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# IP Strategy

## IP value extraction strategies to realise value

in cooperation with I3PM  I3PM



# Your Speaker – Peter Bittner



Source:  
[www.i3pm.org](http://www.i3pm.org)  
[www.bittner-patent.eu](http://www.bittner-patent.eu)

- Background
  - Diploma in Physics
  - LLM in IP Law and Management
  - European Patent Attorney
- More than 20 years experience in industry (NOKIA, SAP), IP counsel/consultant since 2010
- I3PM International Institute for IP Management:
  - former president
  - current Chairman of the I3PM Advisory Board
- lecturer at the University of Strasbourg
- member of the EPPC subcommittee of epi on ICT/CII

## **Disclaimer**

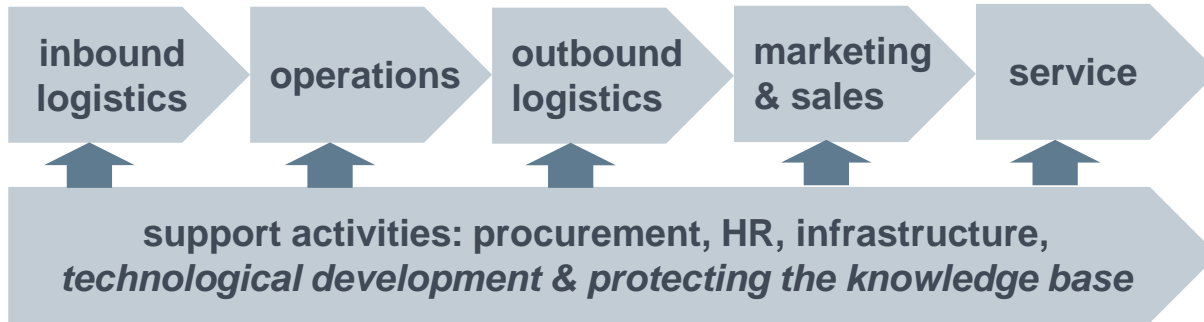
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# IP value extraction strategies to realise value

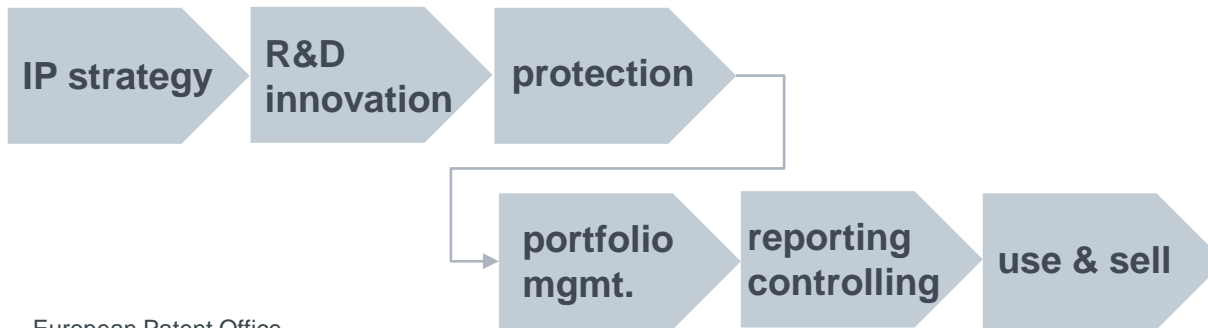
01. Value chains	04
02. Premium price	06
03. Entrepreneurial use	10
04. Revenue generation	14
05. Technology access	19
06. Market opportunities	23
07. Platform control	27

# Value chains in a company

## ■ Primary value chain



## ■ IP value chain



1. Porter, Michael E., *Competitive Advantage*, 1985, Ch. 1, pp 11-15. The Free Press. New York

2. Rowe, Mason, Dickel, Mann, Mockler, *Strategic Management: a methodological approach*, 4th Edition, 1994. Addison-Wesley. Reading Mass

