

SUMMARY OF THE EPO-OECD-UKPO CONFERENCE: “PATENTS: REALISING AND SECURING VALUE” – LONDON, 21 NOVEMBER 2006

Background

1. The advent of the knowledge economy and the shift towards a technology based competition in the global markets has led to a growing importance of intellectual property (IP) assets for corporate growth. In particular, market value of firms appears to rely increasingly on intangible assets, notably on intellectual property. The management of IP, -which includes patents, trademarks and copyrights-, has become therefore a strategic matter for firms. There is broad recognition that patents are increasingly used beyond the boundaries of the owning firm: They are involved in commercial and in financial transactions. In that context, the connection between patents and economic performance, at the firm and at the macroeconomic level, and the policy challenges raised by patents have changed. The importance of patents as key means to access finance, notably for new firms, and the expansion of commercial transactions involving patents (sales of patents, licensing deals, securitisation etc.) put forward the need for reliable patent valuation methods. In addition, important barriers remain for the full-realisation of the value patents, -e.g. high transaction costs in technology contracting- while the inherent risks to IP ownership associated to litigation and enforcement may lead to significant economic losses. Well functioning IP markets, by facilitating the exchange of technology, generate additional revenues for patent holders and increase thereby the returns to research and development investments. In this way, technology markets foster the optimal division of innovative labour amongst firms by allowing the realisation of patents by those who are the best placed to exploit them. Technology markets can also favour the diffusion of technology, the entry of new firms and foster competition. This new strategic context raises also particular issues regarding the diffusion of technology, a major factor of economic growth, which can be fostered or hampered by particular uses of patents.

2. To assess critically the challenges facing the financial sector in coping with the emerging opportunities and risks in valuing, trading and securing patents, more than 150 participants from public and private organisations gathered at the international conference on “*Patents: Realising and Securing Value*”, jointly organised by the European Patent Office (EPO), the OECD, and the UK Patent Office, in London on 21 November 2007. The conference aimed to examine and appraise the benefits and limitations offered by financial tools to leverage patents and maximise their value, and highlight implications for public policy. Participants included industry and business, representatives of the financial community such as banks, investment banks, venture capital funds and insurance companies, policy makers in governments’ agencies and regulatory bodies of financial markets. It contained sessions on topics such as strategies to maximise economic value of patents, creating technology markets, monetisation and accounting of IP, insurance schemes for IP, and the role for public policy intervention. The program of the conference is available on: <http://academy.epo.org/schedule/2006/ic09/>.

3. This conference is the follow-up of a previous conference (“*Intellectual Property as an Economic Asset: Key Issues in Valuation and Exploitation*”) co-organised with EPO, BMWA and the German ministry of the Economy, in Berlin on 30 June and 1 July 2005, which set a first picture on the different

ways in which patents contribute to business value and economic growth and the implications for policy. Major conclusions from the Berlin conference are reflected in Kamiyama et al. (2006).

4. The London conference was more focused on financial aspects and on the functioning of technology markets. Presentations by renowned speakers shed further light on the emerging strategies to maximise economic value of patents through finance tools and technology intermediaries. Facilitating financial uses of patents, improving valuation and the functioning of technology markets are priority areas to be addressed for increasing exploitation and commercialisation of inventions.

5. This conference has presented the new actors emerging in the IP market and the possibilities faced by patent holders to create more value from patents. New IP intermediaries offer nowadays a variety of services (patent valuation, technology transfer logistics, etc.) to patent holders to take full economic advantage of their patent portfolios. These new mechanisms for technology transactions are not only relevant for individual inventors, small firms or any other inexperienced IP holders but also for large firms who are seeking to extract profit from non-core IP assets or exchange (access) specific technologies. Patent valuation methods need to be implemented in the light of the entire value chain a company is active in, in order to better assess the strategic value of patents and taking full advantage of its exploitation potential (current and future uses). Nonetheless, participants coincided that the effectiveness of any policy package jointly with the development of IP markets will only be achieved through the provision of high quality patents and patent protection procedures. The constant dialogue among stakeholders and policy markets to mitigate inherent risks and obstacles in IP markets remains essential. This report provides a summary of the presentations and the discussion held at the event. It briefly presents the main findings and recommendations that can be drawn from each of the individual sessions.

