OECD/BIAC Survey on Business Patenting and Licensing: Preliminary Results

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Background

- Purpose
  - Provide qualitative insight into patenting and licensing strategies of firms.
  - Compensate for lack of robust quantitative information on inter-firm licensing
- Implementation
  - Electronic questionnaire developed and tested in collaboration with BIAC.
  - Revised questionnaire distributed by BIAC and national delegates to OECD committees and working parties; made available to firms rather than directed to set of firms.
  - Responses sent directly to BIAC and stripped of identifying information before forwarding to OECD for analysis.
- Deadline extended to 30 September 2003

<www.biac.org>

Distribution of responses

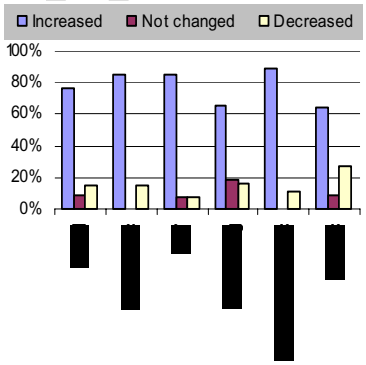
Survey responses by industry and region

Sector	Total Of Firms	Asia-Pacific	Europe	North America
Chemicals (excluding pharmaceuticals)	21	8	11	2
Information and computing technologies	13	0	10	3
Machinery	32	7	20	5
Pharmaceuticals	18	1	12	5
Others	13	1	9	3
Total	97	17	62	18

Responses biased toward large firms: only 20% have fewer than 1000 employees or less than 10 million in annual R&D spending.

Firm-level patenting has increased across industrial sectors

Change in number of patents filed annually by respondent over last 10 years (percent of all responses)



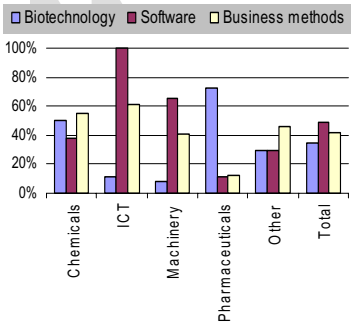
- 75% of firms report filing more patents now than 10 years ago — *despite increased cost of patenting*.
- More so in ICT, Pharmaceuticals and Chemicals (>85%) than in Machinery (65%).
- Growth reported more often in larger (>80%) than smaller firms (<65%).
- More in North America and Europe (>80%) than Asia-Pacific (65%)

Growth due to increased inventiveness *and* changing patenting strategies

- *Inventiveness increasing*:
  - 94% of firms claim that an increase in number of *inventions* is very or moderately important driver; 66% very important.
  - Somewhat stronger in ICT, pharmaceuticals and chemicals (76% *very* important) than in machinery (54% *very* imp't).
  - Strongest in North America (93% very important), followed by Europe (65%) and then Asia-Pacific (43%).
- *Strategy changing*
  - 75% of firms report patenting inventions they would not have sought to patent 10 yrs ago, especially in ICT, pharmaceuticals and chemicals, and outside North America.
  - Number of patents filed per invention has increased (especially in chemicals & pharmaceuticals), as has international patenting.

Changes in patentability have limited effects on research spending

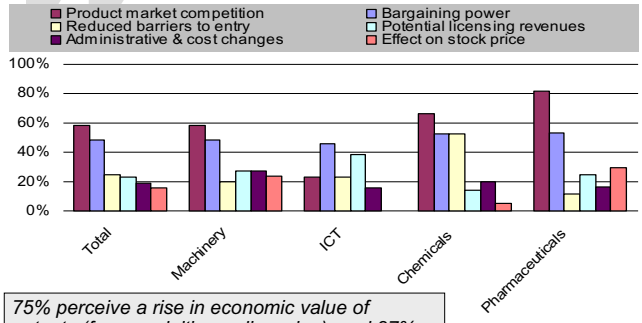
Percentage of respondents reporting an increase in research due to patentability of biotechnology, software and business methods



- Changes in patentability of *software* had largest effect, despite small number of responses from software firms (machinery sector).
- Largest effects for all three technologies in Asia-Pacific region.
- Effects in all three technologies most pronounced in larger firms.

