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Patent Policy and Innovation:

Priorities of the Business and Industry Advisory Committee to the OECD

Patent rights are a critical device for spurring innovation and disseminating knowledge embodied in a product or process. Public policy toward patents is therefore a critical policy tool in the knowledge-based economy.

Unfortunately, much current attention on patent policy is wrongly focused. The perceived opposition between strengthening patent protection and enhancing technology transfer is a false dichotomy. It is confusing to present the policy challenge as a “balance” to be struck between promotion of innovation and diffusion of knowledge by means of circumventing patent protection. Quite to the contrary, the combination of a time-limited protection from copying with an obligation on the inventor to make public the invention can represent in itself the balance that is being sought. However, the form of that balance does depend on the nature of that invention. Therefore:

- Strong and effective patent protection is a particularly powerful incentive for firms to invest in generating new technology in sectors where the returns to technological investment are very long term and involve high risks and where the invention may be easy to copy.
- Patent protection is a market-based mechanism for disseminating knowledge and is an effective way to promote the diffusion of knowledge in the long term.
- Policies and approaches that appear to favor the spread of a given stock of knowledge by means of relaxing patent protection can only form a strong disincentive to investment in knowledge in the longer term. Besides, firms in many product categories have the option of not seeking patent protection, keeping inventions secret, to avoid having to share knowledge.
- That, in turn, is likely to make collaborative partnerships among firms or between firms and public research organizations even more difficult to build, which could further depress innovation.