



ICT Standards and Intellectual Property Rights Workshop

IPRs and standards: some issues

Richard Owens

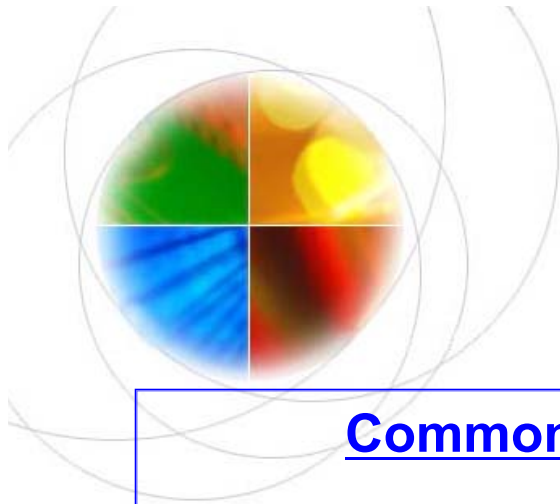
Director, Copyright E-Commerce Division

Tomoko Miyamoto

Senior Counsellor, Patent Law Section



World Intellectual Property Organization (WIPO)



Patents and Standards

Commonalities

- Encourage investment in innovation (R&D)
- Disclosure of technological information
- Dissemination of technology

Potential conflicts

- Cases where implementation of standards requires use of patented technology
 - interoperability (essential patents)
 - multiple patents and patent owners
- International standards
 - ↔ different national patent regimes





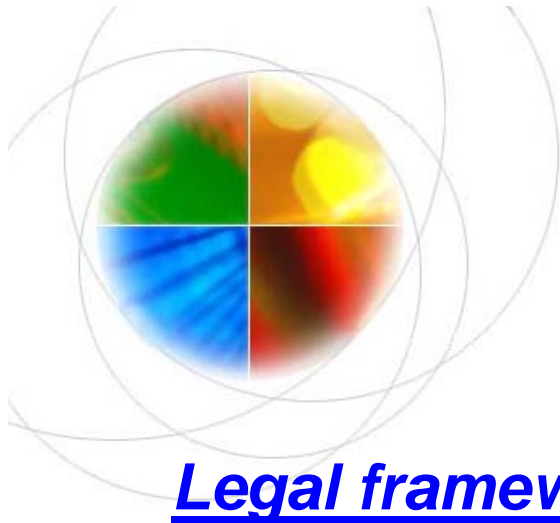
Challenges

Find a balance between:

- **the rights of the patent owners to enjoy the benefits of the patent**
- **the right of third parties to make and sell interoperable products**
- **the public interest not to lock users in specific technology platforms, or not to force consumers to bear all the negative consequences**



To what extent should the current industry-driven standardization process be controlled?



Discussed policy solutions

Legal framework

- **Within the patent system (ex. limited exception; compulsory license)**
- **Outside the patent system (in particular, competition law)**

Within the standardization process

- **Self-regulations in SSOs: IPR policies (in particular, disclosure and cumulative royalty)**





Issues

- **Enforceability and dispute settlement mechanism**
 - Non-members of a standard setting body (SSB)
 - Unwilling/unreasonable licensor
- **Transparency**
 - In the SSB
 - In the market
- **Cooperation with patent authorities**
 - Quality of granted patents
 - Patent speed and standardization (market) speed





Not necessarily modifying the current system, but further explore the current system for proper functioning of competition in the market

→ increased clarity and legal certainty

Issues may be:

- inherent to the standardization process**
- inherent to patents in the field of ICT**
- inherent to the proper functioning of the patent system in general**





Activities in WIPO re. patents and standards

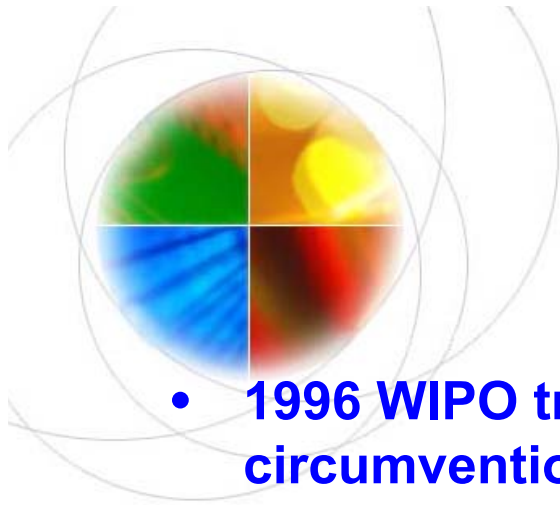
Provide fora for information exchange

- **Colloquium “patents and standards”, Nov. 2006**
[http://www.wipo.int/meetings/en/2006/patent_colloquia/11/]
- **Links to websites, articles and studies**
[<http://www.wipo.int/patent-law/en/developments/>]
- **Standing Committee on the Law of Patents (SCP), “Report on the International Patent System”**
[http://www.wipo.int/meetings/en/topic.jsp?group_id=61]