Patenting becoming more effective way of protecting competitive position

Percent of respondents rating each factor "very important"



75% perceive a rise in economic value of patents (from exploiting or licensing), and 87% report higher risk associated with not patenting.

Patent holders are perceived to have more control over their inventions. . .

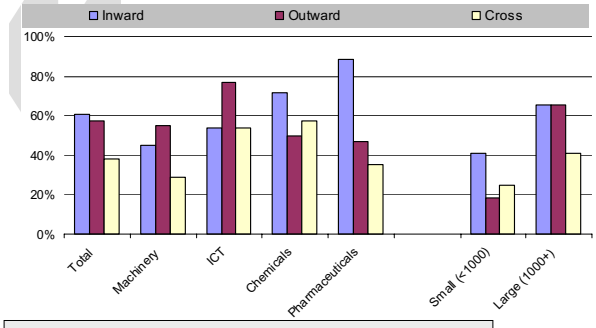
- Firms perceive some strengthening of patent holders' rights, more so in the North America & Asia than in Europe.
  - Especially true in firms' home regions.
  - No consistent sectoral trend across regions.
- More than 70% of firms report growing involvement in patent infringement suits.
  - More prevalent among larger firms (80%) than smaller firms (25%).
  - Increase in all sectors, but strongest in chemicals & pharmaceuticals.
- Over half of respondents report heightened likelihood of competitors' patents blocking research projects.
  - Notably higher in chemicals (84%) & pharmaceuticals (56%) than in ICT (30%) and machinery (40%).
  - More frequent among larger (57%) than smaller firms (23%) .

. . . but patents remain a useful means of diffusing technical information

- More than 85% of firms report that patents are a useful source of information for their R&D strategy.
  - Less true in ICT than other sectors (50% useful and 50% not useful).
  - True in all 3 regions; somewhat stronger in larger firms.
- Utility of information contained in patents has increased modestly (49%).
  - Overall, only 5% report a decline in usefulness; 46% detect no change.
  - Especially in pharmaceuticals (72% report an increase).
  - Higher share of firms from Asia-Pacific report an increase.

Licensing further diffuses knowledge

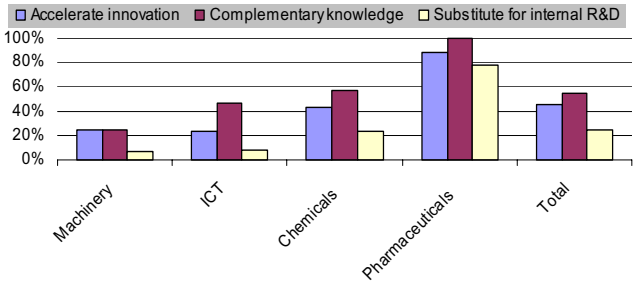
Percentage of firms reporting increased licensing



- Growth in inward and outward licensing stronger in *Asia-Pacific* and *North America*; cross-licenses, in *North America*
- No significant change reported in refusals to license; nor were significant obstacles to licensing identified.

Licensing complements internal R&D

Percentage of firms responding "very important"



Licensing revenues are important or very important to 70% of respondents, but are not a primary driver of patenting strategy.

Looking to the future

- Existing trends are expected to persist.
  - Patents to become more important form of protection.
  - Inward and outward licensing to expand.
- Nevertheless improvements could be made.
  - *Harmonisation* to improve consistency of patent regimes and practices (evaluation, enforcement), in particular, creation of European patent. Some support for a shift from first-to-invent to first-to-file in the U.S.
  - *Administrative reforms* to speed patent awards and reduce costs, especially for SMEs; "lighter patenting system."
  - *Improved quality* of reviews, higher standards, consistency.
  - *Other:* some support for changes in patentability (e.g., business methods and software), greater IP protection in developing countries, etc.