

STANDARDS, IPRs and COMPETITION
EU-China Symposium - Beijing, China
31 October 2007

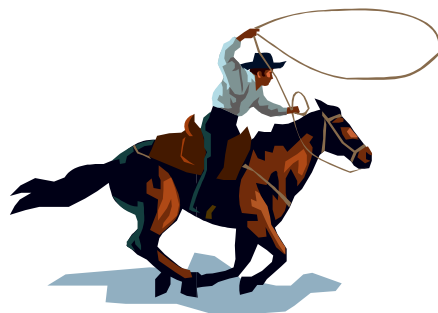
Licensing Practice Trends in Standard Developing Organizations

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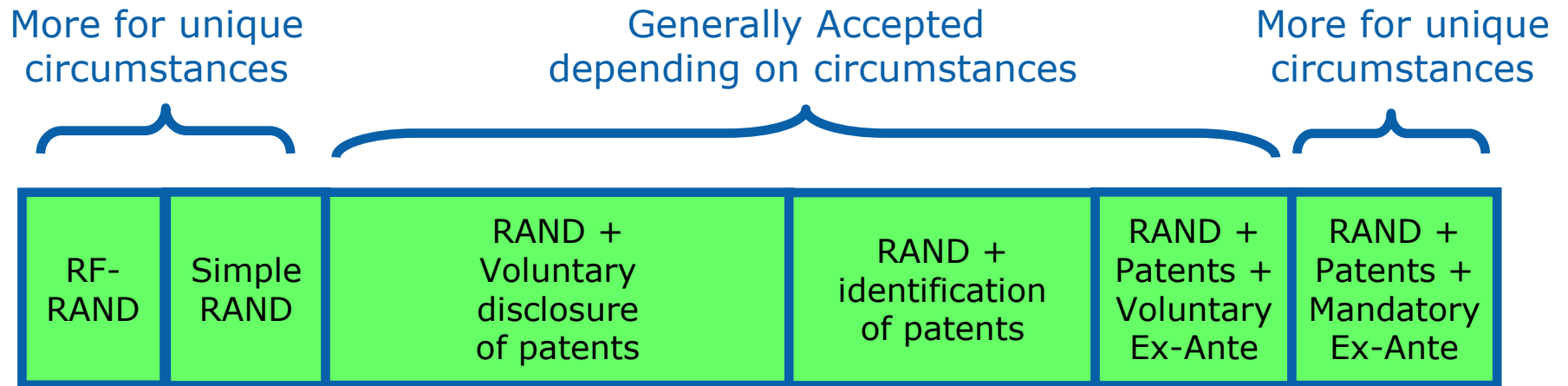
Successful Standards Developers

Generally use reasonable rules to efficiently select the best technologies that facilitate adoption in time to meet market demand

- Rules (IPR Policies) must be flexible enough to address the wide range of business models utilized by participants and implementers
- Goal is to maximize speed of adoption and longevity
- There is no “one-size-fits-all” solution



Wide Range of IPR Policy Models



* The models presented here are meant as a representative sample of the most frequent approaches. Other creative solutions may also be available.

Simple RAND Commitment

- **Positives**: May address licensing concerns in some SDOs (especially when participant developers are also licensees). Allows developers to focus on technical merit.
- **Negatives**: Unknown patent licensing implications could hinder adoption.
- **Working Example**: *PCI SIG*
 - *Interface standards for peripheral component interconnect*
 - *Membership: ~700 Member companies all making a good faith commitment to use PCI standards in products or services*
 - *IPR policy: RAND commitment to all Members for Necessary Claims in final PCI standards*

RAND + Identification of Individual Patents

- **Positives**: Maintains efficiencies of RAND but provides developers with additional information. Reasonable policies usually ask for disclosure based on personal knowledge.
- **Negatives**: More information on licensing terms may be desirable in some situations. The costs associated with identifying patents can be prohibitively expensive if the IPR policy is unreasonable.
- **Working Example**: *Chinese Electronic Standardization Institute (CESI) Template*
 - *Template for Interface Standards for Chinese Information Technology Industry*
 - *IPR Policy: RAND commitment to all implementers with required disclosure of potentially Essential Patents based on the personal knowledge of the individuals participating and others involved in authoring contributions.*

Voluntary Ex-Ante Disclosure

- **Positives**: Minimum disruption to efficiencies of previous approaches while allowing developers to seek or patent holders to provide specific additional information. May stimulate competition on terms.
- **Negatives**: Adds some overhead to standards development process. Some additional care needed to avoid anti-competitive concerns.
- **Working Examples: ETSI and IEEE***
 - *European Telecommunications Standardization Institute (ETSI)*
 - *Membership: ~650 companies and other organizations from 51 countries*
 - *~ 1,500 – 2,000 standards deliverables per year*
 - *IPR Policy: RAND commitment to all implementers with encouraged disclosure of patents based on personal knowledge and voluntary disclosure of license terms.*

* Also potentially available under extensions to the CESI Template

Mandatory Ex-Ante Disclosure

- **Positives**: Ensures substantial licensing information available from developers. May stimulate competition on terms.
- **Negatives**: Increased information probably will increase development time and operating costs to SDO and its participants. Similar anti-competitive concerns found in voluntary ex-ante disclosure.
- **Working Example: VITA**
 - *Interface standards for modular embedded computing systems.*
 - *Membership: ~150 member companies*
 - *IPR Policy: RAND to all implementers with requirement to disclose licensing terms up front or license on RF-RAND terms.*

Conclusions

- **While there is no “one-size-fits-all” solution, SDOs have many creative approaches that are constantly evolving.**
- **Successful Standards Developers use reasonable rules to efficiently select technologies that facilitate adoption in time to meet market demand.**

Thanks