



# The CCSA IPR Policy

China Communications Standards Association

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# Current Situation and Problems

- ◆ After China's accession into WTO, the globalization and the development of knowledge economy have made standardization a buzzword both in China and internationally for its being one of the major non-tariff technical barriers;
- ◆ The information technology industry is in the frontier area that embraces new technologies and rapid evolution and a multitude of IPRs. It is unavoidable that standards fall into the patent claims.
- ◆ The inclusion of IPRs into standards is a two-edged sword. The IPR policies of standards organisations are not in complete accordance with the IPR laws and no explicit evaluation criteria and legal basis available yet.
- ◆ The RAND terms are too general that led to different results. International and regional standards organisations develop and revise IPR policies based on their own conditions and needs.
- ◆ The innovation capacity of CCSA members varies subject to the size of the company.
- ◆ The IPR policy of China's National Standards hasn't been released.



## Research Work of CCSA's IPR Project Team

- ◆ In 2003, CCSA established the IPR project team to conduct IPR-related research. The project team participated in *The Standards of Ministry of Information Industry and the IPRs Strategy*, *Strategy of National Intellectual Property Rights* and other researches.
- ◆ *The Intellectual Property Rights Working Paper* was drafted on the basis of researches of different IPR policies of Chinese and international Standards Organizations, and research reports on relevant issues were finalized.
- ◆ Consultation with experts and members has been carried out in the form of forum and questionnaires. The comments and suggestions have been collected and reported to the Board.
- ◆ At present, further improvement is being undertaken and the report is expected to be published at proper timing.



## The Relationship between innovation, patents and standards

Innovation is the cornerstone, patents provide protection and standards are for application.

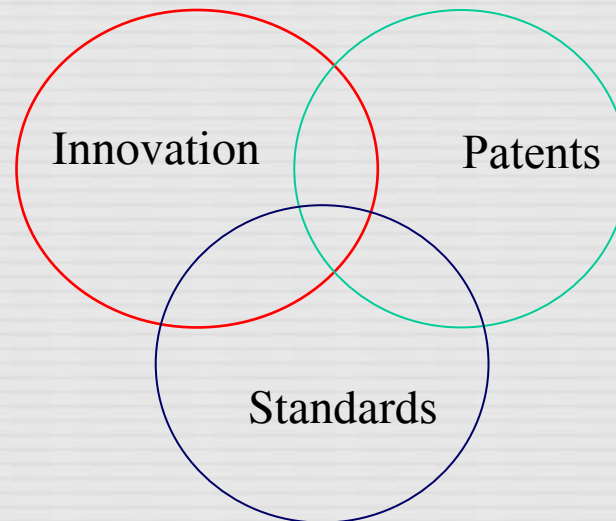


Chart of the Relationship of Technology  
Innovation, patents and standards



## **The Impacts of inclusion of Patents into Standards**

- ◆ **It will promote the use of new technologies and improve the technological level of standards, but will at the same time affect the efficiency of standard setting and promotion.**
- ◆ **It will protect the legal interests of patent holders and encourage innovation, but will perhaps result in technological monopoly.**
- ◆ **It may become the non-tariff measures, but may be questioned as technical barrier.**

**The inclusion of Patents into Standards is a two-edged sword.**



## **The Status Quo of Patent Claims of Standards Organizations**

- ◆ **ITU patent database has 1651 patent claims and 34 general claims.**
- ◆ **ISO/IEC-JTC1 has 1130 patent claims.**
- ◆ **ETSI has 17600 patent claims in total (4 700 for GSM, 7 700 for UMTS and 3 500 for 3GPP)**
- ◆ **IEEE has 573 patent claims.**
- ◆ **Japan has more than 9000 items of standards, among them over 150 standards involving patents, including over 100 adopted standards.**



## Comparison of Standards Organisations and their IPRs Policies

Comparative factors	International Standards Organization	Regional Standardization Organization	Technology of National Standardization Organization	Technology Union
Main responsibilities	Making international standards	Making Regional Standards	Making National/Industry Standards	Making Standards and Promoting implementation
Members	Mainly National Members and some departmental members	Related Regions, partners and states	Industrial production, operation and scientific research	Industry chain-related enterprises
Organization representation	Represent National Interests	A little loose. Represent national, organization and enterprise interests	A little close. Represent national, organization and enterprise interests	Similar interest. Related interest among members.
IPR Policy	The loosest. Mainly RAND compliant. Exposure requirement the loosest.	A little loose. Mainly RAND compliant. Some organizations have established the evaluation platforms. Exposure requirement is as early as possible.	Loose. Mainly RAND compliant. Exposure requirement is as early as possible.	Closely knit. Patent pool is always used. Bound interest and joint allocation.