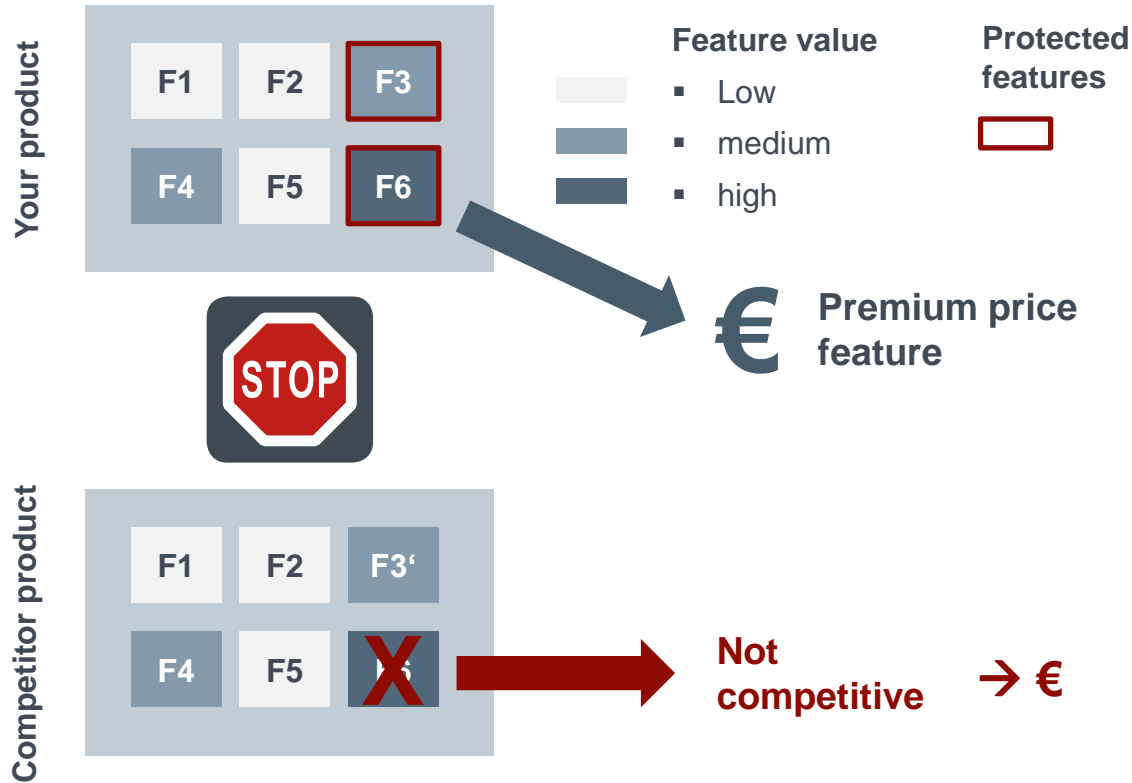
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# Value extraction through premium price



# Premium price supported by IP



# EPO premium price case study: AEROGEN



Aerogen's nebulisers enable liquid medication to be transformed into a fine particle mist, delivering a broad range of drugs deep into the lungs of critically ill patients, which results in drug deposition rates far greater than can be achieved by conventional aerosol technologies.

EPO SME CASE STUDIES | AEROGEN  
<https://tinyurl.com/epo-Aerogen>

- Protected by 14 patent families
- 60 % gross margin platform → strong IP position allows considerable premium to competitors (priced 40 to 50 fold over basic products)
- cheaper products on offer are quite different and generally not patent-protected



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# Value extraction through entrepreneurial use

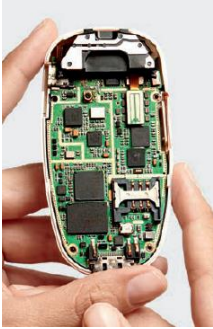


# Entrepreneurial use of IP

Two aspects:

- Attracting investors (unique selling features)
  - ownership → business not easy to copy
  - Increase company value
  - Advertise to potential buyers
- Spin-off opportunities (entrepreneurial use)
  - Use IP for new business
  - Equity based licensing
  - In-house incubators

# EPO entrepreneurial use case study: FRACTUS



The original Fractus invention concerned fractal-based antennae. Today's technology range remains that of antennae and arrays for telecom mobile terminals, communicating wearables etc. These antennae are multiband and miniaturised and have low visual impact.

