

ITU-T Study Group and TSAG Leadership Tutorial

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Standards and Intellectual Property Rights Issues

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Why discuss IPR and standards?

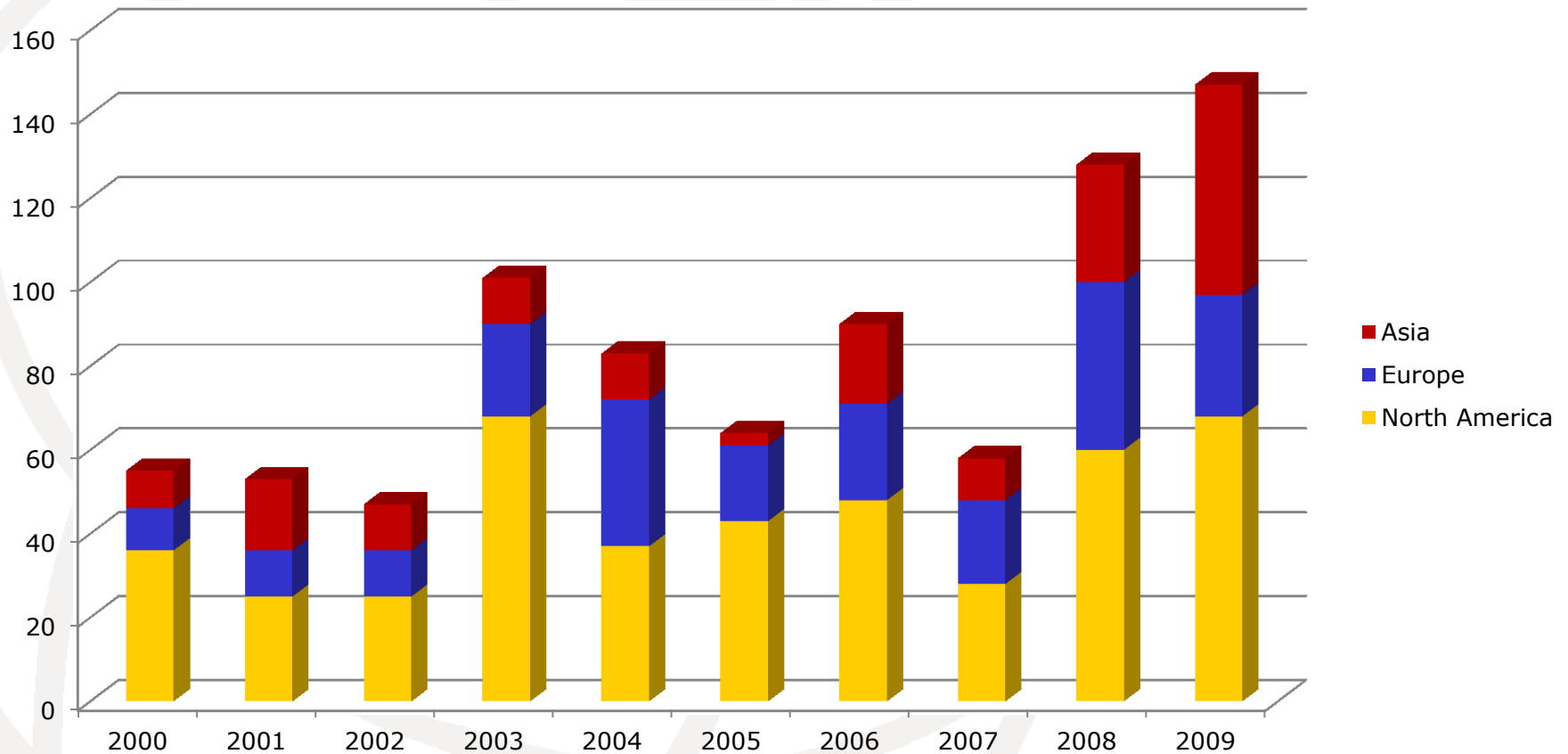
... because patents in standards are on the rise

