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The Future of IP and the impact on Teaching and Learning Activities

Guy Carmichael,
European Intellectual Property Teachers' Network Workshop,
Newcastle Law School,
30th June 2008



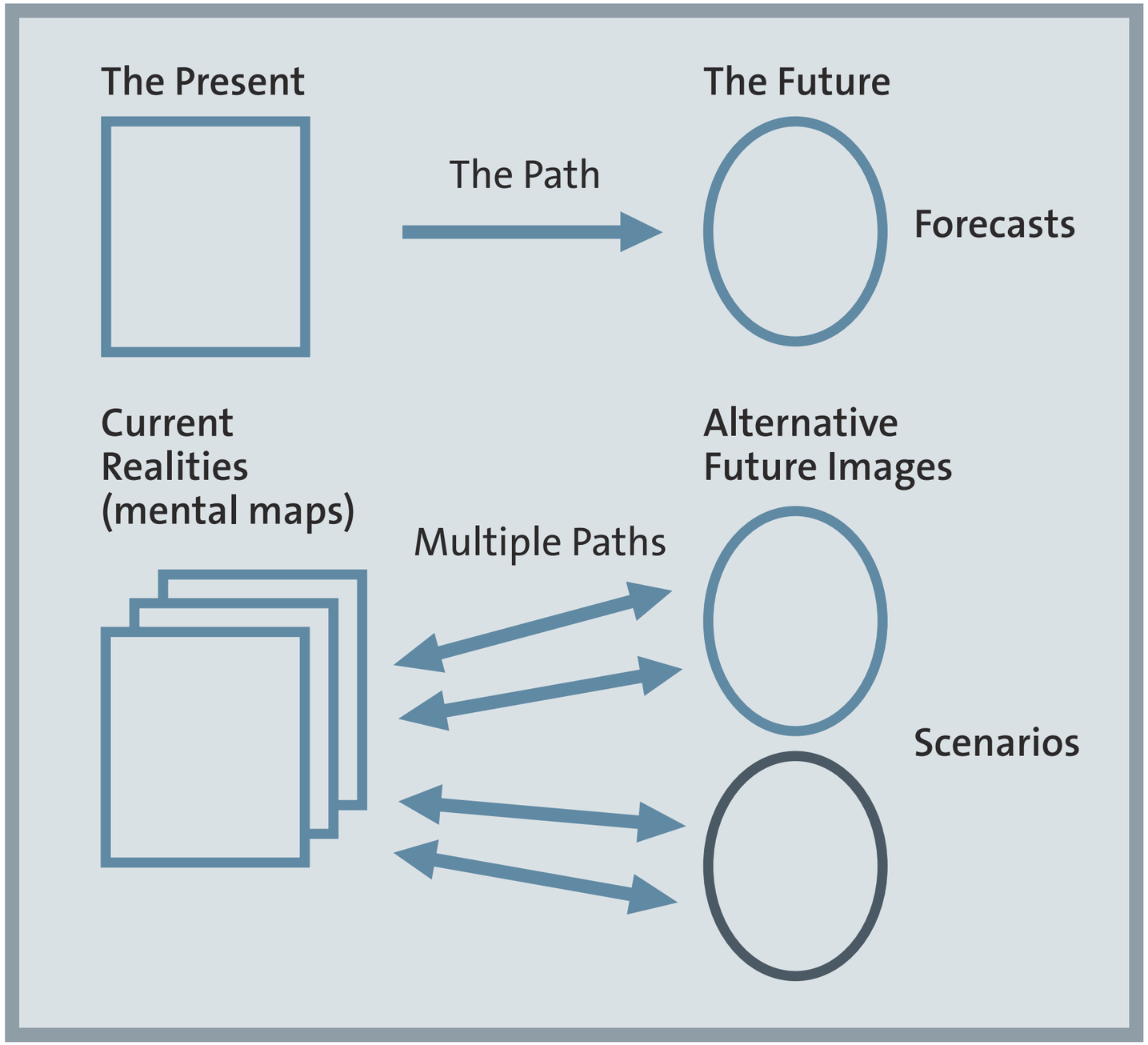
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SCENARIOS FOR THE FUTURE

