

Interaction between Intellectual Property and Innovation Systems

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The U.S. Intellectual Property System

- ❑ Held in High Respect Within and Outside the U.S.
- ❑ IP Rights Being Aggressively Extended, Asserted & Enforced
- ❑ Coincides With a Period of Economic High Productivity
- ❑ How Well Does It Support Invention?

Concerns and Criticisms

- ❑ Concern for patent quality
- ❑ Difficulty negotiating patent thickets especially in cumulative technologies
- ❑ Increase in defensive patenting
- ❑ Rising transaction costs
- ❑ Incursions on public domain of ideas
- ❑ Impediments to research

Contrasting Different Forms of IP

	<u>Copyrights</u>	<u>Patents</u>	<u>Trade secrets</u> -
Can you go there? -	YES – except for software’s hidden “source code”	YES – upon publication	NO
Can you stay there?	NO – except for “fair use” of short quotes	NO – not without licensing	NO
Can you do it yourself?	YES – express the ideas differently	NO – the basic ideas are protected	YES – come up with the ideas on your own

Economics of the Patent System

Effects on:	Benefits	Costs
Innovation	<ul style="list-style-type: none">❑ Creates an incentive for research and new product/process development.❑ Encourages the disclosure of inventions.	<ul style="list-style-type: none">❑ Impedes the combination of new ideas and inventions.❑ Raises transaction costs for follow-on inventions.❑ Provides an opportunity for rent seeking.
Competition	<ul style="list-style-type: none">❑ Encourages the entry of new (small) firms with a limited asset base or in early stages of financing.	<ul style="list-style-type: none">❑ Creates short-term monopolies that may become long-term network industries.❑ May be used to maintain a cartel.

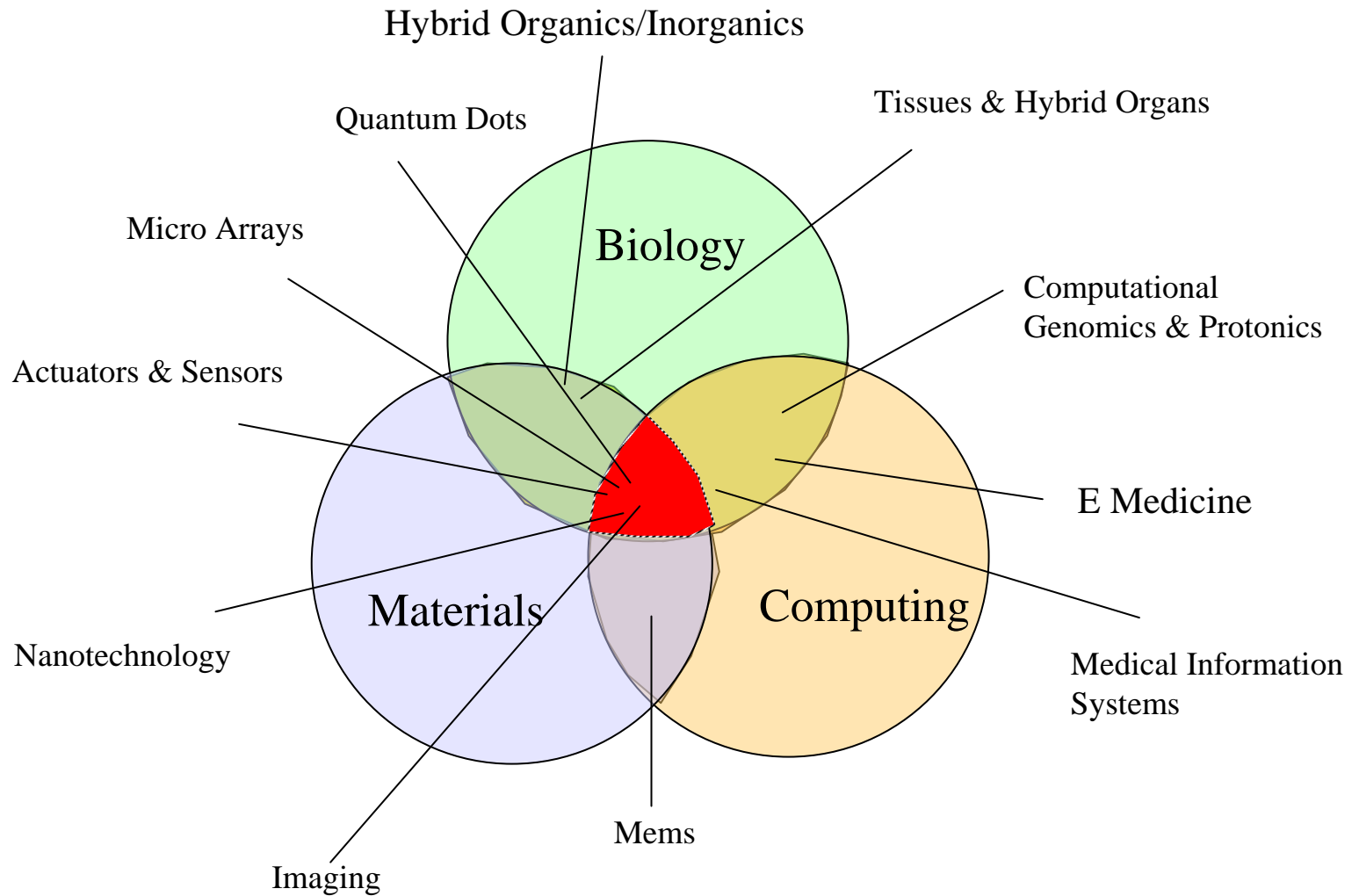
Incentives and Rewards for Invention

- **The Inventor:**
 - **Solving Important Technology in Use Problems**
 - **Professional Reputation, Recognition and Advancement**
 - **Altruism**
 - **Financial Gain**
 - **Intellectual “Currency Within Organization**
- **Patents Are a Secondary Incentive for Invention**
 - **Increased Innovation → Increases in Patents**
 - **Importance Highly Sector Dependent**
 - **Only 10% are Important and 1% Are Seminal**

Incentives and Rewards for Patents

- ***However for the Inventor/entrepreneur Patents Support:***
 - **Opportunity to Start Companies**
 - **Early Stage Funding**
- ***A Form of Insurance***
 - **10% of US Patent Applications Challenged**
 - **2 % of Patents Litigated**
 - **Threat can be extremely high for small firm**
- ***A New Form of Currency for Exchange***
 - **Patents can provide access to needed technology**
- ***A Qualified Option for Future Investment***

Hot Spots of Confluence



Continuing Issues

1. U.S. Patent Reform Act 2005
2. Biotechnology Patent Boundaries
3. Harmonization
4. Developing Nations
5. Science Exemption
6. Proprietary v.s Open Source Software
7. Free Use of IP?