing.**

This should build on Member State experience in **trading platforms** that match supply and demand, **market places to enable financial investments** in intangible assets, and other ideas for **breathing new life into neglected intellectual property**, such as patent pools and innovation brokering.”

HOW?

➤ **OBJECTIVES**

➤ **ATTRACT SUPPLY**

➤ **ATTRACT DEMAND**

➤ **MATCH SUPPLY AND DEMAND**

➤ **OPTIMAL PRICE AND CONDITIONS**

■ **Accessibility** (SMEs and PRO)

■ **Transparency** (price, transaction conditions)

■ **Security** (legal, quality)

Some partial attempts

Internet market place

Auctions

Why ?

Passive, no bundle offer, no security, market for lemon,

But moving landscape : multiplication of IP Funds, IPXI project...

PATENT LICENCING MARKET PROJECT

EUROPEAN PATENT LICENSING FACILITY- EPLF (CDC-EIF project)

- A « **market place** » **operated by a market operator** – as IP exchange need an active process.
- **A set of tools and services** which will give SMEs and PRO **access to the market** (standardisation, security, transparency)

1- IP MARKET OPERATOR - FUNCTIONS

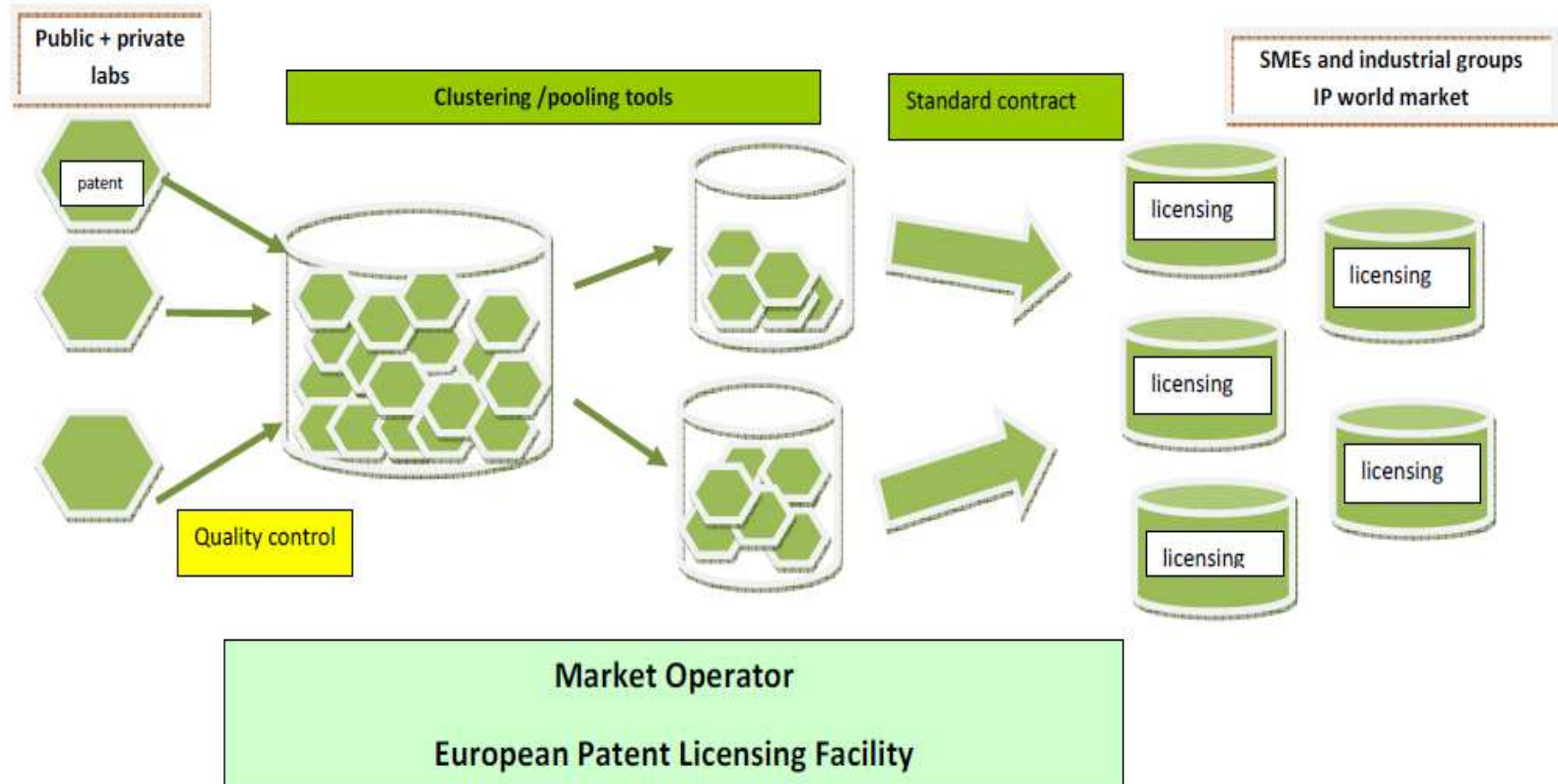
- **Research and attract patent supply** from PRO, technology clusters and innovative SMEs, large corporate,
- **Prospect and market the demand** (with a focus on SMEs).
- **Bundle patents** in technological cluster.
- **Control IPR** legal validity, ownership, encumbrances.
- **Organise IPR licensing**
- **Give all necessary information** (price, legal conditions...) **to market actors**