Summary of sessions

Introductory session

6. The conference was opened by high-level officials of the three organising institutions: Mark Beatson, from the Department of Trade and Industry (United Kingdom), Professor Alain Pompidou, President of the European Patent Office and Mr. Nobuo Tanaka, Director of Science, Technology and Industry, from OECD. Mr. Sean Dennehey, Director of Patents (Patent Office, United Kingdom) chaired the session. Introductory speakers emphasized the new challenges faced by public agencies for realising and securing value for patents and presented some policy alternatives.

7. Professor Alain Pompidou from the European Patent Office stressed some of the main areas of concerns faced by public policymakers to foster economic value of patents and their exploitation. Amongst them: *i)* the provision of a solid infrastructure and a efficient regulatory framework, *ii)* increasing awareness of the value of innovation by patent holders and the market, *iii)* effective enforcement practices facilitated by specialized jurisdictions, and *iv)* creating markets for technology to increase exploitation of patents. One fundamental factor underlying these patterns is patent quality. Patent quality is at the heart of the patent system and it comes to patent officers to ensure that patents offer legal certainty to users. This implies that patents must be granted on the basis of careful examinations procedures notably in the search of prior the art, to assess novelty of the invention. These procedures require highly skilled examiners with appropriate experience and continuous actualization in their respective technologies areas and emerging fields. A decreasing patent quality, -which may be influenced by the huge increase in the number of patent applications (patent examination pipeline)- , will adversely affect the efficiency of patent systems as it raises duplications costs related both to examination and invention and enforcement costs due to a higher legal uncertainty (increased litigation). Uncertainty on the value of patents dissuades business to invest in

technology development and commercialization.¹ There are other remaining issues affecting the optimal use of patents in an international basis, notably regarding the differences in procedures across national patent offices. For instance, divergences in litigation practices and costs across countries needs to be further discussed and analysed by the pertinent parties in order to better understand the strategic use of patents by IP holders and design the appropriate policies.

8. Another area of high priority for improving exploitation and commercialisation of patents concerns the channels to foster information from patents to technology markets. Mr. Nobuo Tanaka from the Directorate of Science, Technology and Industry at the OECD emphasized that in order to increase the value of knowledge capital, conditions must be provided for the well functioning of technology markets and sufficiently low transaction costs. Patents can serve as vectors of information and as guarantees of the quality of technology from entrepreneurs towards capital providers and financial markets. Hence, patents can encourage entrepreneurship and competition. Patents encourage innovation, but they can also encourage the dissemination of knowledge, for the benefit of society, when markets for technology are well functioning. Well functioning markets, where liquidity is sufficient (high number of players and of transactions), and vendors and buyers are faced with sufficiently low transaction costs, provide further incentives for companies to invest in technology. Inventors, owners of technology will more easily contract out its implementation if they have secured property rights, based on sound law and regulation. Part of this responsibility goes to patent offices. To ensure quality and increase the informative content of patents, patent offices may adopt quality management policies (not to provide minimal standards but relevant quality standards). These may include internal auditing in a random basis and external valuations, the goal being to make the patent system more efficient (and avoid patent holders litigation and enforcement costs) and warranty patent holders quality of their patents and transparent information for their exploitation.

