Introduction of the CESI
IPR Policy Template

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Agenda

• Overview of CESI IPR Policy Template
• Requirements of Essential Patent Technologies
• Requirements of Disclosure Duty
• Requirements of Licensing
• The Promotion of CESI IPR Policy Template
Overview of CESI IPR Policy Template

• **The development of the template**
  – We set up a task force to develop the template on March 8th, 2006
  – In addition to the members of the task force, a wide variety of participants was invited to the research.
    • IT standards working groups (AVS, RFID, Linux, IGRS...)
    • Foreign Experts (Earl Nied, John Hill, Tom Robertson…)
  – The template was developed on the base of AVS IPR policy.
  – According to the development of IT industry, we did some modifications.
  – After 15 revisions, we published the template as the result of our research.
  – The template achieved the world-wide positive evaluation
Overview of CESI IPR Policy Template

- **Basic principles of the template**
  - The rights of IP holders are fully respected
  - The policy is designed to balance the interests of standard implementers and IPR holders who own the intellectual property necessary to implement the standards.
  - The standards can be accepted by the market.
Overview of CESI IPR Policy Template

• Components of the template
  – Policy
    • General, Definitions, Contribution, Patented Technology, Patent Pool, Trade Mark, Copyright, Survival, Miscellaneous
  – Default Licensing Form for the Member of SDO
  – Form of the Disclosure and Licensing of Patents for Contributions of the Member of SDO
  – Form of the Disclosure and Licensing of Patents for Draft Standard
Requirements of Essential Patent Technologies

- A patent technology is necessarily infringed because there is no technically feasible non-infringing alternative.
- The patented technology must be competitive
  - Technical merits
  - Implementation costs
- If a patented technology is adopted in the final standards, the patent holder will license the implementers with more favorable terms.
Requirements of Disclosure Duty

- Situations that members need to do disclosure
  - Each member shall make a good faith effort to promptly disclose the existence of patents and published patent applications according to the extent of their actual knowledge.
  - Member’s actually knowledge shall be limited to the actual knowledge of its Member Representatives and authors of its contributions, if any.
  - Patent technologies in the contributions of member
  - Patent technologies of member in the contributions of other members
Requirements of Disclosure Duty

• **Timing of disclosure**
  - As early as possible
  - Anytime prior to the State Authorities of Standardization approval of standard
Requirements of Disclosure Duty

- **Information of disclosure**
  - The more information the better when selecting between contributions
  - The minimum information that a member shall disclose:
    - Identity
    - Patent numbers or application number
    - Encouragement to disclose more information about licensing terms and conditions

(Ex ante disclosure is voluntary but not mandatory in this template)
Requirements of Licensing

- **Licensing terms**
  - Licensing royalty free without compensation and otherwise under reasonable and non-discriminatory terms (RAND RF)
  - Participate in the Patent pool
  - Licensing under reasonable and non-discriminatory terms (RAND)
  - No license
Requirements of Licensing–Default Licensing Obligations

- **Purpose:**
  Assurance of licensing from the members of SDO who own intellectual properties necessary to implement the final standards
Requirements of Licensing-Default Licensing Obligations

- **Timing to sign the form of default licensing**
  - Upon signing the Member Agreement, each member shall identify the Default Licensing Obligations in connection with its Necessary Claims to any patented technology adopted in the final standard.

- **The situation that Member’s Default Licensing Obligation shall apply**
  - A member hasn’t make any disclosure and licensing commitment with respect to his own patents covering the contributions before the end of the review period.
The authorities begin to consider to regulate IPR management in the process of IT standards development.

- Some IT standard Working Groups under MII adopt the template as their IPR policy, (AVS WG; Linux WG; RFID WG....)
Thanks for Your Attention!

• You can download the copy of CESI IPR Policy Template from:
  http://www.cesi.ac.cn/datumview.aspx?sort=3&id=5631