

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

**Prof. Robert Merges**

**UC Berkeley**

# Two main themes

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

# Asset definition

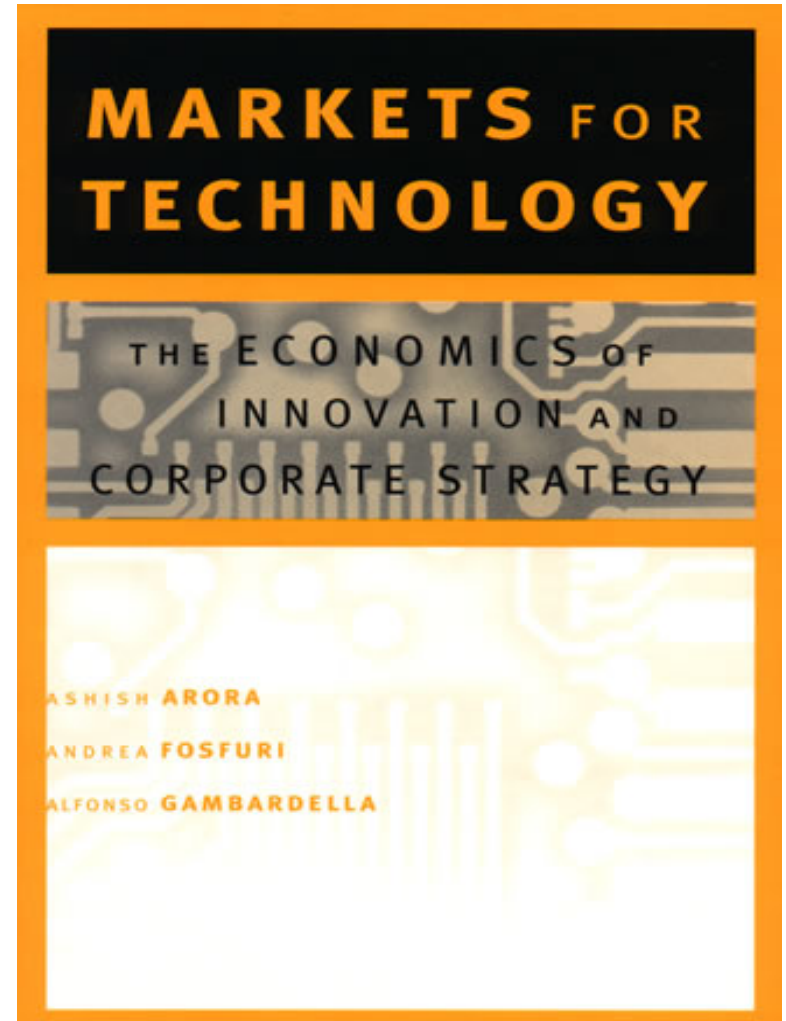
- **In a market, what assets are traded?  
How is their value established?**

