

# **Harmonization of the ISO/IEC/ITU Patent Policies**

**Global Standard Setting 2007: An  
Interactive Discussion**

**June 20, 2007**

# Harmonized Policy

- Announced by the World Standards Cooperation (WSC) on March 19, 2007
- WSC formed several years
  - Leadership of ISO, IEC and the ITU-T
  - Forum to discuss issues of mutual interest
  - Increasing number of joint text standards
    - February 7, 2005 - decision to work toward a joint patent policy approach

# Historically

- ISO/IEC shared a patent policy reflected in the Directives
  - “The originator of a proposal for a document shall draw the attention of the committee to an patent rights of which the originator is aware and considers to cover an item of the proposal. Any party involved in the preparation of a document shall draw attention of the committee to any patent rights of which it becomes aware during any stage in the development of the document.”
  - RAND licensing commitment then sought
  - No guidelines or mandatory form

# Historically

- ITU-T Policy
  - Disclosure of patents containing essential claims is strongly encouraged
    - Disclosing patent holder then indicates if it is willing to license on RAND, RANDZ or not at all
- Guidelines and Mandatory Form
- Form for joint text documents (ISO/IEC/ITU-T) created
  - Attempt to capture the mandatory elements of both policies
  - Largely based on then-current ITU-T form

# Harmonized Approach

- First step was to agree on a harmonized policy
  - Agreed to use the ITU-T's text as a base
- Second step was to agree on a mandatory, common declaration form
  - Largely based on the joint text version
  - One differential in the form itself
    - If a patent holder selects option 3, it must provide to the ITU the patent number and related descriptive information
    - ISO/IEC strongly desire such information (but not required)

# Harmonized Approach

- Third step was to agree on joint guidelines
- Three sections
  - Interpretation of the policy
  - ITU-T administrative issues
  - ISO/IEC administrative issues
- ISO, IEC and ITU issued a joint press release
  - Harmonized policy in effect

# Observations

- Consensus among the three SSOs not always easy
- At the last ITU-T TSB Director's IPR Ad Hoc Group meeting, representatives from Peking University Law School and Shanghai University Intellectual Property School made contributions
  - Among other things, raised “ex ante” issues for consideration vis-à-vis the harmonized patent policy approach
    - IPR Ad Hoc agreed to have some further discussions on the issue, but expressed reservations about appropriateness for the wide range of ITU-T Recommendations