Open Source In Standards: Meeting Community Expectations
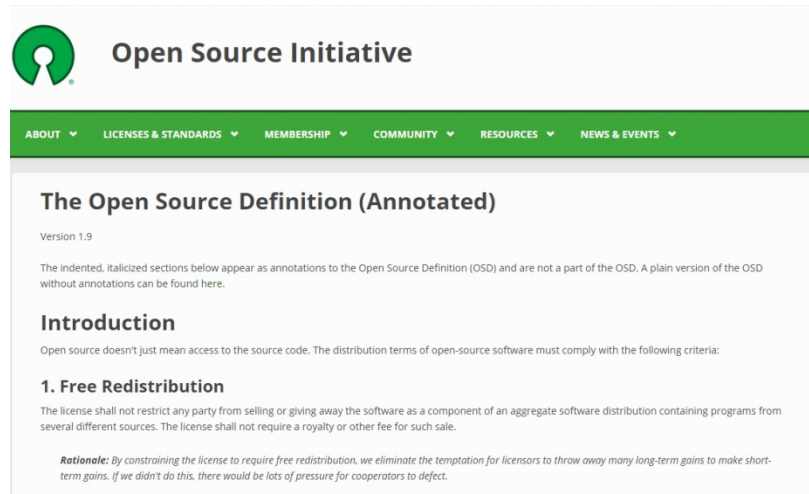
McCoy Smith

Intel Corporation, Law & Policy Group

Evaluating Options

- Many options for SSOs that want to develop code
  - Including non-Open Source
- Make best decision based on:
  - SSOs member's patent strategies
  - Breadth of desired developer and user base
  - Ease of administration of code development process
- If Open Source is an option, understand community expectations

Open Source

- A Philosophy
  - Software should be "free" ("as in speech")
- A Mechanism for Evaluating Licenses
  - Review licenses against a "standard"

Open Source

- A Set of Community Expectations
  - Collaborative development
  - Right to "fork"
  - Acceptance on technical merit

    and very likely

  - Contributors' IP won't thwart project
    - See: newer OSI license patent grants
  - Don't have to join or sign anything else

Open Source

*"The source code **is** available!"*

Philosophy

Focusing on one part (or no parts) may cause community rejection

Licensing

Expectations
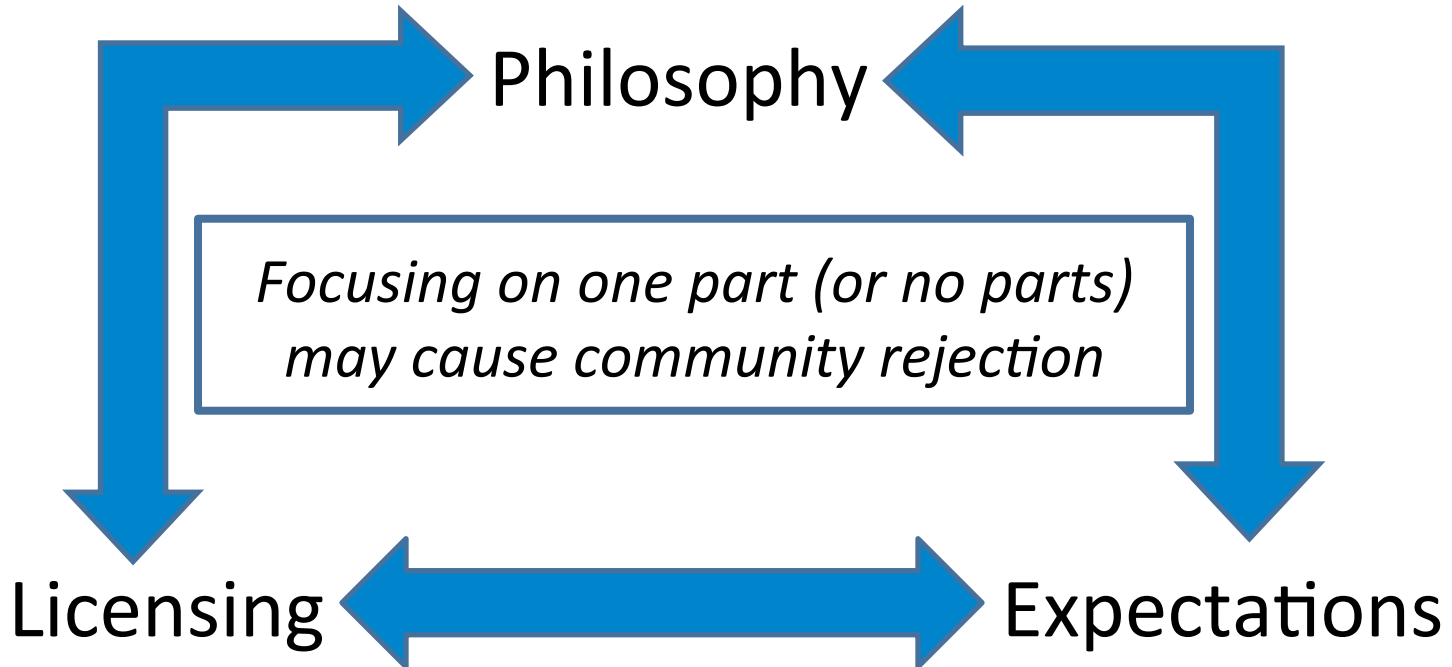
*"We **are** using an OSI-, or FSF-, approved license!"*