## The differences between the IPR Policies of Standards Organizations (1/2)

### Common points

- ◆ **Almost all of them make polices (some produced guidelines and manuals)**
- ◆ **licensing claims and formalities are basically identical (licensing declaration form: free, RAND/FRAND, Refusal)**
- ◆ **The measures taken for license refusal are basically identical (search for alternatives, withdrawal, etc.)**
- ◆ **Copyrights are basically identical (Copyright is held by the Standards Organizations)**
- ◆ **The organizational disclaims are the same (not responsible for the assessment of patent validity, not involved in licensing negotiations; not responsible for the accuracy and completeness of the patent information.)**



## The differences between the IPR Policies of Standards Organizations (2/2)

### Differences:

- ◆ **The principle of including patent in standards**  
Permission, Principally No objection, No other alternatives, Preference given to non-patented technology, etc.
- ◆ **Patent information disclosure requirements are widely different according to the nature of organizations and the situation of respective nations:**
  - Requirement:** encourage voluntary disclosure, reasonable efforts. Early disclosure, properness, timeliness, continuity and etc.;
  - Content :** patent information disclosed vary in detail.
  - Timing:** before drafting, during the research, before the approval, and continued
  - Scope:** members, stakeholders, third parties, potential patent holders
- ◆ **Trademarks : some have strict rules**
- ◆ **Different penalties: some are strict and have the equivalent effects as the statute. Some are against penalties;**
- ◆ **The information the database can provide varies (format, content, quantity).**



# CCSA' Necessity of IPR Policy

- ◆ As a national telecommunication standards organization, CCSA should foster an IPR policy that aligns with its position in China and abroad;
- ◆ Making the CCSA IPRs policy is a necessity to enable CCSA to regulate and address the IPR issues emerged in the process of standard making and revision;
- ◆ Making the CCSA IPR policy is a must to facilitate CCSA's participation in the activities of international standards organization and its international exchange and cooperation as well as member promotion;
- ◆ It is necessary to raise members' IPR policy awareness so that they can operate in accordance with international rules, and accumulate experiences.



## Some Thoughts on IPR Policy

- ◆ International practices and the status quo of China should be taken into account;
- ◆ The development of national industry, promotion of innovation and stimulation of enterprises' enthusiasm should be taken into account;
- ◆ The IPR policy should facilitate the development of CCSA;
- ◆ In making the IPR policy, we should first set out the principles and gradually finalize the policies. It is important to proceed step by step and assess the development status.



## Some Thoughts on IPR Policy

- ◆ In order to deal with the intellectual property issues in telecommunication standardization, we encourage innovation, adoption of new technologies and safeguard the interests of the patent holders, stakeholders and the public to promote standards. CCSA has formulated its *IPR Policy (provisional regulations)*.
- ◆ *IPR Policy* sets forth the principles on how CCSA handle the issues arisen when IPRs are involved in standards, disclosure, licensing, copyright and responsibility disclaims. IPR policy serves as the guidelines as well as the basis of other related documents.
- ◆ Forms of Information Disclosure and License Declaration shall also be made to supplement the policy.



# Work in the Future

- ◆ Further modification and improvement. Release at proper timing. Constantly summing up experiences and problems in the trial implementation to further finalize.
- ◆ Continue to follow the IPR research of the standards organizations in China and abroad. Launch theoretical researches according to the actual situation of China. Continue to make related supporting documents such as *(IPR Policy) Implementation Regulation*.
- ◆ Start building the patent data base and make preparation for its release to the public at appropriate timing.



Thank you!