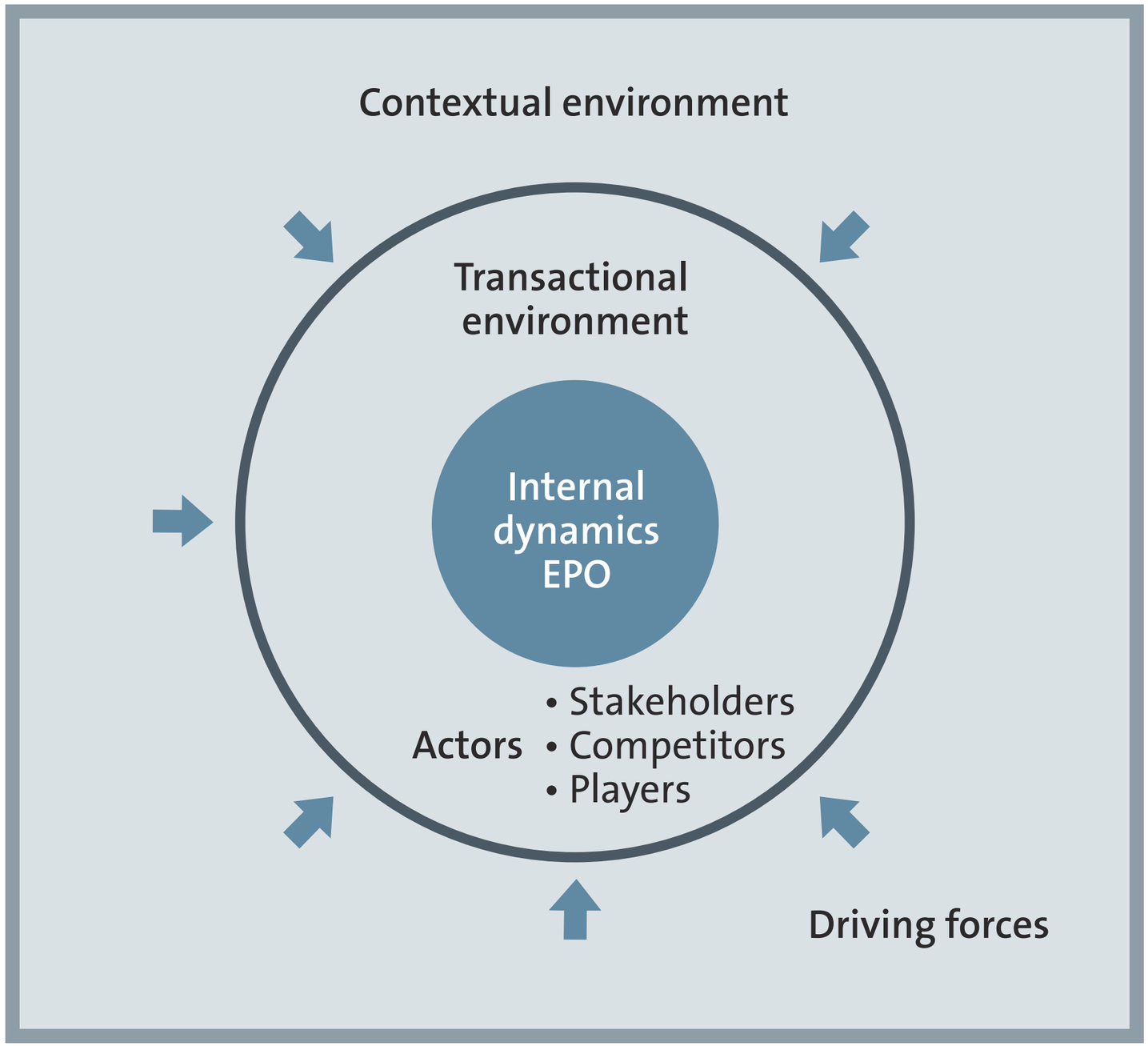
How might IP regimes evolve by 2025?
What global legitimacy might such regimes have?



SCENARIOS vs. FORECASTS



THE ENVIRONMENT BEYOND ORGANISATIONAL CONTROL



Source: van der Heijden K. (1996) The Business in its Environment. Scenarios: The Art of Strategic Conversation, Wiley

WHY SCENARIOS?



Source: BenFrantzDale, http://creativecommons.org/licenses/by-sa/2.5/

Scenarios are like ‘wind-tunnels’ to test thinking

THE FOUR SCENARIOS

Market Rules – Business as the dominant driver

The story of consolidation in the face of a system that has been so successful that it is collapsing under its own weight.

Trees of Knowledge – Society as the dominant driver

The story of erosion in the face of diminishing societal trust.

Whose Game? Geopolitics as dominant driver

It’s the story of conflict in the face of changing geopolitical balances and competing ambitions with nation states the key players.