# **“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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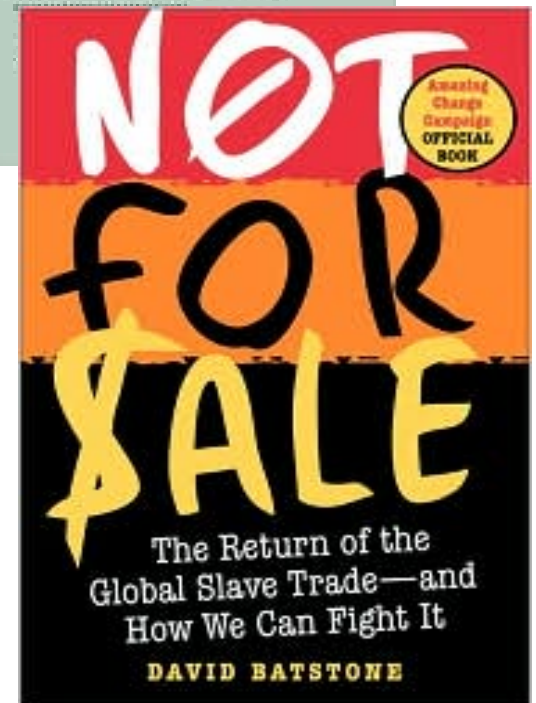
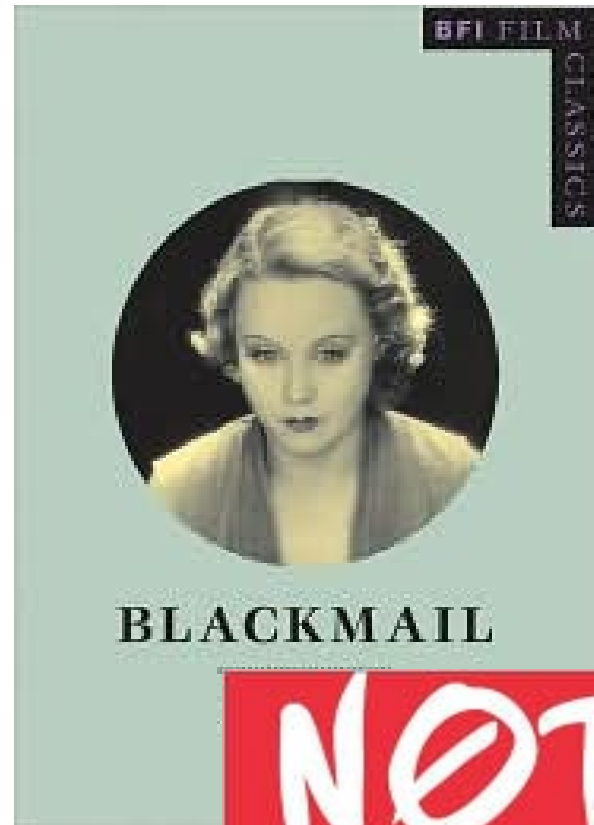
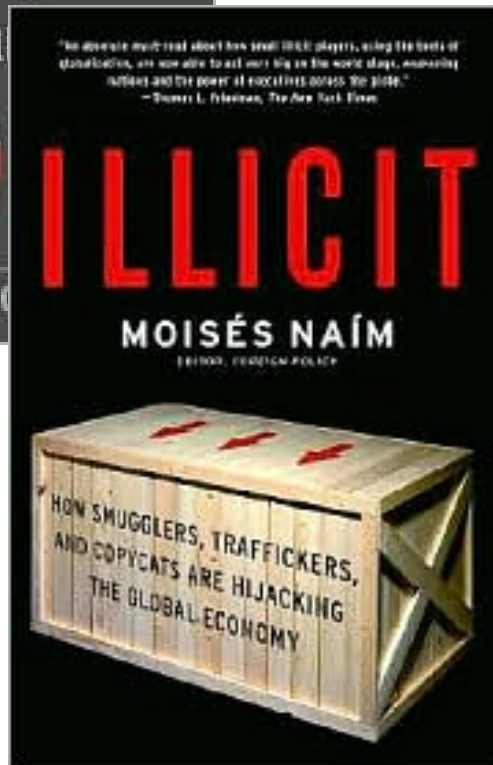
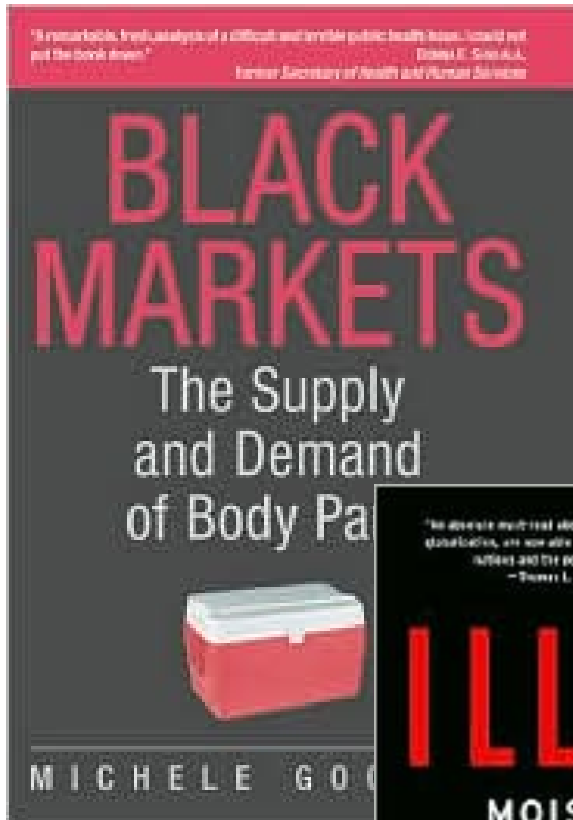
**Now for something completely scary**

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# **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?**