

**PANEL on Priorities for Research on
“Intellectual Property”**

2 Boundary Issues

Patents and (economic) property rights
Patents and Copyrights in Innovation Policy

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G. Stigler (updated from 1972) “perhaps these paper topics are just not important enough for Professors Bresnahan and Seabright to write themselves.”

“Intellectual Property”

- Patents are not (economic) property rights
 - Alchian (1993)
 - “A property right is the exclusive authority to determine how a resource is used”
 - “The fundamental purpose of property rights, and their fundamental accomplishment, is that they eliminate destructive competition for control of economic resources.”
 - Klein (others) property rights => investment
 - Patent – what resource? -- what authority?
 - Scope: Precisely which ideas are covered by a patent?
 - Investment & Scope: precisely which ideas which no one has ever yet had are covered by a patent?
 - Patent lawsuits – destructive competition for control
 - Also see this in copyright lawsuits in, e.g. “secondary liability”

Feasibility of Property Rights Regime For Inventions

- Could there be an appropriability system for invention that looks more like property rights?
 - Tighter link of “right” to resource / less overlap
 - Adjudication not subject to destructive competition
- Pushing patents closer to property rights
 - Disclosure rules contract or rule (e.g. in standards)
 - Learning boundaries between claims faster (e.g. opposition)
- Hits a fundamental problem
 - Land: start with a resource, look for claims on it
 - Inventions: start with claims, try to infer the resource
- My assumption: a property rights regime will work well, if feasible.

Public and Business Policies to Encourage Innovation

- National (or regional, local, world) Innovation Systems
 - Human Capital Formation
 - Many kinds: technical, managerial, marketing (network)
 - Capital markets, taxes,
 - Business climate, regulation, procurement
 - Market selection (vs. national (or regional...) champions
 - Sooner or later have to get to patents!
- Role of patents in a much larger system of incentives for appropriability
- Boundaries between Appropriability Systems
 - Patent / Scientific Priority
 - Patent / build business / trade secret
 - etc.