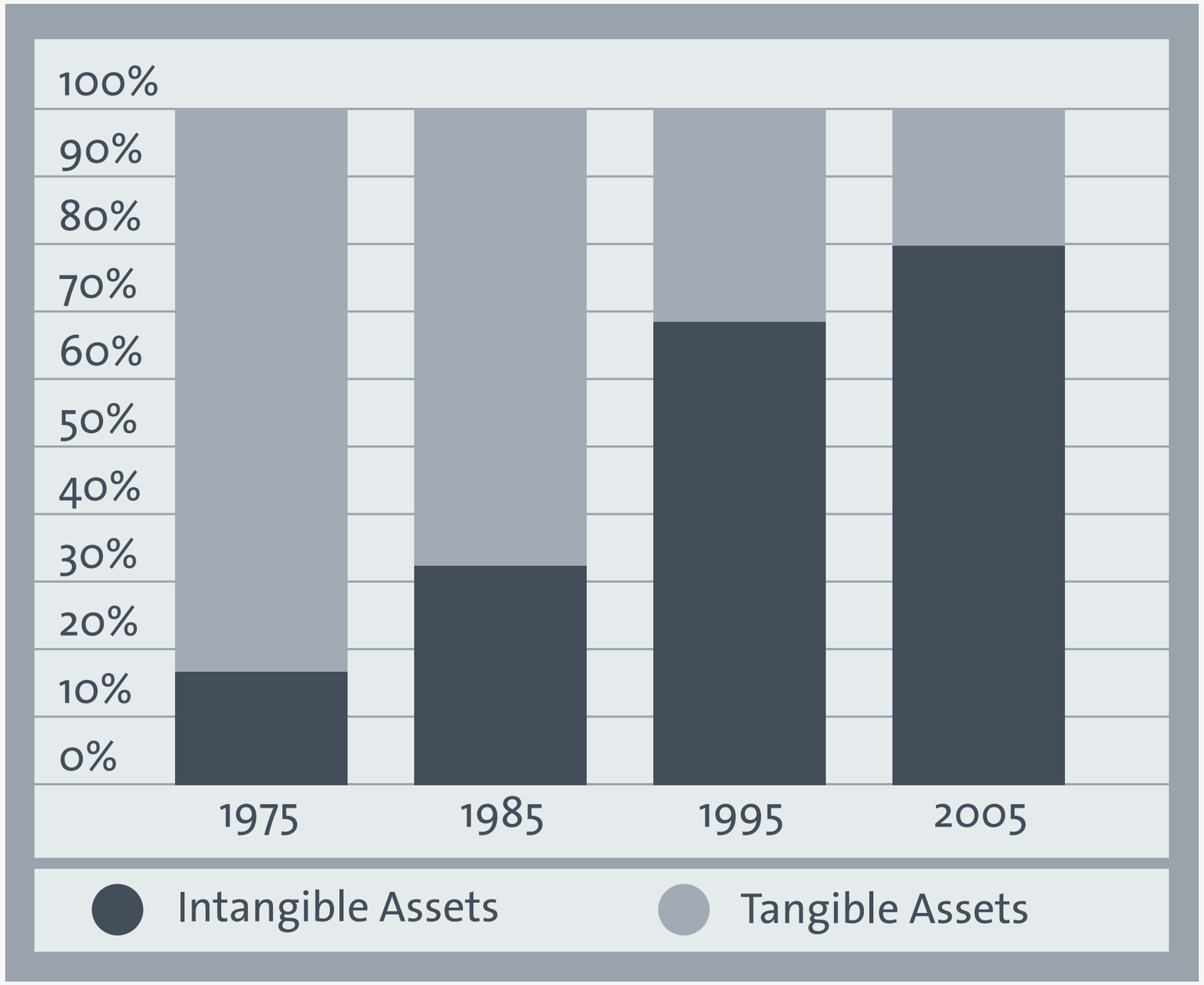
Blue Skies – Technology as dominant driver

The story of differentiation in the face of global systemic crises.

MARKET RULES

The story of consolidation in the face of a system that has been so successful that it is collapsing under its own weight.