1- IP MARKET OPERATOR ECONOMIC MODEL

- **Expenses mostly in quality control, patent bundling, marketing and commercialisation.**
- **Compact team** working with a network of the best experts
- **Royalties/revenues generated by licenses would be shared** between the IP originators (public research, SMEs, corporates) and market operator on the basis of a revenue-sharing key agreed upon acquisition

A pilot project built on careful hypothesis (only 10% of IPR find buyer). Working capital needed around 400 – 500 M€.

IP MARKET

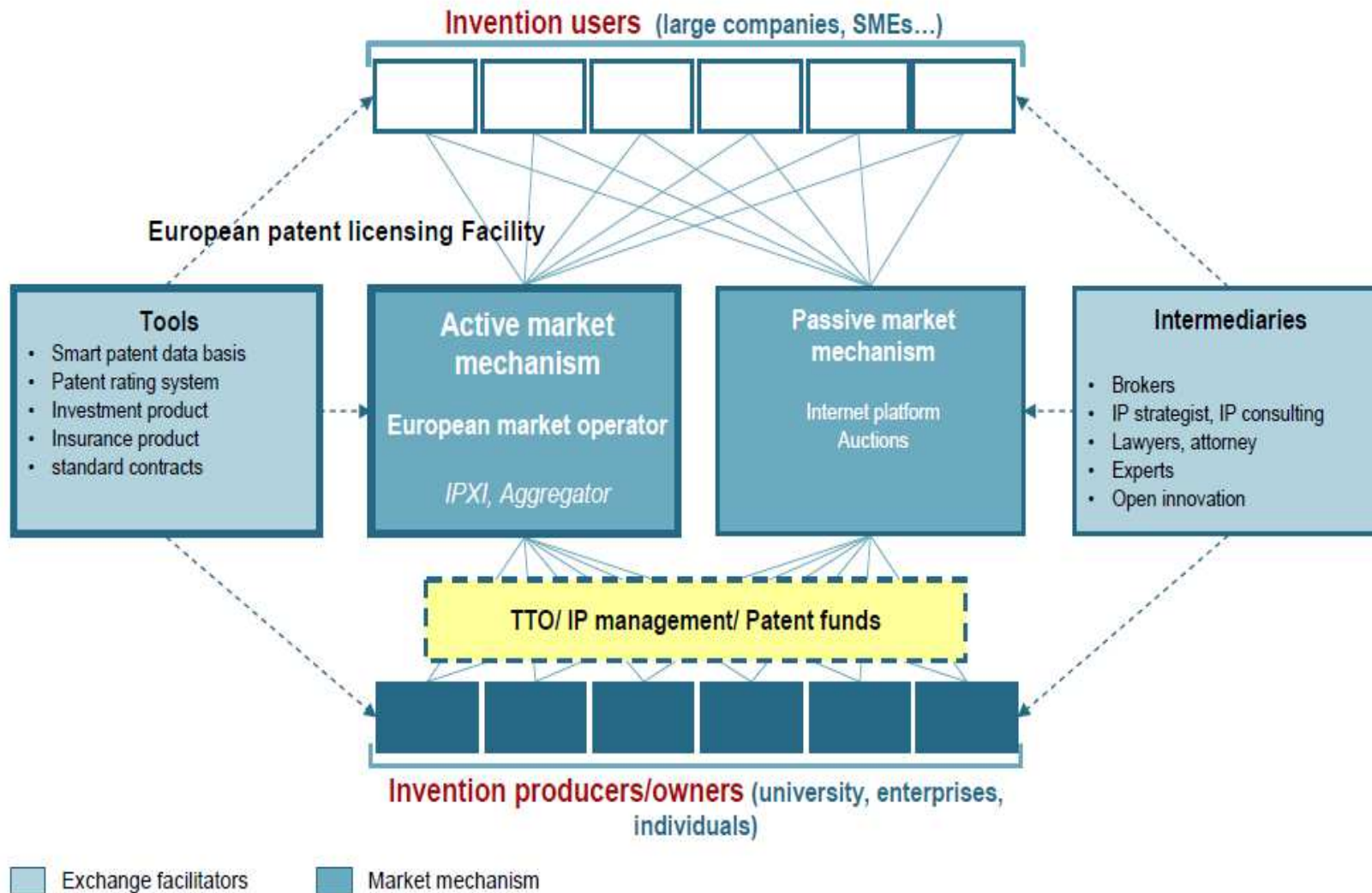


2 – IP MARKET TOOLS & SERVICES

To give real possibility to SMEs and PRO to access the market one have to provide appropriate instruments, such as :

- ✓ **Smart worldwide data basis**
- ✓ **Transparent information on price and conditions of the transactions** (with the same confidentiality than in other markets)
- ✓ **Patent rating for decision making**
- ✓ **Standard contractual clauses** validated by a college of European lawyers will bring simplification and security.
- ✓ **Insurance products** or mechanism to hedge against the different type of risks (validity, accuracy, litigation...)
- ✓ And certainly other services which we are working on...

Knowledge economy eco-system



ANNEXES

REFLECTIONS ITEMS

- ✓ Supply and Demand : will they come ?
- ✓ Technological field target approach ?
- ✓ Home team and networking efficiency ?
- ✓ Availability of tools and instruments ?