Creating more value from patents

9. *Financing and valuation.* Different compelling arguments have been advanced for a better understanding and appreciation of the value of IP and its potential impact on business value. Intangible assets (patents, marks, know-how, licenses..) play increasingly a key factor for firms' economic performance. They are particularly important for early stage-technology based companies as IP is viewed as the primary contribution to earning power and future value. Mr. John Butt from *Conduit Ventures Limited*, noted that patents are key elements of a typical venture capital backed businesses. Accordingly, to succeed an IP-based growth, different strategies can be customized across the stages of the innovation cycle (e.g.):

- i) at the early stage (to ensure property and protection for future flexibility),
- ii) at the mid-stage (to foster technology transfer either through spin-outs or other means, collaboration and knowledge sharing);
- iii) at the later stage (to promote collateral services and marketing). However, structural barriers remain between old and younger firms in the exploitation of IP.

Mr. Butt noted that there are however important differences in the implementation of strategies at the later stage, e.g. exploitation of licensing potential across firms. Because of their comparative advantages (e.g. financial access) in networking and a tendency to re-focus on core competences, established (large) firms are frequently more pro-active in the exploitation of IP. He also emphasized the influence of country specific factors in the use of venture capital by firms. The use of venture capital as well as the exercise of

¹ The issue of harmonization of rules and procedures in patents offices across countries (i.e. Asian countries) remains an important challenge for the global patent system.

IP as a source for raising capital is in large part influenced by national aspects, e.g. openness to external sources of finance, and peculiarities of the national financial system, the regulatory framework, etc.

10. The access to finance through an adequate valuation of IP assets is especially an issue for start-ups in new emerging fields such as *nanotechnology*. Professor Thorsten Teichert from the University of Hamburg explained that patents in this field are a primary instrument for technology transfer and additional financing. Yet, venture capital financing in this area represents though a small percentage. A relevant issue for valuation in complex technologies such as nanotechnology stems from the obstacles raised by *patent thicket* (a set of patents covering cross-dependent technologies); which raises the costs of transactions and may hinder further technology development. Three interrelated levels of analysis can be considered for the choice of patent valuation methods in complex technologies (*market valuation, option valuation or income approach*), or a *mix*:

- i) *at the value chain stage* (“*mastering imitation*”): patent value is defined according to appropriability conditions, that is, well setting of legal and strategic boundaries of the patent vis-à-vis of imitators;
- ii) *at the entire value chain* (“*mastering substitution*”): patent value rises with *essentiality* and *centrality* of the patent within entire product/technological solution;
- iii) *market and technology standards*: assessing *competition* between patented technology based products/solutions, that is, to set the competitive position of the patent

When valuing patents, it is important to take into account the dynamic interaction between current patent/technology strategy and future business strategy. This implies to assess “*path dependency*” in the entire value chain (backward and forward patent linkages) in order to define the strategic position. This is particularly important for cumulative and highly inter-dependent technologies. Such a view may provide a better assessment of the potential value of patent portfolios. Nonetheless, further exploration and development of valuation instruments and indicators derived from patent-metrics is needed.

11. The growing importance of IP assets for economic performance is also recognized in the financial sector. Some financial companies such as *Swiss Re, Citigroup, Merrill Lynch, UBS or AIG* have now engaged into acquisition of patent portfolios. Mr. Donat Bischof presented the experience of *SwissRe* in the management of IP. The motivations for engaging into IP by a firm in the financial industry are basically similar to any other: ensuring protection of inventions; enhance opportunities for collaboration and further investment in technological activities; improve transparency of products; and build options for the future and negotiable packages of IP rights. For this kind of firms involved recently in IP management, to maintain strategic flexibility is important for balancing risks and benefits across partners (i.e. not to attach to one single large firms).

Creating markets for technology

12. The new conditions for IP generation and exploitation (e.g. national patent reforms, Bayh-Dole Act, TRIPs, etc.) and the drastic changes in the value creating chain have all contributed to change the rules of IP management. Decisions on IP strategy do not only concern CEOs and IP managers but also R&D managers, legal departments (i.e. patent attorneys), and external actors (e.g. potential or current clients, etc.).