Components of S&P 500® Market Value



Source: Ocean Tomo

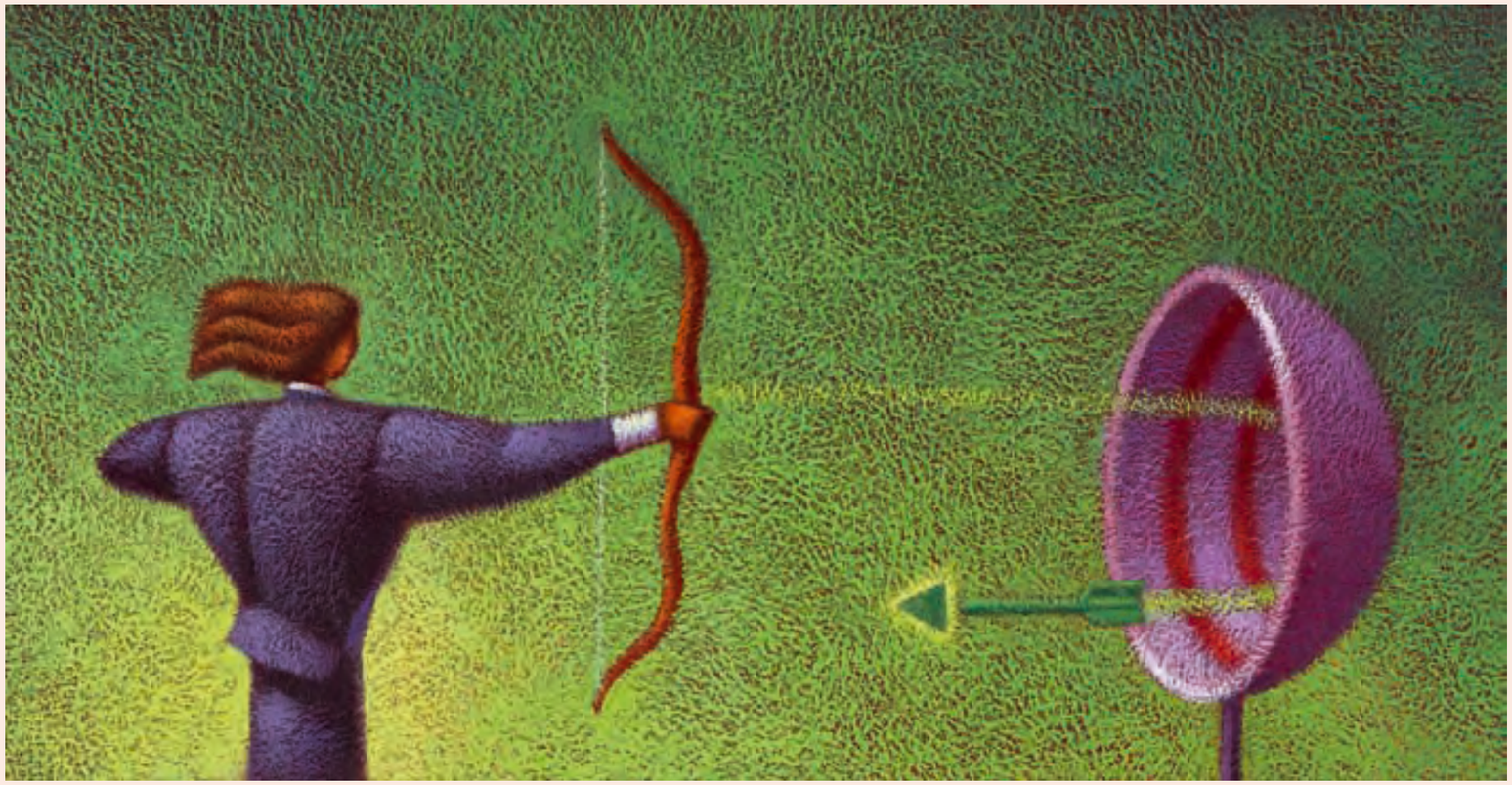
IN 2025...

- **Workload!**
- **Harmonisation**
- **Valuing patents**
- **‘Innomediaries’**

WHOSE GAME?

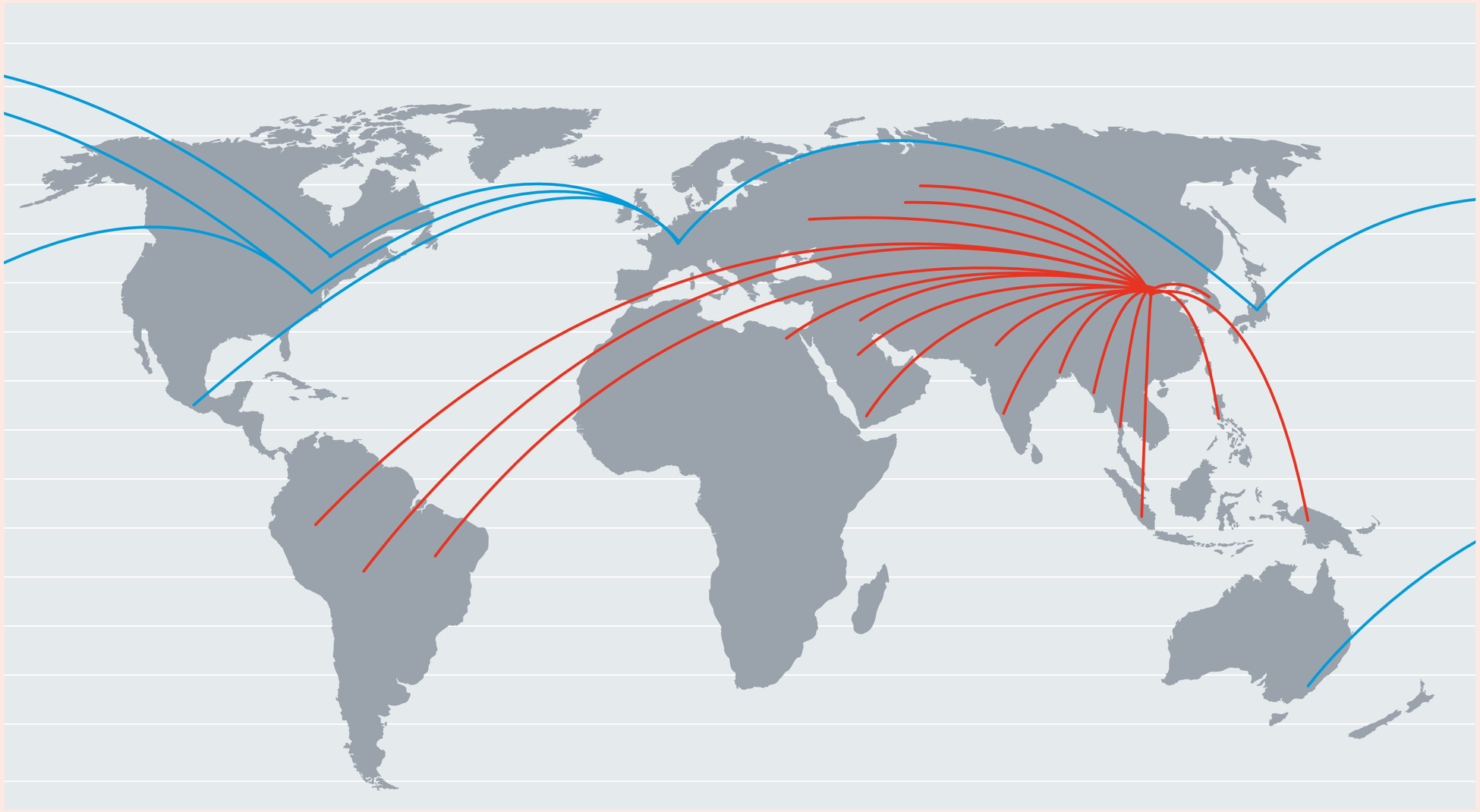
The story of conflict in the face of changing geopolitical balances and competing ambitions, with nation states the key players.

