

FIR morgenmøde
**15 years of Open
Innovation**

What is it? The challenges
& role of the legal advisor?

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Program

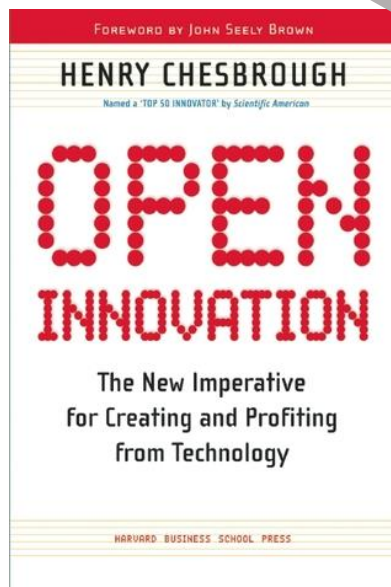
- "Openness"
- Open innovation
- Patent pledges

Openness all over the place

	<i>Origin</i>	<i>Key feature</i>	<i>Accepting of IP</i>
<i>Open Science</i>	Eco/social Science, Norms of Science	Making research data available	Copyright – recovery of costs Patent – No
<i>Open access (A)</i>	Universities / funding bodies	Digital availability of Scientific publications	ibid
<i>Open source</i>	Software industry/communities	Online software development	Copyright to organize rules of engagement
<i>Open access (B)</i>	Software industry/communities	Online software development	No – cultural norms for achieving open access
<i>Open Patenting</i>	Biotech industry	Allowing use of patented DNA, Organisms	Patents to organize rules of engagement
<i>Open innovation</i>	Corporate Organization theory	Corporations collaboration – R&D beyond external perimeters	Yes – all forms: Transfer of knowledge organized and incentivised via IP

*Source: Conference presentation, 20. nov. 2017,
Kathy Lidell & John Lidicott,
University of Cambridge, UK*

Where did "Open innovation" come from?



Secondary innovation markets

Reassignment of patents
(1% – 4%)



Securitization
(15% – 23 %)

Stronger IP protection
(30% to 68 % upheld at ITC)



Observations

Texas Instruments
50 % revenue from
patent licensing

Polaroid: 900 mill
USD patent
settlement from
Kodak

IBM: Expanding
patent portfolio
and proactive
assertion of it

4 points of attention for R&D management in OI

**Implications of IPR-
landscapes**

**Information paradox &
contamination**

Scouting

Value chain

Solutions & issues coupled to the OI approach

Data aggregation &
transparency

Institutions

Ecosystems



"I think he [Elon Musk] deserves more attention than we have given him. In terms of the underlying business model and what he's doing, it's something we need to understand much better."

(Sergio Macchinne, CEO, Fiat Chrysler automobiles)

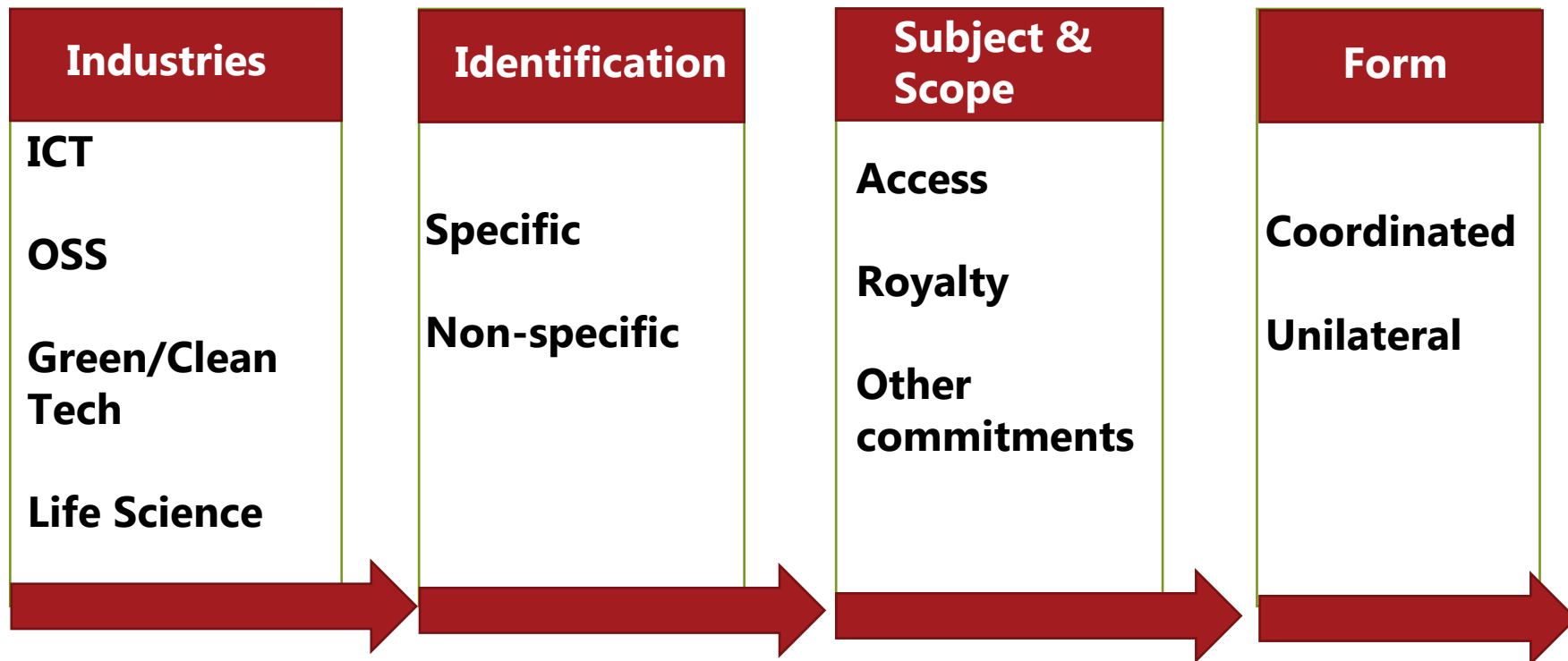
Managing R&D with pledges

Finding somewhere in between



<https://www.youtube.com/watch?v=1sxNy0qQDkU>

What is a patent pledge?



Why make a patent pledge?

Collective action

Inducements

Voluntary restraints

Philantropy

Relying on a patent pledge....

**Equitable
servitude**

**Promissory
Estoppel**

Contract Law

Antitrust

**Market
expectations**

Patent misuse



Learning points for the IP/Legal advisor

- Reactive – Proactive?
- Risk – Motivation? (Benkler, 2017)
- Aggregation, access & transparency? (Rai, 2017)

Thank you

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