- ✓ Litigation strategy, if any ?
- ✓ Governance structure ?
- ✓ Initial financing
- ✓ Evaluation
- ✓ And many others...

CDC INITIATIVES A PATHFINDER

- **CDC PI** (July 2009) with the objectives to create IP economic infrastructures (patent market, investment fund, technical and financial tools and actors)
- **FRANCE BREVETS** with French State (March 2011) 100 M€ IP fund, acquire IPR, bundle, commercialize, revenue sharing.
Already strong IP availability and several agreements signed (research institutes, TTOs...)

Knowledge Transfer Strategic Partnership

Signed in Rome - 16 June 2010

- **Creation of joint Working Group between:**
 - EIF/EIB
 - Caisse des Dépôts et Consignations (CDC – France)
 - Cassa depositi et Prestiti (CDP – Italy)
 - Centro para el Desarrollo Tecnológico e Industrial (CDTI - Spain)
 - Innovationsbron (Sweden)
 - KfW-Bankengruppe (Germany)
 - Veraventures (Finland)
 - AWS (Austria)
 - Scottish enterprises
 - BGK (Poland)

- **Aim of like-minded Partners with Long Term perspective is to:**
 - Support the emergence of European and national Knowledge Transfer Infrastructures
 - Accelerate transfer of European research and technology to the market
 - Facilitate a well functioning Knowledge Transfer and Intellectual Property economy
 - Encourage more open and transparent marketplaces for Intellectual Property
 - Exchange best practices and potentially to analyse investment opportunities jointly