Globalisation is backfiring as things turn around and the powerful new entrants use IP as a pawn in a world game for hegemony.



> **Within the next 40 years, some of the most major innovations will come from elsewhere – outside the West. For the moment, the West is lucky that they don't have IP protection. But within 40 years you can imagine that the great scientific cures and great IT innovations are going to come from other regions.**
>
> **Kenneth Cukier**, *The Economist*

How the trade and IP systems could fragment into two blocks



Global trade routes become split into North and South fractions with high barriers between them

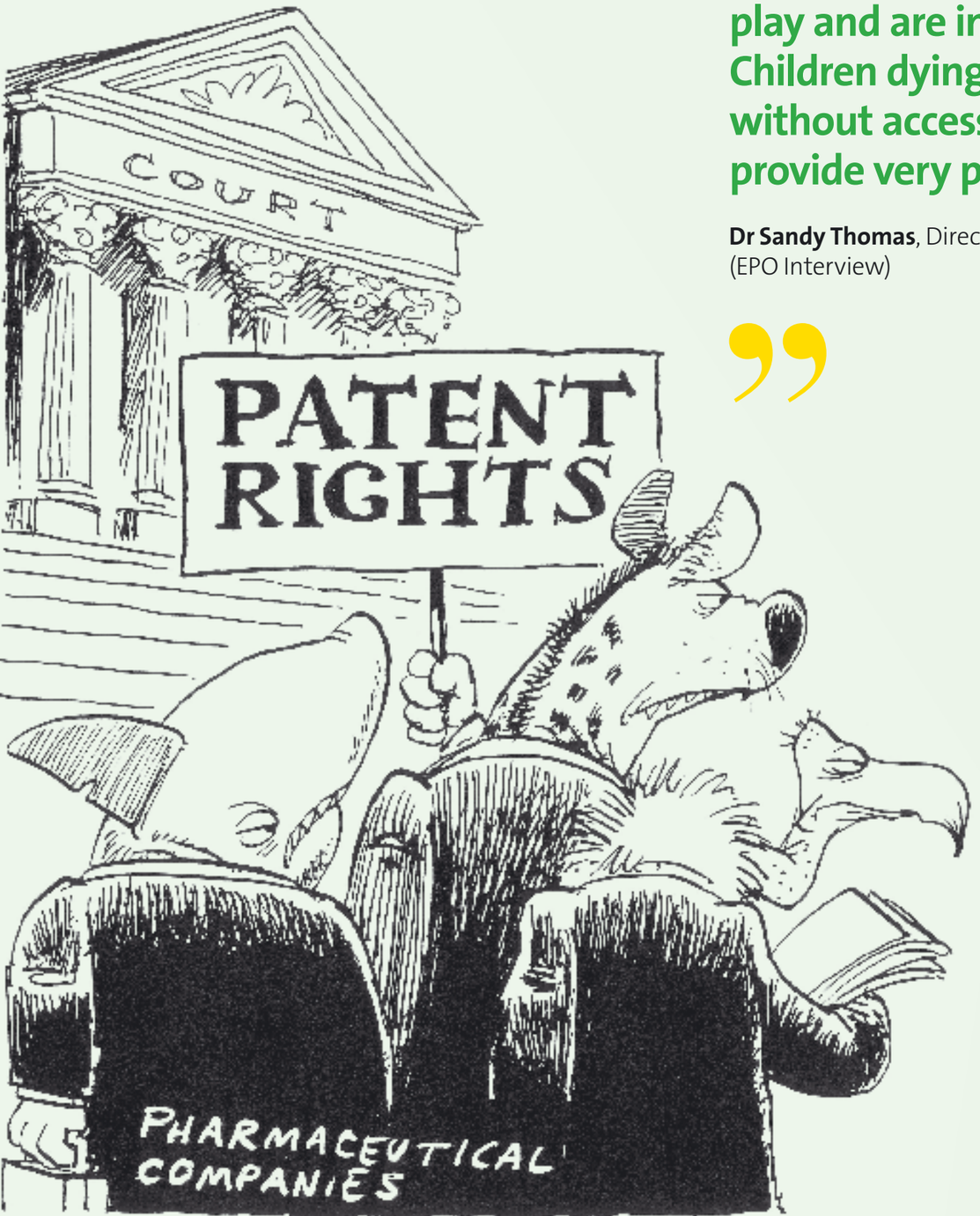
‘The Club’
Southern Alliance

IN 2025...