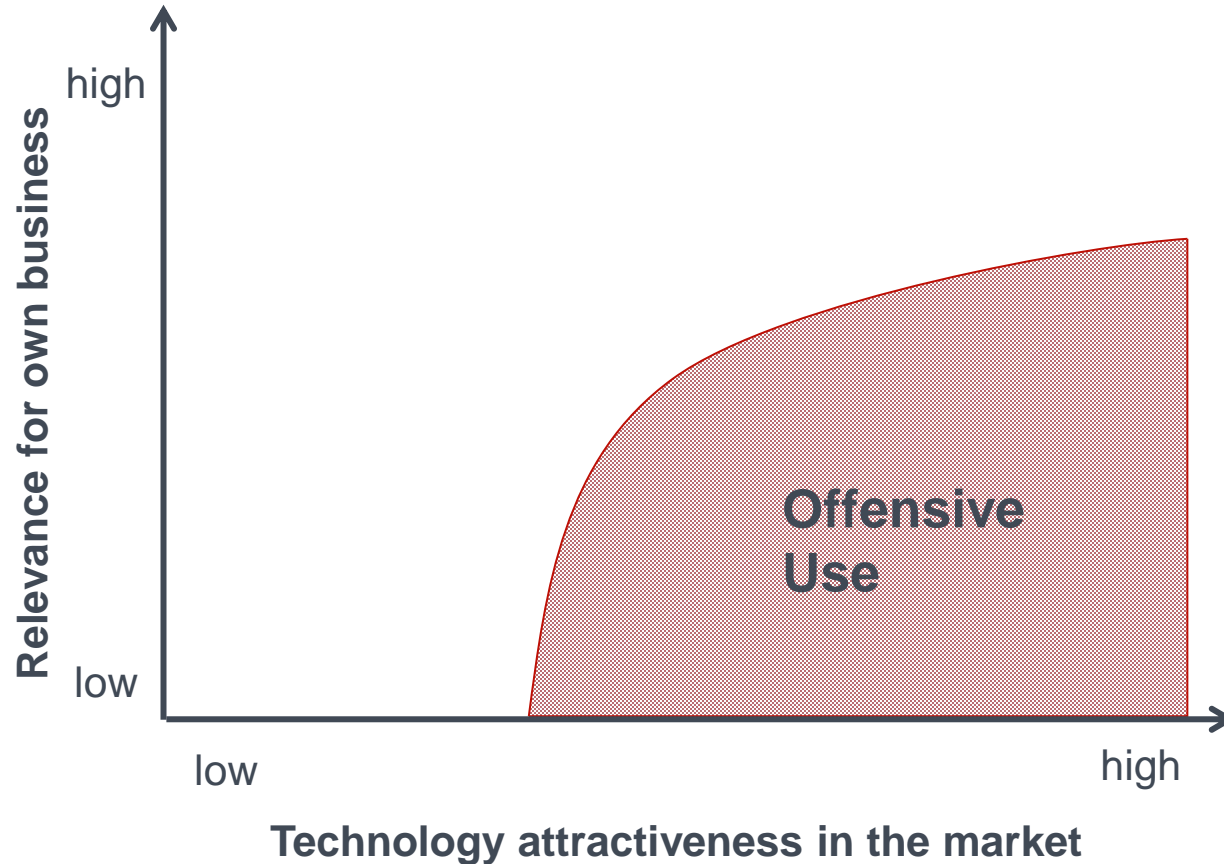
**EPO SME CASE STUDIES | FRACTUS**  
<https://tinyurl.com/epo-Fractus>

- over 120 granted patents/ patent applications worldwide
- 90 % of company revenues from licensing
- 10 % from sales of products and services
- IP portfolio became major asset for attracting new capital equity crucial to its turnaround, and its future

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# Value extraction through revenue generation



# Revenue generation with IP assets

- commercialisation of IP assets for income generation
  - only commercialisation option for research institutes/universities → find licensees, cooperation
  - Larger companies: licensing revenues often as secondary goal (besides protecting the primary value chain)
  - Business model for patent assertion entities (PAEs)

# EPO revenue generation case study: MARINOMED



Marinomed develops additional influenza treatments and combination therapies for asthmatics and other high-risk patients. The MARINOSOLV technology enables stable aqueous solutions of substances for novel treatments against type I allergies.

EPO SME CASE STUDIES | MARINOMED  
<https://tinyurl.com/epo-Marinomed>

- 3 main patents validated in almost 100 countries
- trade mark registered in around 50 countries
- dual IP exploitation approach
- license to produce, market, distribute product  
→ upfront payments & running royalties
- distribution partnership in a defined geographical territory.