13. Ms Kemberly Cauthorn from the firm *Kroll* summarised the risks faced by IP holders and the different strategies that can be implemented by companies to minimize them. To derive value requires IP holders to implement mechanisms regarding: enforcement of IP against infringers and theft by employees or others, profitable licensing strategies (i.e. generating revenue from non-core IP), the use of IP as collateral to

obtain capital; monetise and securitise IP², and adopt tools to minimise their inherent risks (*Kroll*). To obtain value from IP strategies, it is important to minimise ownership risks and other costs related to the exercise and management of IP. The risks associated to enforcement of IP can be important and they can include the loss or reduction in value of IP due to litigation or counterfeit. Other collateral risks concern: insufficient leverage to negotiate favourable licensing terms, loss of licensing revenue, loss of product revenue, loss of shareholder value.³ According to Ms Cauthorn, companies can adopt various strategies to mitigate these risks such as:

- i) exploring funding and financing options,
- ii) adopting purchase and litigation insurance,
- iii) requiring licensees to bear costs of enforcement,
- iv) selling the IP for remainder interest,
- v) maintaining adequate reserves,
- vi) exercising license audit rights,
- vii) implementing careful due diligence and adopting strong confidentiality agreements, etc.

14. The need for adequate and reliable valuation of intangibles has also been put forward by Mr. Guido Von Scheffer from *IP Bewertungs AG* in his presentation on strategies for creating a market for technology (“Patents: from collaterals to assets”).⁴ According to Mr. Von Scheffer, there are two main components of evaluation to maximise company’s value by R&D investment: *i)* the increase of free cash flow generated by R&D (or contribution to growth rate), and *ii)* the reduction of capital costs. As noted earlier, the value drivers for the former include the adoption of internal and external commercialization strategies (e.g. “*licensing out*”), internal use of external R&D (e.g. “*licensing in*”) and strategies regarding intellectual capital. To maximise value generated from R&D investment, it is necessary to optimise division of labour and integrate into R&D the changes in the value creating chain. The latter component (reduction of capital costs) to maximise the value generated by R&D investments builds on financial innovation, which relies itself on equity and debts strategies. When firms choose financing by private equity or debt, there is a need for patent valuation contrary to financing by governmental support, self-financing or sometimes private equity. Each strategy of financing has its own advantages and drawbacks (notably in terms of diversification opportunities, risk and external control on IP assets), which need to be confronted.

15. Mr. Von Scheffer highlighted that there is frequently a financial gap between the R&D-patenting stages and the development (e.g. for prototypes, test series, etc.) and commercialization stages. The hidden value of patents limits and blocks the advance towards the production stage. To adequately quantify value of patent portfolios, firms need to consider their licensing potential. However, selling and buying technology are not costless; e.g. initial investment is frequently needed to identify the perfect licensee, an outlay which patent holders are rarely willing to make due to uncertainty on their licensing potential. *Patent Value Funds (PVF)* attempts to uncover both the financial gap faced by IP holders and their licensing potential.

16. *Patent Value Funds (PVF)* are institutional funds that invest in patent portfolio, acting as intermediaries, making IP sellers and buyers to meet and pulling off contracting satisfactory to both parties.

² Some of the companies providing models for securitisation and monetisation are for instance: Intellectual Ventures, ThinkFire, Capital Value Partners, Ocean Tomo Capital Fund, Microsoft Intellectual Property Ventures, etc.

⁴ IP Bewertungs AG (IPB) is a consulting firm located in Hamburg, involved in assisting companies to establish a value oriented patent management; advising firms along M&A operations, and investors interested in high technologies.