WIPO Arbitration and Mediation Center

[<http://www.wipo.int/amc/en/>]





Copyright and standards (1)

- **1996 WIPO treaties (WCT, WPPT) require remedies against circumvention of technical measures (TPMs), protection of rights management information (RMI, content, party, license identifiers)**
- **Interoperability facilitates digital content delivery under both copyright licenses and exceptions to rights, e.g. formats for visually impaired persons**
- **Lack of interoperability contributes to copyright infringement, piracy, consumer resistance**
- **Standardization is the optimal means to achieve interoperability**
- **Copyright legislation/policy supports standardization of rights management technologies**
 - **Recital 54 of Dir. 2001/29/EC (“interoperability of ... different systems should be encouraged”)**





Copyright and standards (2)

- **Publication of Standards- protection under copyright (source of income for SSOs)**
 - **Open source software (OSS) is collaboratively developed and licensed under copyright (70+ licenses, including GNU GPL)**
 - **Open standards are technical specifications that meet criteria of openness in their creation, implementation and use, as defined by SSOs**
 - **Possible conflict between some OS licenses (eg GPLv3) and IPR policies of SSOs (RAND, FRAND), but market shows some degree of co-existence**
 - **Further study required on options available to OS developers to implement open standards consistent with both OS licenses and SSO IPR policies**





Copyright and Standards (3)

Ready- available, accessible ICT standards contribute to building a healthy market for content on line by increasing:

- Interactivity of the environment and autonomy of users
 - Respect of Limitations and Exceptions
 - Network effect for copyright industries
 - The appeal of legitimate market versus piracy options
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- Availability can be achieved in application of different IP Policies (RF; RAND; FRAND), as exemplified by different standards developments concerning delivery of digital content:
 - Digital Media Project (<http://www.dmpf.org>)
 - Coral Consortium (<http://www.coral-interop.org>)
 - Automated Content Access Protocol (<http://the-acap.org>)
 - Digital Data Exchange (DDEX)
 - Availability can be pursued under different approaches to openness.
 - Accessibility of standards is key for limitations and exceptions to copyright. Example of broad project promoting accessibility: Web Accessibility Initiative (<http://www.w3.org/WAI/>)

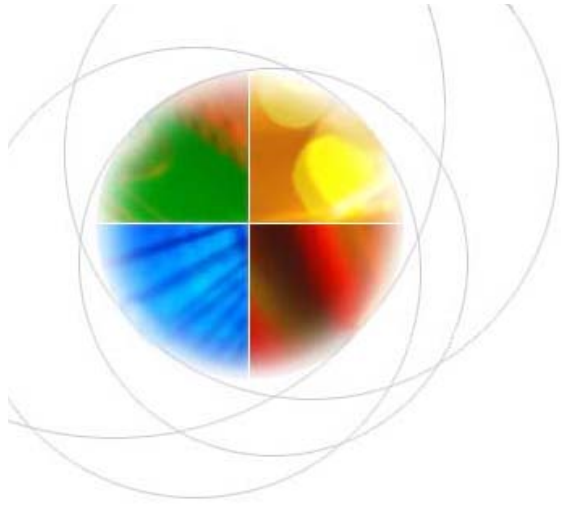




WIPO Seminar on Rights Management Information: *Accessing Creativity in a Network Environment*

- **Geneva, September 17, 2007**
- **Survey of recent initiatives in development of digital identifiers for content, parties, licensing (music, text, AV)**
- **Exploration of possibilities for expanding use of RMI under copyright licenses and exceptions**
- **Interoperability of RMI, including standardization issues**
- **http://www.wipo.int/meetings/en/2007/sem_cr_ge/**





Thank you

richard.owens@wipo.int

tomoko.miyamoto@wipo.int