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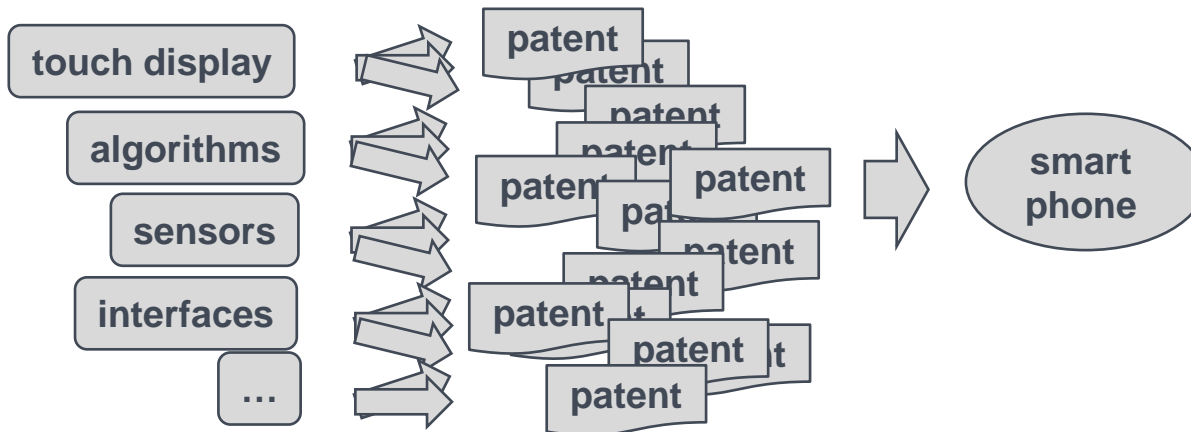
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# Discrete vs. complex-cumulative technologies

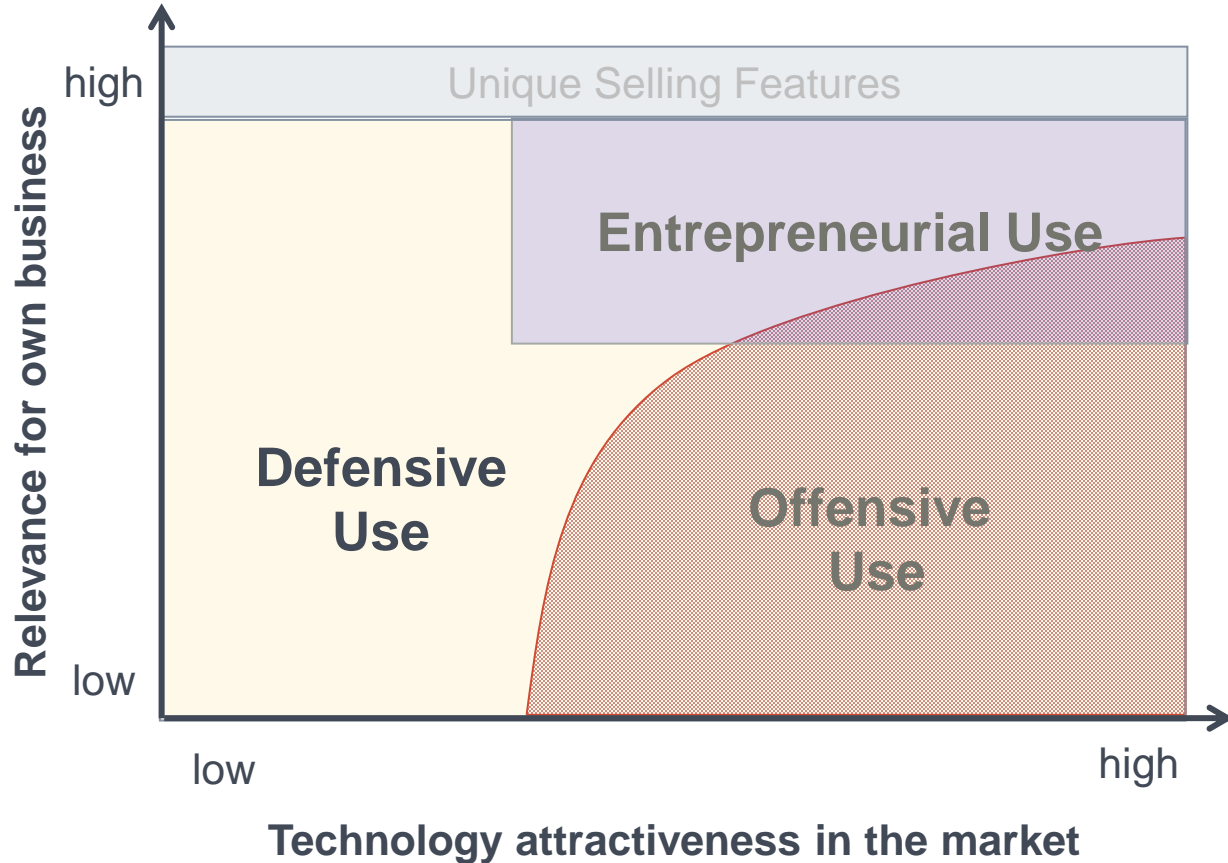
- discrete technologies (e.g., Pharma/ Chemistry)