*"The project **is** open to all!"*

Is There A Middle Ground?

"We *have* made the source code available"
("Open" Source)

The Middle Ground
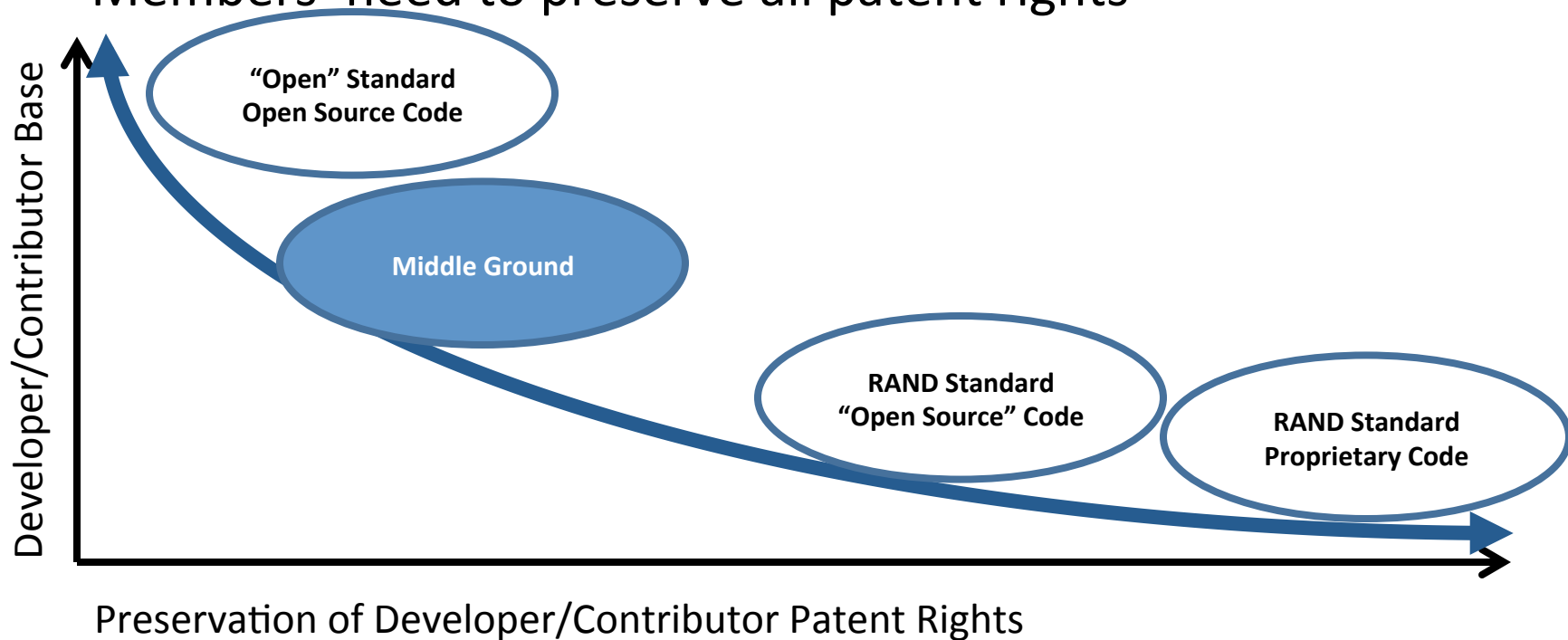
"The standard *must* be royalty-free, for any use"
("Open Standard")

