

## Opening Address by the TSB Director

- I am very pleased to welcome you to the first-ever ITU Workshop on the subject of IPR.
- When we conceived the idea of this workshop last autumn, we felt there was a need to discuss current issues related to the inclusion of patents in standards and to examine the different patent policy approaches around the world.
- We felt that the ITU is uniquely positioned to do this as it was founded on the principle of cooperation between governments and the private sector. And its members, which include both developed and developing countries, all have the same power to propose and to approve ITU standardization deliverables, which we call Recommendations.
- The objective of ITU has always been since its foundation in 1865 to ensure compatibility and interoperability of technologies and systems on a worldwide basis. This is especially important in today's rapidly evolving information and communication technology sector. To ensure the use of Recommendations and their applications, it is important that patents that are necessary to implement the Recommendations are identified as early as possible and are made available for licensing by any implementer.
- In this regard, I would like to briefly touch on the history within ITU of how patents have been addressed.
- The ITU first began discussing the issues associated with the inclusion of patented technology in Recommendations in the early 1970's. However, as technology evolved rapidly over the years, the number of essential patents and their importance began to become more significant. The first version of an ITU patent policy was developed in 1985, and was based largely on some best practices from some of our Study Groups.

- Later, during the 1990's, it became apparent that the issues surrounding patents and standards were arising more frequently and were becoming even more complex. As a result, one of my predecessors established the Director's IPR Ad hoc Group so that experts from the ITU membership and invited guests could provide input and guidance as these issues arose. While the ITU patent policy itself underwent only slight changes over the years, the Ad Hoc Group was instrumental in helping to create guidelines and forms to provide greater assistance to the Study Groups and to those who were submitting patent declarations.
- With the increasing convergence of information and communications technologies, the three preeminent international standards bodies, ITU, ISO and IEC, began to discuss harmonizing their IPR policy approaches through the World Standards Cooperation group. After much discussion, it was announced in March last year that all three organizations had agreed on a Common Patent Policy.

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- This policy enables International Standards from all three organizations to be used to successfully disseminate standardized technologies, with a clear set of guidelines regarding the disclosure of patented innovations and commitment to license their use and a mandatory, standardized Patent Statement and Licensing Declaration form.
- The Common Patent Policy allows for companies' innovative technologies to be included in standards as long as such intellectual property is made available to all implementers under reasonable and non-discriminatory terms and conditions.
- In addition, the patent policy restricts discussions in our technical groups to technical issues relating to patent rights and leaves the settlement of disputes regarding patent rights (including licensing terms) to the parties concerned outside the standardization organizations themselves.
- Apart from a few rare cases, the ITU has had very few conflicts or problems stemming from the inclusion of IPR rights in a Recommendation.

- To ensure the widespread use of Recommendations and their applications, the Common Patent Policy encourages the early disclosure of Patents that may relate to Recommendations under development and a declaration indicating a willingness to license under RAND terms. This policy helps the standards development process proceed with a greater efficiency and avoid potential patent rights issues.
  - Furthermore, the ITU-T has designed its website so that it provides a patent declaration statements database with a search engine and reporting capabilities
- While not the topic of today's workshop, I am proud of the fact that the ITU has also developed guidelines relating to other intellectual property issues that can arise in connection with standardization. One set of guidelines addresses the inclusion of copyrighted software in ITU Recommendations, a practice that is strongly discouraged but guidance is provided in the event that an exceptional situation presents itself. And the ITU also has a set of guidelines that addresses the inclusion of "Marks" (such as trademarks or service marks) in Recommendations, which is only permitted if necessary and done in a way so as to avoid any perception that the Recommendation is making an endorsement of some product or service.
- Finally, I would like to remark on the impact of increasing convergence of technologies on the need for standards bodies to collaborate with each other.
- We place great emphasis on the need for collaboration and it will be an issue to be discussed at the Global Standardisation Symposium in Johannesburg on 20 October this year, preceding the World Telecommunication Standardisation Assembly .
- Similarly, in addition to the collaboration with other standards bodies, there is a growing need for ITU Recommendations to reference other organizations' standards, just as other organizations are increasingly referencing ITU Recommendations.

- This brings up an important emerging issue with regard to patent policies and standards. Before a standards organization references a standard from another standards body, should it evaluate the patent policy of that other standards body to ensure that it is consistent with its own?
  - What are the implications if the two patent policies are widely divergent?
  - What if only a portion of the referenced standard is made mandatory?
  - Is there a difference between referencing a standard and reproducing the text in the standard?
  - These question all raise issues that need further awareness and discussion.
  
- The ITU strongly encourages other standards developers, including forums and consortiums, to adopt a similar IPR policy to the Common Patent Policy so that continued collaboration and convergence of technology can occur with greater efficiency.
  
- In response to this trend, the ITU-T has collaboration guidelines as to which organizations its Study Groups can seek collaboration. We also have generic procedures for referencing other organizations' documents.
  
- We hope that this exchange of ideas and experiences from many different perspectives will provide valuable insight and input that can help to guide future discussion of the related issues – both in the ITU – as well as elsewhere.
  
- I also wish to extend my sincere thanks to all the distinguished speakers and moderators who have graciously agreed to participate, and share their expertise on the topic, and to the steering committee who worked so hard to help us organize it.
  
- I wish you a productive, informative and enjoyable day. Thank you for your attention