- cumulative and complex technologies (e.g., IT)



# Value extraction through technology access



# Technology access and FTO

- Gaining access to 3rd party technology
    - Providing access to your own technology for getting access to others' technologies
    - Example: cross-licensing of Patents
  - Balance payment
    - Respect the other party's IP and reward the more valuable portfolio accordingly
- Improving negotiating position to enter or stay in markets with fragmented IP landscape

# EPO technology access case study: WEBDYN



Webdyn invented a method for connecting an electronic system to a communications network through an access provider, such as the internet, and a gateway which allows to manage remote, electronic equipment using standard IT tools.

**EPO SME CASE STUDIES | WEBDYN**  
<https://tinyurl.com/epo-Webdyn>

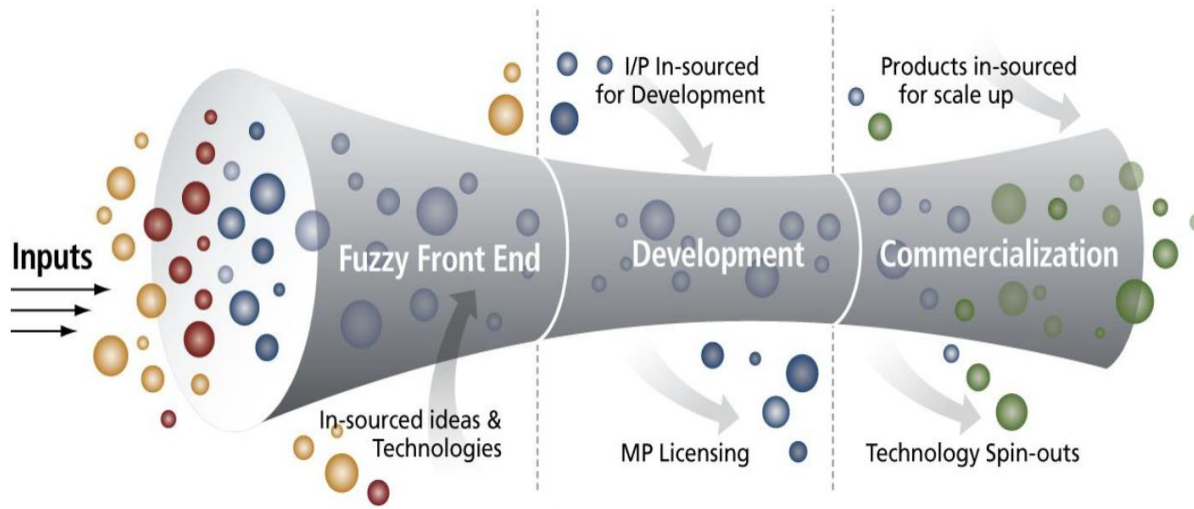
- only a single patent protecting one of the core intangible assets of the company
- customers held early technology patents in Webdyn's field of operation → infringement
- customer's products a number of potential overlaps with Webdyn's patent → combine forces to benefit from each other's patent protection

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# Value extraction by leveraging market opportunities

- Open innovation and collaboration
  - Broadening your technology basis
  - Broadening your potential market reach