- Two dominant trading blocs – Atlantic and Asia/ Pacific – with rival IP regimes
- Richer ‘outsider’ nations cut their own deals; poorer ones suffer, or simply bypass IPR
- Asia’s revenues from IP licensing abroad are now huge; but collaborative, open innovation at home helps Asian economies grow faster
- Global enforcement systems wither after TRIPS loses virtually all relevance

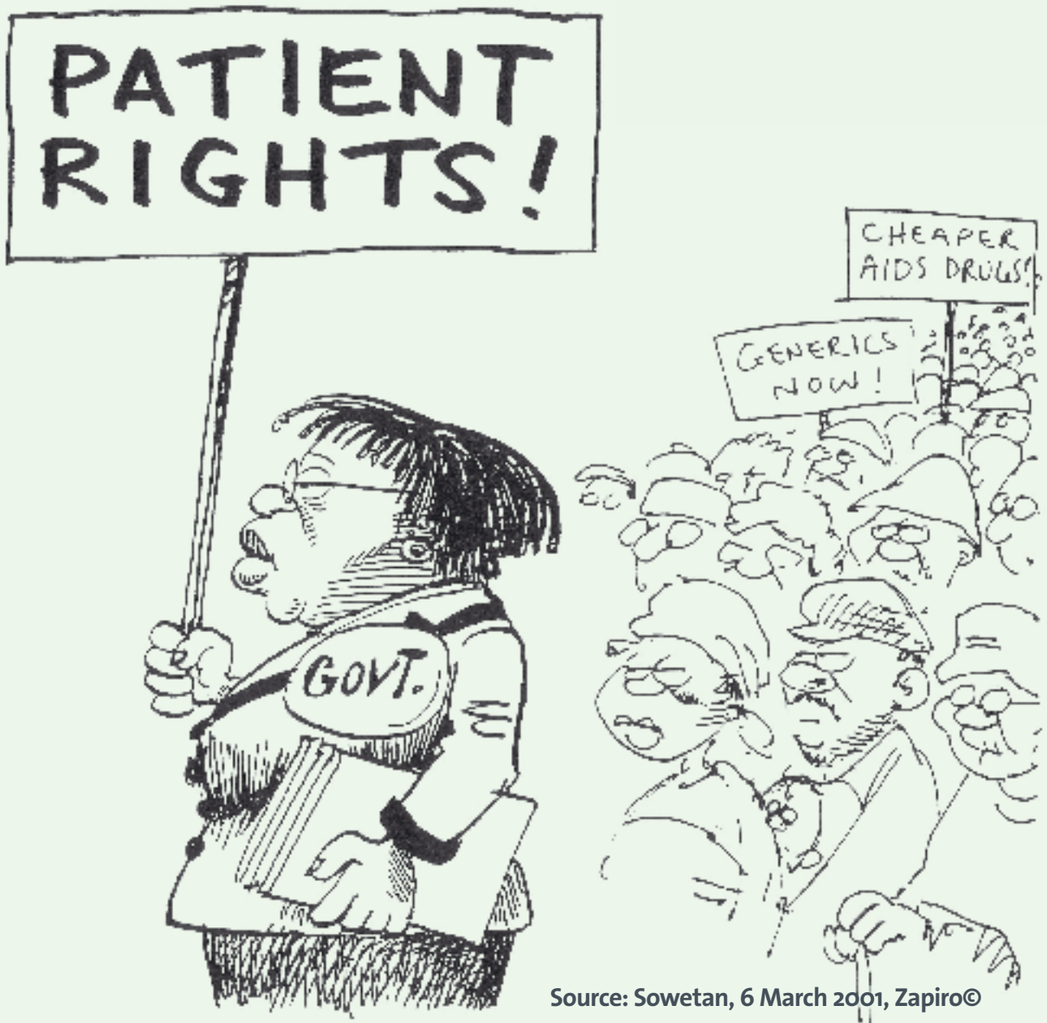
TREES OF KNOWLEDGE

The story of erosion in the face of diminishing societal trust.