A Middle Ground

- Use an OSI-approved license, unmodified
- With express patent grants to contributions
  - E.g., not BSD & MIT-type
- Standard's RAND policy doesn't supersede patent grants in the OSI-approved license
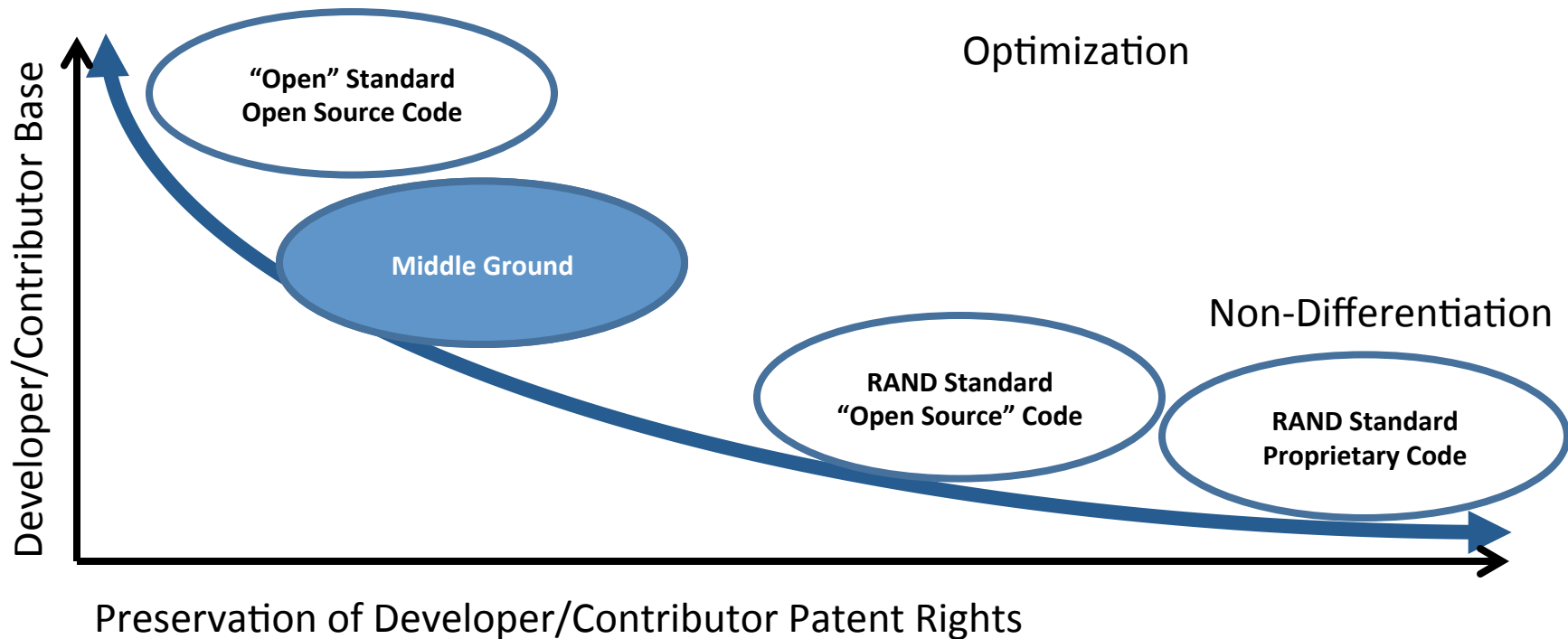
The Bigger Picture

- Balance:
  - Desire for transparent & open software development
    vs.
  - Members' need to preserve all patent rights

Chart with vertical axis labeled "Developer/Contributor Base" and horizontal axis labeled "Preservation of Developer/Contributor Patent Rights". A descending curve with labeled ellipses: "Open" Standard Open Source Code; Middle Ground; RAND Standard "Open Source" Code; RAND Standard Proprietary Code.

The Bigger Picture

- License choice, IPR policy & code development administration should work together

- Optimization vs. Non-Differentiation

The Bigger Picture

- License choice, IPR policy & code development administration should work together

- Optimization vs. Non-Differentiation