Services provided by the PVF include: identification and valuation of licensing potential; identification of potential licensees or licensors, etc. The advantages of the PVF from the patent holder's perspective include: increase commercialisation; no additional risk of commercialisation to be incurred; firms with non-core patents can earn additional revenues by licensing them; capital costs can be lowered as capital providers are given more guarantee on their rights over future revenues. From the investors' perspective there are several advantages: identifying value in emerging markets; investors can participate directly in licences or other commercialisation activities, risk diversification (more than traditional venture capital investments), risk reduction, amongst others. The identification of exploitation opportunities needs first to be conducted; then the valuation of the patent and licensing portfolio to accomplish realisation of contracts. The core elements to be proven in the valuation are legal status (strength of the patent), economic expectations (potential of the patent), protection (effort of finding surroundings), and competition (between potential licensees).

17. Technology transfer in the IP market can also be realised through *public auctions*. Companies such as *Ocean Tomo Intellectual Capital Equity* provide a marketplace for IP transactions. Mr. Justin Basara, presented an assessment of the multiple benefits related to technology-transactions through the auction market. Selling *a patent* means, for its holder, eliminating the risks and costs attached to ownership. The benefits of purchasing a patent and *licensing-in* are: to capture greatest value, to allow for a "quantity" strategy, amongst others (e.g. cross-licensing and other exchanges). Different business models can be adopted for IP transactions according to the offensive/defensive orientation in the use of IP: private inventor, contingent counsel partnership (*CCP*), private/public dedicated business (*DB*), technology pools, corporate pools, special purpose investment vehicles (*SPI*), operating companies, etc. Patent licensing and enforcement companies (sometimes labelled "patent trolls") are more offensive oriented models, whereas technology and corporate pools are of more defensive nature.⁵ *Ocean Tomo Auctions* will have its first Auctions market in Europe in June 1st, 2007 in London. Another step in the direction of a more active IP marketplace is the *Ocean Tomo's 300 Patent Index*, the first publicly traded IP index, consisting in a diversified portfolio of 300 companies owning quality patents (the value of these patents being assessed by Ocean Tomo's patent ranking software).

18. Another strategic aspect regarding IP management concerns the foreign location of an IP holding company. Mr. David Roach from *Price Waterhouse Coopers* presented a comparative study across a group of countries attracting IP holding jurisdictions. Accordingly, most multinational companies now have explicit strategies for IP asset management. An overseas located IP holding company centralises ownership of group's IP and its management: IP registration, drafting of legal agreements, managing infringement issues, policing of IP by group, licensing to third parties, oversight of group R&D activity. The advantages of centralisation are well known: focus, better decision making and management and optimisation of the use of scarce resource of IP experts. Tax advantages are key element but should not be the primary driver for setting up an IP holding company. Having a stable political environment, accession to international agreements, low corporate tax rates, multi-lingual professionals are among the top factors IP holding company location by companies, while lawyers and consultants consider a flexible tax authority as the major parameters. Decisions on transferring ownership have to do with firms' philosophy (patriotism, internal politics, and market perception) and other strategies (i.e. organisational flexibility).

⁵ Some of the lessons learned when conducting auctions are (e.g. Ocean Tomo): quality closely related to technology-in use, management of seller expectations and reserves, need for process to adjust reserves in the greenroom, balancing of risks versus simplification of bidder diligence, emergence of true arbitrage risk investors.

Monetisation, Accounting and Insurance

19. Within this framework of valuation of patents, there is a need by companies to properly treat intangible assets in accounting reports. Accounting standards can be viewed as a starting point for the analysis of IP portfolios. Ulrich Moser, professor at the Erfurt University of Applied Sciences explained the process of monetisation of IP in the context of IFRS (International Financial Reporting Standards). According to Professor Moser, tools used for accounting treatment of IP portfolios can be applied for assessing monetisation. Monetisation considers potential future or alternative uses of IP assets. Within this framework, the *Impairment Tests* and business combinations are some basic procedures for valuation. In their current format, IFRS and IAS (International Accounting Standards), focus on intangible assets, not intellectual property and patents. Monetisation may follow a three-stage procedure: identify valuable patents, identify market opportunities (the demand side), and negotiate and execute contracts. One problem with measurement for internally generated intangible assets come from the fact that only a small portion of expenditure could be capitalized asset; a part of the development phase is not recognised as costs.