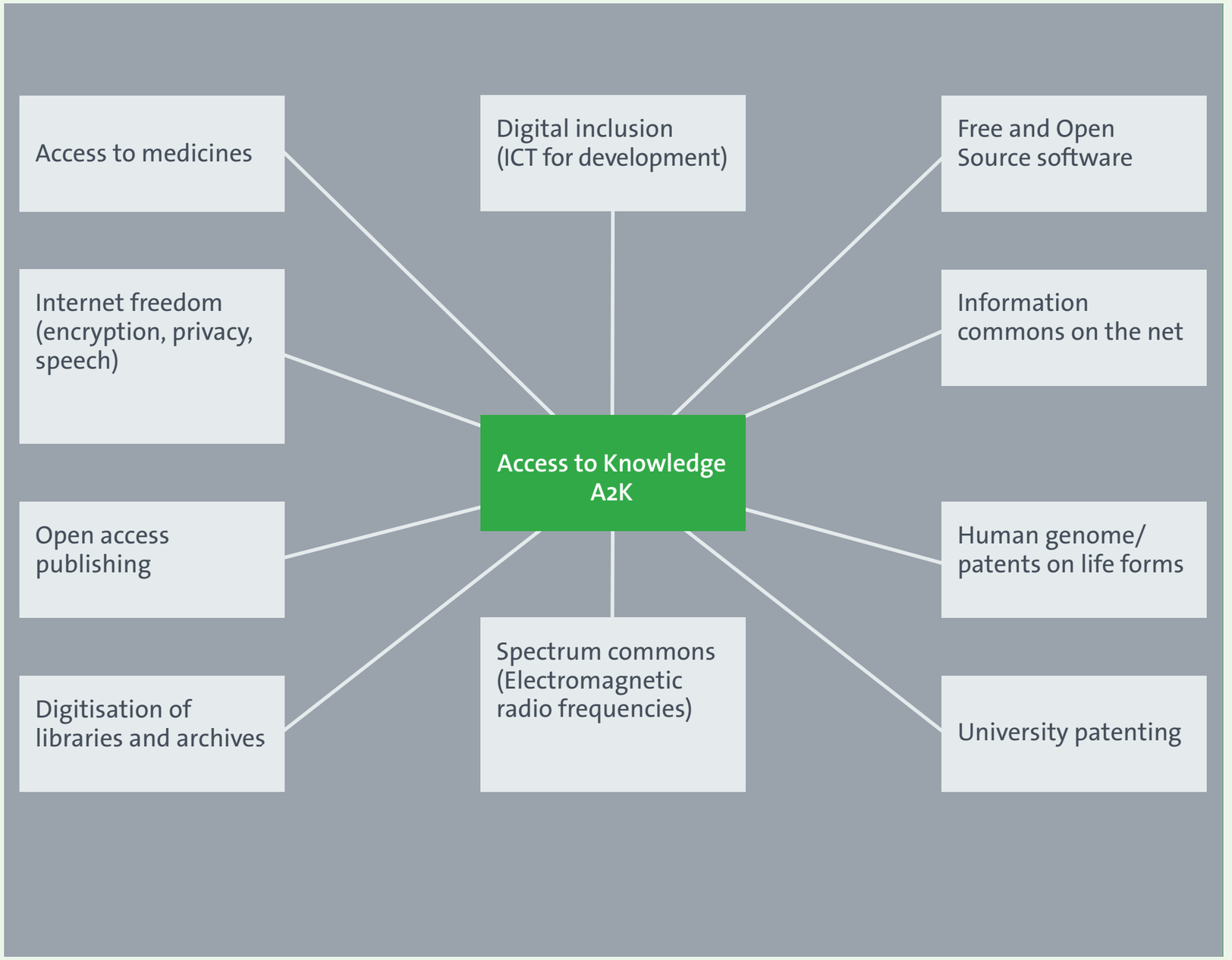
The greatest challenge for the patent system will be convincing society that patents have a role to play and are in the public interest. Children dying on the streets without access to medicines provide very powerful symbols.

Dr Sandy Thomas, Director, Nuffield Council on Bioethics (EPO Interview)



Source: Sowetan, 6 March 2001, Zapiro©

Joining forces



Source: Yochai Benkler (2006), the idea of access to knowledge

IN 2025...

- **Patenting is all but abandoned; even copyright is much reformed**
- **Innovation is fostered by open source networks, peer review, NGO funding and state-sponsored rewards for research**
- **Businesses rely on secrecy, first-mover advantage and brand loyalty to exploit innovation in IP**

BLUE SKIES

The story of differentiation in the face of global systemic crises.

If one takes mobile and telephony communication systems, everyone wants systems to interoperate but when there is too much patenting around the elements that need to be interoperable, patents will inhibit the progress of the internet and those other things that society wants to develop. We need some restraint on patents in the areas where people communicate.

