

A close-up photograph of a woman with dark, curly hair and sunglasses perched on her head. She is holding a silver mobile phone to her ear and looking down thoughtfully. She is wearing a patterned shirt under a textured, multi-colored cardigan. The background is a soft-focus green, suggesting an outdoor setting.

# **Necessity of early disclosures of IPRs in Standardisation**

Heinz Polsterer

# IPRs (Patents) and Standardization

**View of an Mobile Network Operator  
but valid for all companies working  
on standards**

# Standardization is great – a win win situation

- **Standardization creates lot of benefits for the end customer and the industry**
  - Services in mobile networks usable all over the world are needed by the customer
  - Same services in all mobile networks attracts customer to use them
  - Same services all over the world creates a big market for manufacturer
  - Interoperable technologies reduces costs for operator on interconnect
  - Interoperable services allows operator easily to change between manufacturer
  - Competition on the same services and technologies increases quality

# Is Standardization great? – Creating a win win situation?

- **Standardization creates lot of disadvantages for the end customer and the industry**
  - Limited differentiation between companies on product level
  - Manufacturer and Operator can easily be changed by customer
  - Could create a playground for misusing patents

# Standardization : good or bad ?

- **Without any doubt the last decades showed more benefits for standardization than disadvantages**
  - Mobile communication, especially GSM, is an excellent example for that.
    - When GSM was standardised several proprietary technologies for mobile communication came to the market.
    - GSM being the standardized one became most successful
  - Other areas of technology show the same success pattern.
- **However being so successful standardization became also susceptible for patent misuse**

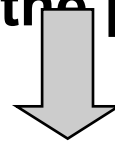
# Standardization – susceptible for patent misuse !!

- Having an international standard defined, everybody has to use this standard

If everybody has exactly to use the standard



everybody has to use the patents on the standard



finally everybody has to pay license fees for these patents

..... T-Mobile

# Finally everybody has to pay license fees for these patents on a standard

**Patents give their owner big power – even to totally block a service by not granting licenses !**

As this was known from beginning of standardization every standardization body has in principle the following rules

- Patents on a standard must be licensed – blocking is not allowed
- FRAND – patents on a standard must be licensed on a “fair – reasonable – non discriminatory” base

**However**

- Fair has different meanings in different cultures
- Without transparency on patent situation fairness is not really possible

..... **T** .. Mobile ..

# Transparent patent situation on a standard is a ~~must~~ early disclosure of patents

Standardization bodies have in their bylaws that patents on standards must officially be announced.

However the problem is the patent life time and the standardization process:

- It can take several years, normally 3 years that a filed patent is granted
- A standard needs about 2 years to be finalized
- If only granted patents are announced to the standardization body the according **standard will be finished without a true knowledge of the patent situation.**
  - This can be used by some patent owner to get a superiority and damage the whole standard by high royalty rates
  - This creates uncertainties how a standard should be evolved

.....  T-Mobile



# Competition in and between Standards

Competition is always a good thing, also on standards.

- Competition in standardization can take place
  - within a standard by having equivalent options
  - Between standards, e.g. UMTS versus WiMAX
- For getting a fair comparison between options in a standard or between standards themselves transparency on the patent situation is necessary.
- Network Investments for mobile communication are very high and once done for one technology can not easily be changed. A decision for a technology based on a standard is done for decades and must be decided during ongoing standardization.
- In-time decision for a technology based on fair facts is only possible if early declaration of patents take place. – must be done immediately after filing !!

# Conclusion

- To avoid superiority of some patent holders on a standard  
    ⇒ early disclosure of patents on a standard is necessary
- To allow fair comparison of standards  
    ⇒ early disclosure of patents on a standard is necessary.
- Early disclosure of patents mean
  - Disclosure of filed patents - not waiting for granting
  - Disclosure of filed patents also on optional parts of a standard

By early disclosure we create an ecosystem being beneficial for the customer and the whole industry.

T-Mobile

Thank You for your  
attention