20. Professor Moser emphasized that for assets acquired through business combinations (i.e. acquisitions) the procedure can follow the purchase price allocation mechanism. The latter demands the valuation of an IP/patent portfolio and should consider not only *current uses* of IP but also *potential uses* for the future or alternative uses. The *impairment tests* can be used as a first step in a regular review of IP/patent portfolios regarding monetisation potentials. The impairment test implies the identification of assets for which it is not possible to estimate or achieve recoverable amounts. The reasons for impairment can be:

- i) external : due to changes in technological, market economic or legal environment, increased market interest rates or other market rates of return, carrying amount of the net assets of the entity higher than the first market capitalisation or
- ii) internal: due to obsolescence or physical damage of an asset, evidence of economic performance worse than expected, adverse effects in the use of the asset. Nonetheless, the implementation of the monetisation through accounting treatment of IP requires to take corporate and IP strategy into account.

21. Another core mechanism to ensure and protect economic value from patents is insurance. Insurances constitute an answer to potential economic losses rising from uncertainty in IP assets. Mr. Matthew Hogg from *KILN*, described how IP and patents are affected by ownership risks and how insurance contributes to protect against such potential costs. Uncertainty arises from the misunderstanding of claims –vague boundaries in the patent–, which are only made clear by a legal challenge. A challenge (legal invalidity, infringement and defence, employees’ defection or government intervention, e.g. suspension or restrictions on the IP right) can involve however, complete or partial destruction of the patent right. Insurance protects also against potential infringement of rights of others done by the insured party in the manufacture, sale of use of its product. Future revenues from IP can also be insured: licensing revenues, royalty receipts, IP value accounting principles, R&D expenditure, financial investment, loan arrangement, etc. According to Mr. Hogg, IP Insurance can be implemented as a business tool to optimise the financial situation of firms: assisting financing, ensuring R&D investment, as a protection mechanism in case of business interruption/contingency plans (e.g. brand substitution, reallocation of resources, writing off), and as an added value to mergers and acquisitions.

22. Mr. Ian Lewis from M-SURE Ltd, explained the insurance mechanisms offered by *M-SURE*. According to Mr. Lewis, insurance mechanisms can uncover a variety of risks and costs related to IP ownership: they include enforcement costs, invalidity costs, defence, legal costs related to enforcement of contracts or agreements plus damages (problems related to indemnity/warranty provisions, ownership of rights, non-payment or royalties, confidentiality), underwriting considerations and information. M-SURE

uses an internal developed software *M-DAM Doors*TM to identify risk exposure and hidden threats (from competing technologies), which enables mitigation of liabilities. Mr. Lewis emphasized however, that most companies are frequently unaware of their exposures to financial loss and insurance provides a safety net for such risks.

23. The situation in Denmark with respect to insurance schemes was described by Ms. Majbritt Vestergaard from the *Danish Patent and Trademark Office*. Ms. Vestergaard stressed that, although patent insurance is not new, it has important drawbacks, notably for small and medium firms with limited resources. Traditional insurance schemes suffer from problems like high premiums, insufficient information, limited coverage, and the provision of security in case of provisional injunction is frequently not included. Mr. Vestergaard argued that in order to succeed, insurance schemes need to be affordable (premiums must be relatively low); participation must be voluntary, and they must cover all industries. International cooperation is needed for the development of large-scale insurance schemes. Adoption of mandatory insurance might be desirable in terms of risk spreading but would be very difficult and hazardous to implement. Further effort is needed to raise companies' awareness of their exposure and IP-related risks.