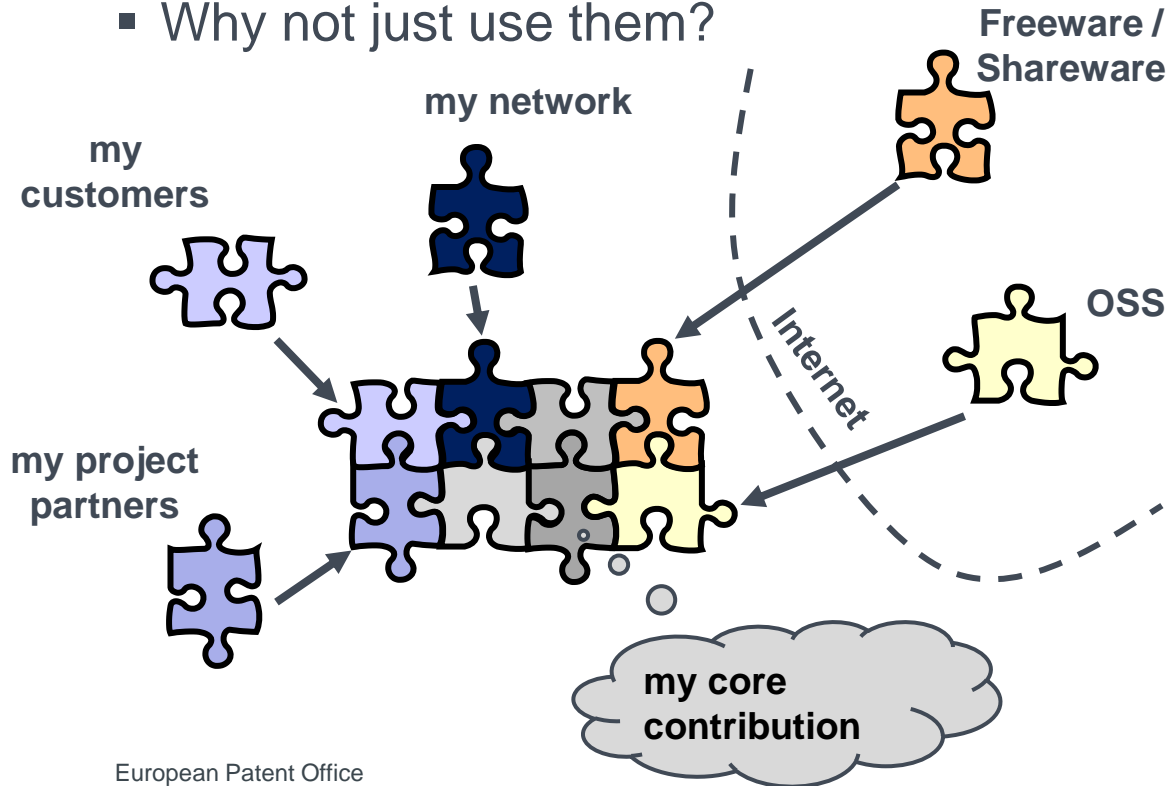


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Source: M. Docherty, Venture2 Inc. (with concepts adapted from the book by Henry Chesbrough, Open Innovation: The New Imperative for Creating and Profiting from Technology, Harvard Business School Press, 2003)

# Open Innovation ≠ Self-Service Innovation

- Most things are available somewhere
- Why not just use them?





