



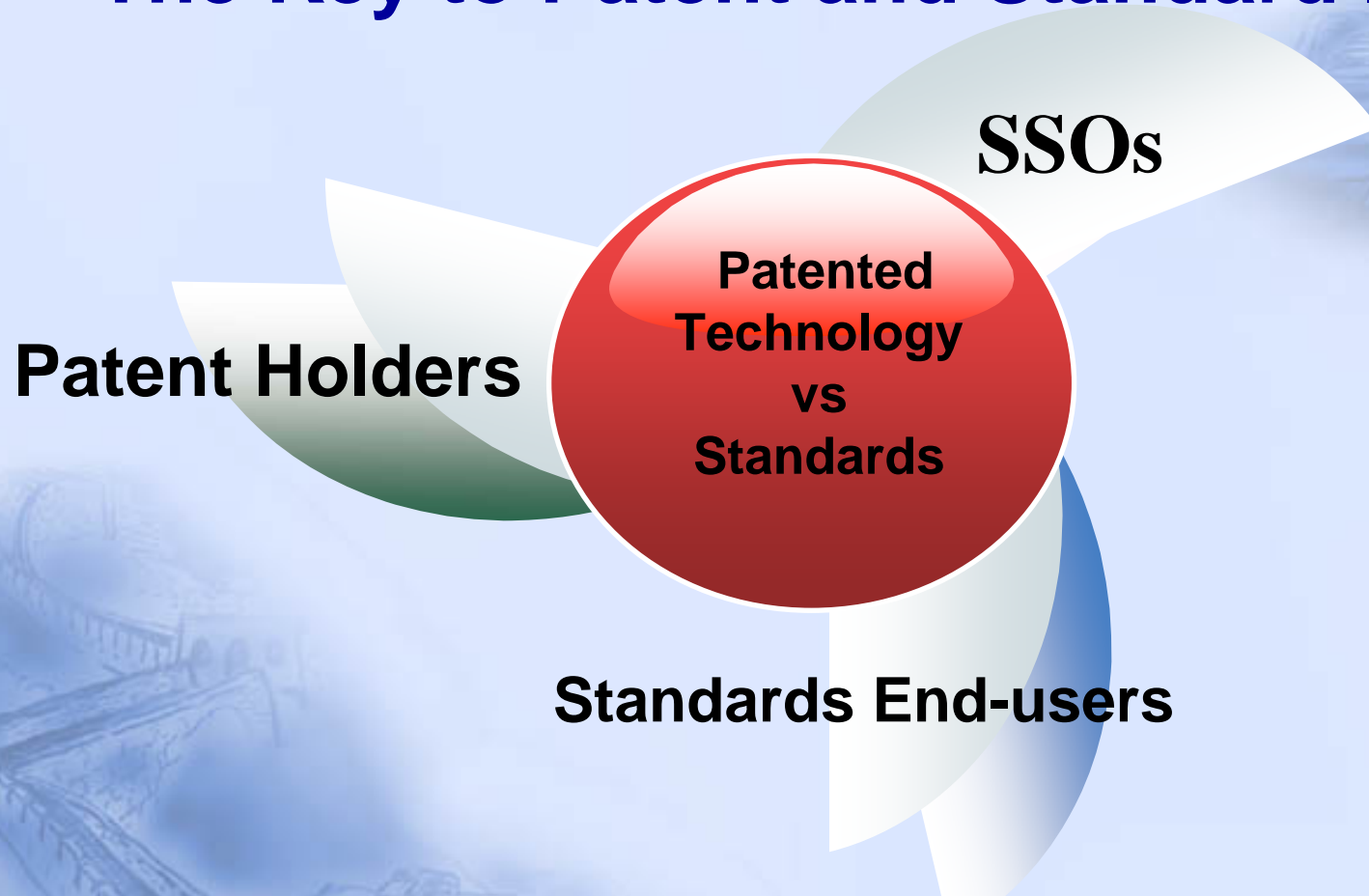
The Role of Government in Standards and IPR Policy Issues

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The Key to Patent and Standard Issues



Are the stakeholders able to achieve the aim by themselves?

The Role of Government in Standards and IPR Policy Issues



to give a direction and support to the SSOs to adopt reasonable IPR policies



to amend the Patent Law, Antitrust law as well as the Law Against Unfair Competition in order to give a legal relief to the related disputes.



to hold open forums enabling all the stakeholders have a thorough discussion about this issue and supporting the relative international symposium.

Giving a Direction and Support to the SSOs's IPR Polices

- **Basic Principles of SSO's IPR Polices**
- **(1) Due Process and Openness of Membership in the Standardization**
- **(2) Openness of the SSOs' IPR policies**
- **(3) Openness of the of IPR Information Involved in the Standardization**
- **(4) Predictive Cost of utilizing IPRs in the standards**

Giving a Direction and Support to the SSOs's IPR Polices

- **(1) Due Process and Openness of Membership in the Standardization**
- **Everyone has access to the process**
- **Actions and relative information are publicly available**
- **All the interested and affected parties are included in the setting of standards**
- **Avoid the risk of antitrust situation**
- ***Eg: Allied Tube & Conduit Corp.v.Indian Head, Inc (1998)***
- ***GOLDEN BRIDGE TECHNOLOGY, INC., Plaintiff vs. NOKIA, INC.(2006)***

The Thing that Government Can Do:

**Establish Relative Regulations and Give Directions to
Restrict the SSO's behaviors.**

Giving a Direction and Support to the SSOs's IPR Polices

- **(2) Reasonable SSO's IPR polices**
- There is no "one-size-fits-all" solution
- **Transparent**
- **Encourage the disclosing of IPR information as well as the cost of using patented technology in the standard**
- *Eg: Business letters from the DOJ to VITA and IEEE.*

Giving a Direction and Support to the SSOs's IPR Polices

- **Task for the Chinese Government:**
- ***Reforming Chinese Standardization System***
- ***The Standardization Law of the People's Republic of China (1989)***
- ***Regulations for the Implementation of the Standardization Law of the People's Republic of China (1990)***
- **Four Levels of Current Chinese Standards:**
- ***National standards***
- ***Industry standards***
- ***Local standards***
- ***Enterprise standards***

Amend the Relative Legal Regulations

- **Amending Patent Law**
 - *(1) Compulsory License and Corporation between PTO and SSOs*
 - *(2) Refusal Giving Injunctions in the Related Cases*
- **Amending Antitrust law**
 - *“The Antimonopoly Law of the People’s Republic of China” was eventually adopted on August 30, 2007.(Effective in August 1, 2008)*
 - *USA: Antitrust Guidelines for the Licensing of Intellectual Property*
 - *EU: Technology Transfer Block Exemption Regulation (TTBER)*
 - *Japan: Guidelines for the Regulation of Unfair Trade Practices with Respect to Patent and Know-how Licensing Agreements*
 - *Essential Facility Doctrine(EFD)*
- **Amending the Law Against Unfair Competition**

Hold Open Forums and Support the International Symposium

- **Openness+ Communication+ Understanding**
- ***IPRs Issues in Standardization (Beijing) International Symposium (held by MOFCOM and SIPO in 2007)***
- ***Cooperation is the best way to work out problem.***



Thank you

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