Policy roundtable

24. Different private mechanisms are currently emerging providing a variety of services to intellectual property holders, -value assessment, logistic and other intermediary services, insurance mechanisms for enforcement and litigation risks-, etc., to facilitate monetisation of patents and ensure maximisation of their economic value. This conference has revealed that the configuration of the IP and technology markets is currently taking place and further support might be needed to foster their development. There is ample room for public policies which would make the IP market more transparent and foster further exploitation of IP assets by firms.

25. Mr. Dominique Guellec (OECD) served as a chairman of the roundtable on public policy implications. The speakers at this ending session were: Mr. Mark Beatson (United Kingdom), Director of Science and Innovation Analysis; Mr. Yutaka Yoshimoto (Japan), Chief Representative Paris Office of the New Energy and Industrial Technology Development Organisation, Ministry of Economy, Trade and Industry (Japan), Dr. Thomas Multhaup, Deputy Head of Division from the Federal Ministry of Economics and Technology (Germany); Mr. Jean Christophe Troussel, Chairman of LESI (Licensing Executives Society International) European Committee and Head of UIP Linklaters.

26. Public policy propositions drawn out from this concluding session included: *i)* the need to increase IP awareness and management of IP into business innovation processes; *ii)* the promotion of intellectual property management (IPM) practices as sources of value for corporate growth and the need for guidelines for IPM; *iii)* support and assistance regarding innovation management tools for small and medium enterprises (SMEs) and financial support; *iv)* the importance of asset backed securitisation strategies and adoption of financial tools to optimise the value of IP by companies, amongst others. Mr. Beatson stressed the urgent need to link IP management with broader business support mechanisms. The complementarity between patent policies, innovation and antitrust policies remains at the heart of a market oriented policy to foster technology. Mr. Yoshimoto presented the recent experience of Japan in increasing awareness of IP value and their management and emphasized the need to provide companies with standard mechanisms of valuation and guidelines for a proper IPM. He also stressed the importance of further international collaboration for fostering valuation and exploitation of IP in OECD economies.

27. By illustrating the recent experience of Germany, Mr. Multhaup pointed out the effectiveness of financial support programmes for small and medium enterprises (e.g. loan promotion), and the need to

provide other incentives for the financial sector to improve financing of innovative companies, notably small ones. Mr. Troussel noted that it is important for companies to adopt proper financial strategies for the exploitation of IP assets. These include adoption of asset backed securitisation, optimisation of spread of risk over a group of patents, adoption of reliable assets' economic assessment methods, etc. He also pointed out the need to make more efficient the patent litigation procedures in Europe; it is necessary to increase experience by specialised patent judges and thereby, predictability of patent dispute resolutions. Participants coincide however that the effectiveness of any policy package jointly with the development of IP markets will only be achieved through the provision of high quality patents and patent protection procedures. The constant dialogue among stakeholders and policy markets to mitigate inherent risks and obstacles in IP markets remains essential.

Main conclusions

28. Main conclusions from the conference are as follows:

- 1) Patents are used in a variety of ways, corresponding to the variety of business needs and strategies. For instance, start-ups tend to use their patents for raising capital, SMEs more often license-out their inventions, large firms in the electronic industry frequently cross-license significant parts of their patent portfolio etc.
- 2) Market uses of patents, including licensing and monetisation (e.g. securitisation or use of patents as collaterals), are developing. They tend to foster the value created by patents. With these markets, new types of competences and intermediaries are emerging, whose tasks are to facilitate transactions: identify possible deals, assess value, conduct negotiations, enforce agreements, manage risks.
- 3) Various government policy areas are influencing the development of the commercialisation of patents. They include fiscal policy, competition policy, SMEs policy, innovation policy and patent policy itself. These policies should be reviewed in light of their influence on technology markets.

References

Kamiyama S., J. Sheehan and C. Martinez (2006), "Valuation and exploitation of intellectual property", DSTI Working Paper 2006-5, OECD.

Most presentations to the conference can be found on:

http://academy.epo.org/schedule/e_learning/index.en.php