... because standard-essential patent litigation is on the rise

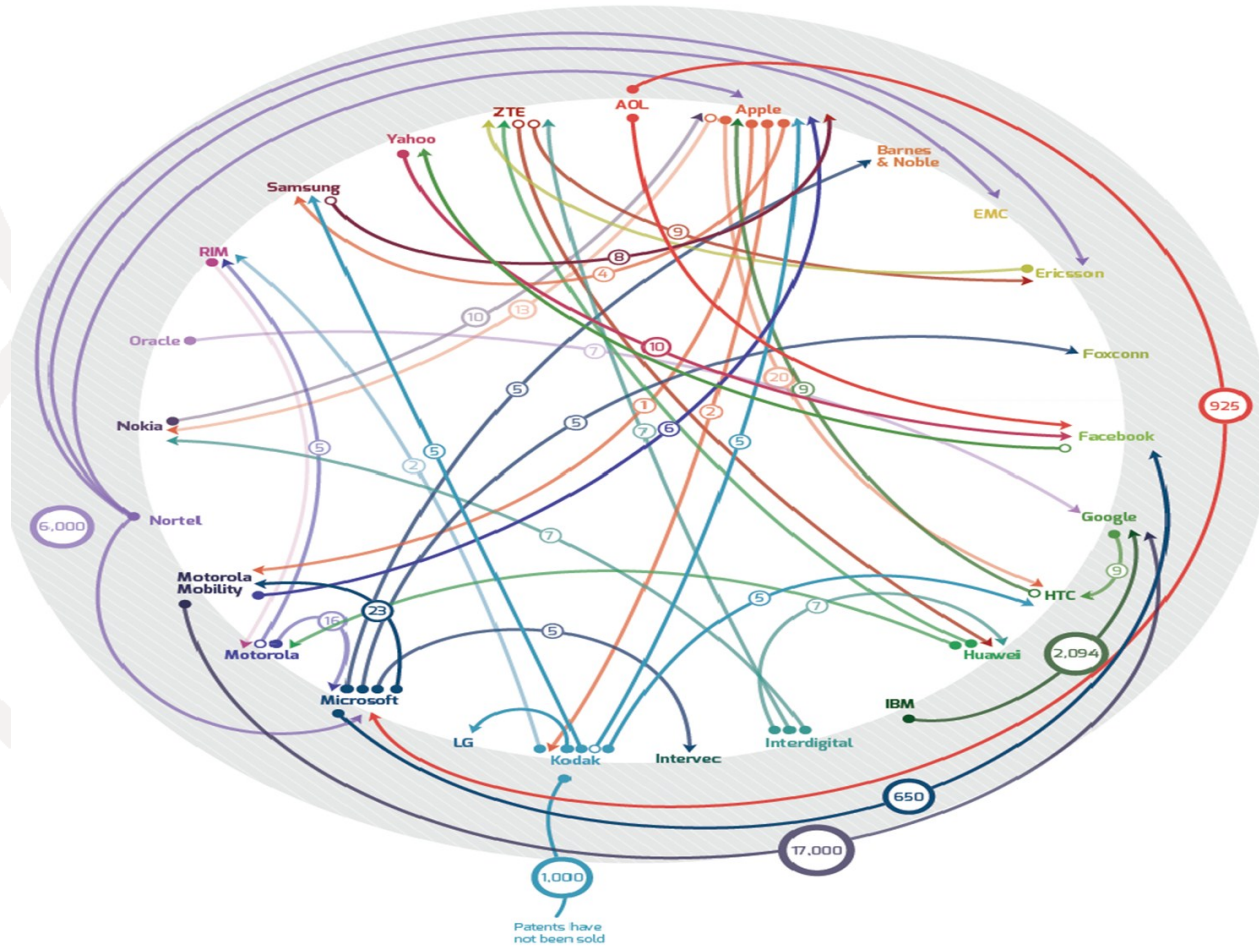
... because certain standards can raise complex IPR issues

... because patents in standards are on the rise

(Number of patent declaration statements)



... because standard-essential patent litigation is on the rise



... because certain standards can raise complex IPR issues

- Three main tools to address IPR issues:
 - Common Patent Policy and related Guidelines
 - Software Copyright Guidelines
 - Trademark Guidelines

Patent Policy

- Three documents to consider
 - Common Patent Policy
 - Guidelines for implementation of the Common Patent Policy
 - Patent Statement and Licensing Declaration Forms
- These documents may be found at:
www.itu.int/ITU-T/ipr

Patent Policy

- The Patent Policy helps ITU manage the challenges associated with the inclusion of patents in its standards.
- By requiring early disclosure of essential patents and licensing commitments, ITU ensures that no IPR Holder is placed in a position to stop others from complying with its standards, and mitigates patent hold-ups and other similar behaviour.

Patent Policy

- Fundamental principles:
 - Early disclosure of essential patents
 - Accessibility of essential patents to everyone under reasonable and non-discriminatory conditions ("RAND") should be guaranteed
 - Royalty-free (option 1)
 - Royalty (option 2)
 - Option 3 (as long as there is no indication of a patent holder selecting option 3, the Recommendation may be approved)
 - Actual licensing terms are handled in bilateral negotiations between patent holders and implementers
 - Disclosure only through Patent Statement and Licensing Declaration Form. Despite its name, the Licensing Declaration Form is not a License Agreement. Declaration Forms (licensing commitments) cannot be withdrawn
 - Disputes are settled outside ITU

Software Copyright Guidelines

- Two documents to consider:
 - Software Copyright Guidelines
 - Software Copyright Statement and Licensing Declaration
- These documents may be found at www.itu.int/ITU-T/ipr/
- Unlike the Common Patent Policy, these Guidelines are specific to ITU

Software Copyright Guidelines

■ Fundamental principles:

- Clarification that a license for Software that describes data structures, or schema is not needed even if an implementer wants to voluntarily include such Software in its implementation.
- Clarification that if an implementer wants to voluntarily include in its implementation Software (other than what is described above) that is included in a Recommendation, then such implementer should consult the database containing information about submitted Software Copyright Statement and Licensing Declaration forms to ascertain under which option the Software Copyright Holder is willing to provide licenses.
- Clarification that all Software included in an ITU Recommendation can be evaluated, and used for evaluation and testing purposes, for free.

Trademark Guidelines

- One document to consider:
 - Guidelines related to the inclusion of Marks in ITU-T Recommendations
 - No Declaration Forms
- These documents may also be found at www.itu.int/ITU-T/ipr/
- Unlike the Common Patent Policy, these Guidelines are specific to ITU

Trademark Guidelines

- **Fundamental principles:**
 - No permission required to refer descriptively in a Recommendation to a third party's technology
 - Recommendations should not appear to endorse any particular product or brand
 - Participants should not trademark ITU Recommendation names

Links

- ITU's Policy Documents on IPR issues:
<http://www.itu.int/en/ITU-T/ipr/Pages/default.aspx>
- TSB Director's IPR AHG:
<http://www.itu.int/en/ITU-T/ipr/Pages/adhoc.aspx>
- Patent Roundtable:
<http://www.itu.int/en/ITU-T/Workshops-and-Seminars/patent/Pages/default.aspx>