# Open Innovation example case: Mozilla

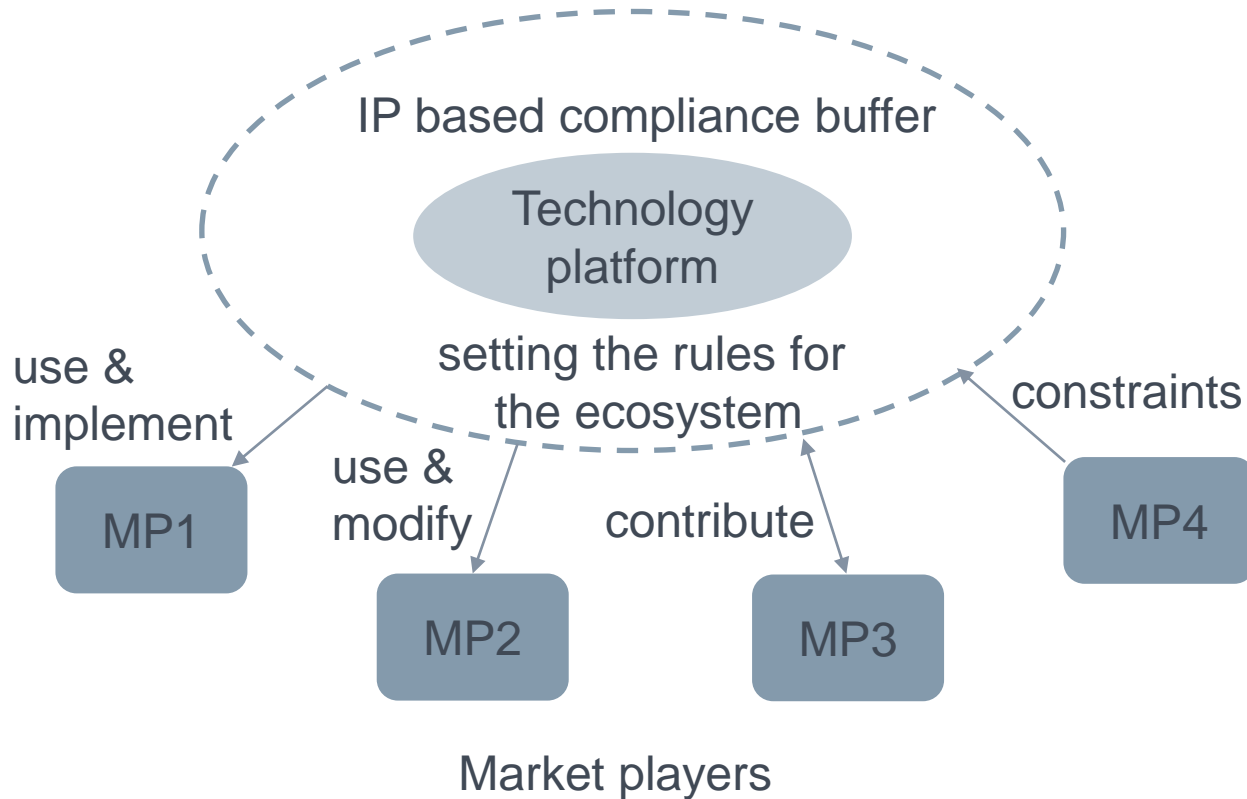
- Mozilla has been bringing together software companies to encourage development and adoption of new, open, and royalty-free tech standards
- without related patents → extremely difficult to persuade companies to openly license their patents or adopt standards based on Mozilla technology
- obtaining patents gave leverage in these discussions, and presented another benefit for open innovation by helping ensure that this work would not be overlooked by the patent office's prior art searches
- MOSPL v1 grants everyone the right to use Mozilla patents in exchange for a guarantee that they won't offensively accuse others' software of infringing their own patents and license own patents royalty-free to all open source software projects.

Source: *Creating opportunities for Open Innovation through Patents*  
<https://blog.mozilla.org/netpolicy/2015/11/02/creating-opportunities-for-open-innovation-through-patents/>

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# Value extraction through platform control



# IP based control of LTE ecosystem

- Competing and complementing patent pools
  - Sisvel's LTE/LTE-A patent pool <sup>1</sup>
  - Via Licensing's LTE™ patent pool <sup>2</sup>
- different technical scopes → only partial control of the ecosystem for the LTE standard
- nondiscriminatory access to LTE essential patents
- pools remain open to new patent owners
- many patents owned by patentees not having joined the patent pools

→ Only fragmented control for certain technology aspects of LTE

1. <https://www.sisvel.com/licensing-programs/legacy-programs/lte-lte-a/introduction>

2. <https://www.via-corp.com/licensing/long-term-evolution-lte/>

# IP based control of the Android ecosystem

- Android is Open Source → everybody can use and modify Android as long as the Open Source license conditions are fulfilled
- How can Google keep control of the Android ecosystem?
  - manufacturers need a licence to install Google Mobile Services (Gmail, Google Maps, Google Play) along with Android trademarks
  - GMS licence is free but can be refused if devices do not meet Google's compatibility standards specified in the Android Compatibility Program<sup>1</sup> document
  - any company producing an Android device needs a certificate from an authorised testing facility in order to apply for the licence → fees



Source: *The hidden costs of building an Android device*;  
<https://www.theguardian.com/technology/2014/jan/23/how-google-controls-androids-open-source>

1) Obtainable from:  
<https://web.archive.org/web/20140304103236/http://static.googleusercontent.com/media/source.android.com/en/us/compatibility/android-cdd.pdf>