



East Meets West

facing challenges  
making connections



# Intellectual Property, Standards, and Patent Pools... Beyond WAPI

*Presented by*

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# CHINA IMPACTS INTERNATIONAL STANDARDS

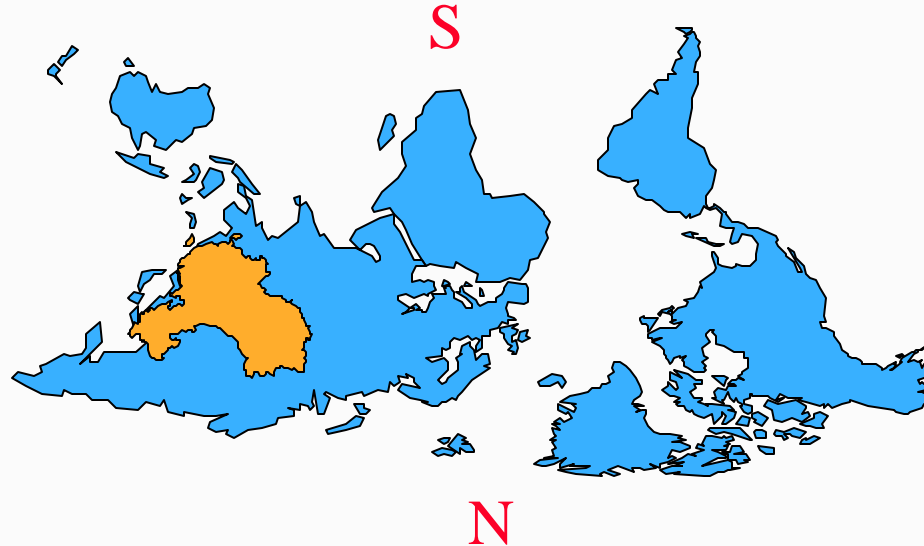
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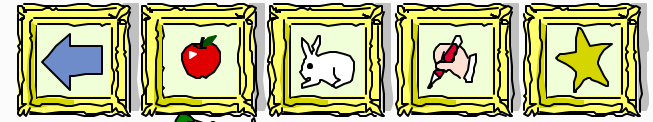
**IGRS - Intelligent Grouping and Resource Sharing**

**3G – mobile phone TD SCDMA**

**LINUX**

**AVS COMPRESSION – audio, video, related info**





# OVERVIEW

- **ANSI PATENT GROUP WHITE PAPER**
  - **BALANCED IP POLICY**
- **PATENT POOL – AS MEANS TO HELP EFFECTUATE IP POLICY**
- **AVS EXPERIENCE**
- **CURRENT CHINESE STRATEGY**



# ANSI PATENT GROUP WHITE PAPER

(June 10, 2004)



- **OPEN PARTICIPATION**

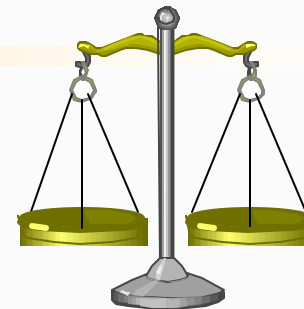
- **VOLUNTARY AND TRANSPARENT**
- **STANDARDS CONSISTENT WITH INTERNATIONAL NORMS (RAND) AND NOT LOCALLY BIASED**
- **PROMOTES MOST ROBUST TECHNOLOGY**

- **EXPAND DEFINITION OF INTL STANDARD TO INCLUDE IEEE, TIA, INCITS, ATIS, ETC.**



# ANSI PAPER – IP POLICIES

- **BALANCE INTERESTS OF IP OWNERS AND IMPLEMENTERS**
- **REASONABLE ROYALTIES → PROMOTE IP OWNER PARTICIPATION, BEST SPEC, RESPECT FOR IP INVESTMENT**
- **NO CORPORATE PATENT SEARCHES REQUIRED**
- **NO UNREASONABLE DISCLOSURE REQUIREMENTS (unpublished patent applications/third party patents?)**



# SOME USITO POOL CONCERNS



- **INADEQUATE/NO PROVISIONS FOR MEMBER WITHDRAWAL**
- **CENTRAL CONTROL OVER SPEC DEVELOPMENT, LICENSING, ROYALTIES**
- **MUST SEARCH AND MUST DISCLOSE “RELATED” PATENTS IN ADDITION TO “NECESSARY” PATENTS**

# SOME POOL CUES



- **ROYALTY CONSIDERATION – Country a factor?**
  
- **NON-EXCLUSIVE, OPEN LICENSING -- CRITICAL**
  
- **ANTITRUST CONSIDERATIONS**
  - **CINRAM v Matsushita (MEI member of DVD 6C)**
  - **ITC v Philips (CD-R and RW pool)**
  - **Wuxi v 3C DVD Pool**
  - **Ricoh v CMC Magnetics (CD-RW)**



# AVS EXPERIENCE

- **HISTORY: COMPANIES WERE PARTICIPATING IN TECHNOLOGY DEVELOPMENT – RECEIVED AVS (CHINA) CONSTITUTION THAT RAISED IP ISSUES**
- **WORLDWIDE EXPERTS OFFERED IDEAS WITHIN CERTAIN PARAMETERS**
- **SENT TO CHINESE COMPANIES AND GOVERNMENT FOR REVIEW/VOTE IN JULY-AUG 2004**





# Chinese Standards Strategy (SAC) Papers

- **June 2004: ON CONSTRUCTING A NEW NATIONAL TECHNICAL STANDARD SYSTEM**  
– proposed some useful features as in ANSI White Paper but some concerns also
- **Sep 2004: SAC DRAFT REGULATIONS ON PATENTS AND STANDARDS**
- **PERIOD OF TRANSITION AND EDUCATION – for all parties**



# OTHER ISSUES

- **IP INDEMNITY RISK FOR LICENSING**
  - **Non-Chinese entity warranty against third party infringement**
  
- **WHAT GOVERNMENT ROLE?**
  
- **Stay tuned**