Roger Burt, Intellectual Property Law Counsel, IBM Europe
(EPO Interview)

2 February 2006



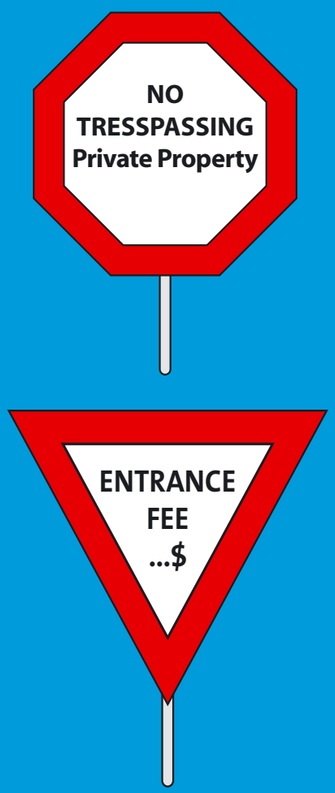
BlackBerry shutdown was expected to lead to the closure of 138 US Government agencies, including the CIA, the Army and the National Security Agency.

IN 2025

The patent system has split:

The current regime still applies to most classic industry sectors

Soft IP (License of right) applies to new complex technologies



IP WORLD IN 2025

Market Rules
Rationalised in the face of ever-increasing numbers

Trees of Knowledge
Societal pressures shrink patent system

Whose Game?
IP becomes a pawn as geopolitical stresses rise

Blue Skies
Patent system split as IP needs of different industries diverge



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[Thai Economics Library | Archives| Currency Crisis 2007| Entrepreneurs]

April 27, 2007

Intellectual property or saving lives?
The Thai battle over affordable drugs, part III (27-04-07)

By **Jon Fernquest**

[Introduction|Vocabulary|Article]
[Reading Questions|Answers]





Compulsory licensing of AIDS drugs by the Thai government generated a **flurry** of news articles earlier this week.

Yesterday, there was a sudden **surge** of more articles.

Read about Bangkok protests against pharmaceutical giant **Abbott Labs**.

Professor of Law Brook K Baker clearly explains what Thailand's rights under the **TRIPS** intellectual property agreement of the **WTO** actually are in today's article.

Concerned Thai citizens can sign an open letter to Abbott Labs protesting recent actions to **thwart** Thailand's efforts to ensure access to AIDS drugs to poorer citizens.

One can also read further attempts by Intellectual Property lawyers (from a law firm under hire to large pharmaceutical corporations) argue against **compulsory licenses** for AIDS drugs.

Words to describe **defective argumentation** are prominent in today's article and are covered in the beginning of today's vocabulary.

Read the collected articles on healthcare in Thailand.

Reading Questions

Here are some questions to guide your reading (See

Soft IP Community Patent

- Applicant applies via EPO in official language
- On grant by the EPO, Applicant chooses:
  - **Community Patent endorsed Licenses of Right, or**
  - **National patents in selected countries**
- On grant if selected Community Patent (endorsed LOR) no translations required and single Community Patent with one renewal fee
- If national patents selected translations required and injunctions available before national courts
- May specify on filing if licenses of right (LOR) available. If endorsed LOR then Community Patent –
- LOR cannot be revoked

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Yale A2K2 Conference

Yale Law School, New Haven
27 – 29 April 2007

A2K as a Social Movement

Examining the Movement's possible Future Characteristics and Impact through Scenarios for the Future

Sisule F. Musungu
University of Berne

The EPO Scenarios Project

- This is a project which started in 2004 initially as a small exercise within the EPO meant to consider what the patent system might look like in 20 years to help the EPO identify the threats and opportunities. The final product, however, turned out to be a compendium of excellent research and four scenarios examining the possible future of not only the patent system but the IP system more generally. The scenarios were first presented at the European Patent Forum on 18th April 2007.

- The scenarios were developed based on:
  - A set of over 100 interviews with leading players on IP.
  - Significant research on various issues.
  - The thinking of a group of scenarios builders in the EPO who synthesised the interviews and research to develop the scenario stories.

- Though the scenarios are different, each of them raises different questions that are relevant to the A2K movement.

Applying the Scenarios to the Future Strategies for the A2K Movement

- The scenarios, if you avoid taking them as predictions, should help the A2K movement to prod more deeply the questions and issues that face us today and consider not whether something will happen but what the movement would do it things happened in a particular way.

- While the key issues and questions as well as the debate that the EPO scenarios are built around have been with us for sometime now, re-examining the issues through the lenses of the scenarios should provide everyone with much food for thought and hopefully spur a more meaningful debate regarding the future.

Applying the Scenarios to the Strategies for the A2K Movement

- The Trees of Knowledge Scenario clearly helps to bring home the point that there is enormous power that comes with leveraging new technological tools to create global communities that are representative but transcend the usual North versus South, business versus civil society, government versus non-government, local and national versus international dichotomies which is what the A2K movement is and should be.

- But at the same time, the other scenarios remind us that better and continuous conceptual and strategic thinking about the movements past, its aspirations, questions around conceptual coherence and most importantly how to leverage an interconnected, yet fragmented world community in an uncertain world, is key.

- In conclusion, I would argue that in addition to the tools we already have for thinking about strategy and mobilising the movement, the scenarios (the EPO Scenarios) provide us with an additional tool for thinking about how to mobilise constituencies.

http://www.epo.org/topics/patent-system/scenarios-for-the-future.html

