

# The Evolving IP Marketplace: FTC Hearings – May 4, 2009

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# Two main themes

- **Asset definition**
- **Asset legitimacy**

# Asset definition

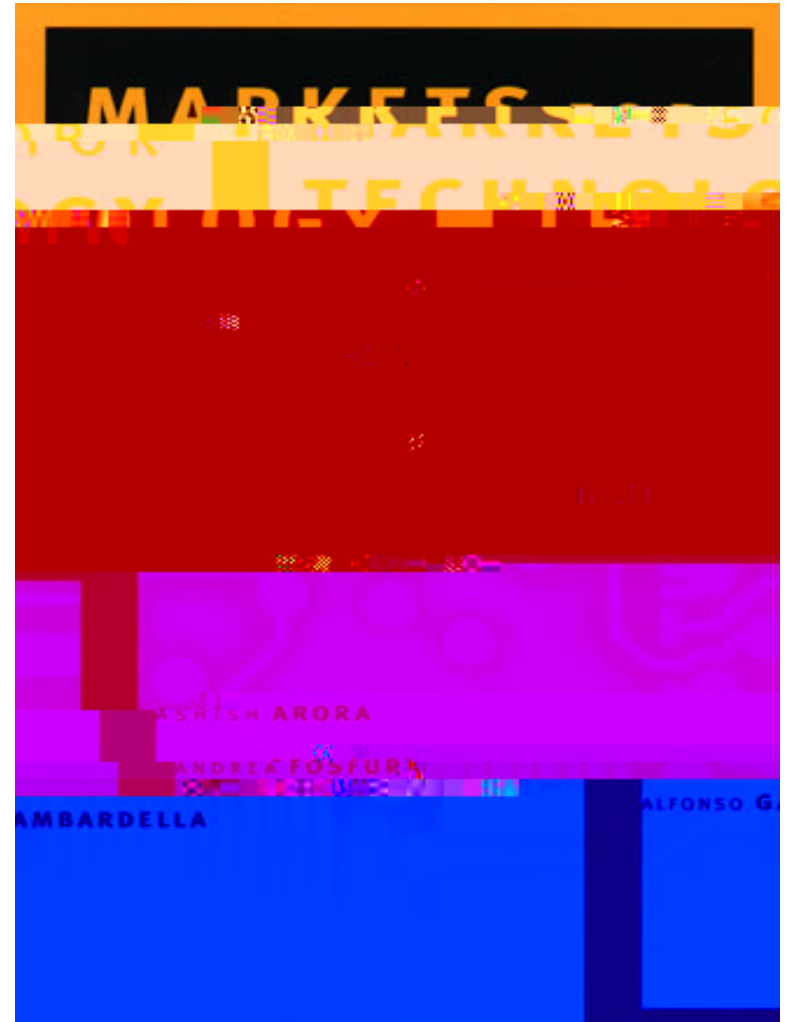
- In a market, what assets are

# “The market for patents”

- There is a complex relationship between (1) tangible assets, (2) information, and (3) IP rights
- Markets for these three things interact in important ways

# New Research on IP and “Markets for Technology”

Ashish Arora, et al.,  
“Markets for  
Technology” (MIT  
Press 2002)



# Valuation

- Rankings, ratings, and common denominators
  - “Moody’s ratings”
  - Square footage in real estate

# Transparency

- Should the prices of patent transactions be made public?
  - Benefits: comparability
  - Costs: would this affect settlement of infringement suits?

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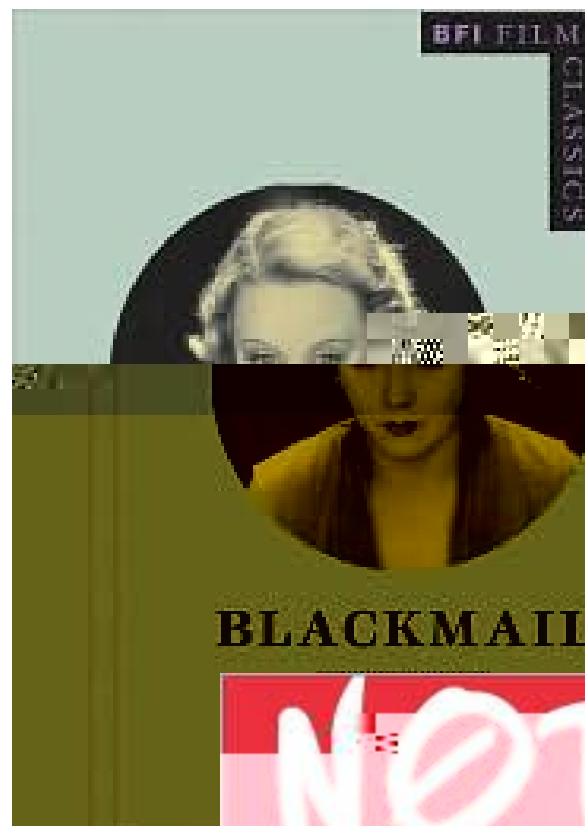
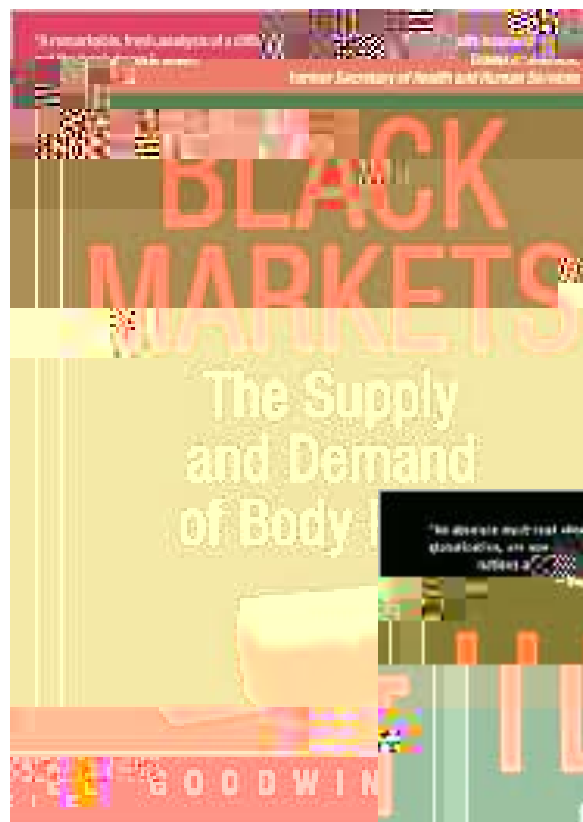
# Now for something completely scary

...



Society determines which transactions are legitimate, and which are not

- *The existence of a market does not, by itself, confer legitimacy*



# “The market for patents”

- There is a complex relationship between (1) tangible assets, (2) information, and (3) IP rights
  - Market for patents should serve to facilitate production of information and/or tangible assets; should “promote the progress of” industry

- Must show that an active market in patents promotes technological innovation
  - Patents in service of innovative information/products

# How can this be shown?

- “Follow the money” – are startups seeing any money from these patents?
- Spinoffs: are portfolios being licensed in to help found new companies?

# Long term studies

- Does the “market for patents” provide an “exit option” for startups and declining firms?
  - Do financiers include this “salvage value” in financing decisions?
- Does the IP market really lead to income for small and independent inventors?