

Open Source In Standards: Meeting Community Expectations

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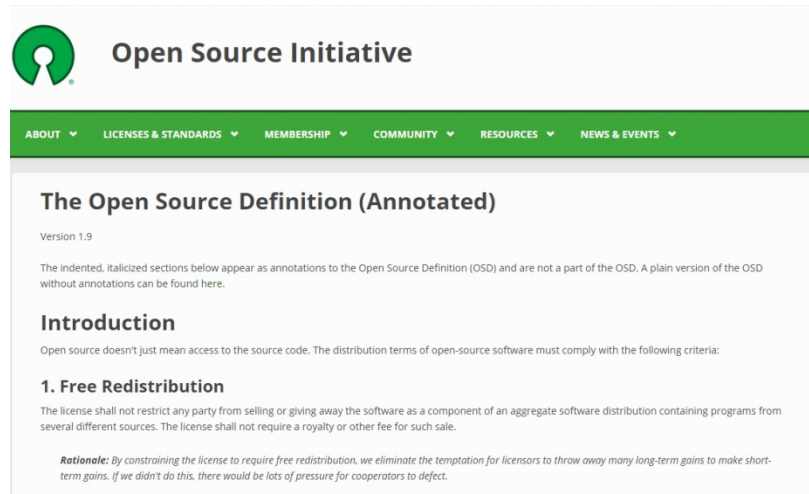
Intel Corporation, Law & Policy Group

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”



The screenshot shows the Open Source Initiative website. The header features the OSI logo (a green circle with a white keyhole) and the text "Open Source Initiative". Below the header is a green navigation bar with the following menu items: ABOUT, LICENSES & STANDARDS, MEMBERSHIP, COMMUNITY, RESOURCES, and NEWS & EVENTS. The main content area is titled "The Open Source Definition (Annotated)" and includes the following text:

Version 1.9

The indented, italicized sections below appear as annotations to the Open Source Definition (OSD) and are not a part of the OSD. A plain version of the OSD without annotations can be found [here](#).

Introduction

Open source doesn't just mean access to the source code. The distribution terms of open-source software must comply with the following criteria:

1. Free Redistribution

The license shall not restrict any party from selling or giving away the software as a component of an aggregate software distribution containing programs from several different sources. The license shall not require a royalty or other fee for such sale.

***Rationale:** By constraining the license to require free redistribution, we eliminate the temptation for licensors to throw away many long-term gains to make short-term gains. If we didn't do this, there would be lots of pressure for cooperators to defect.*

Open Source

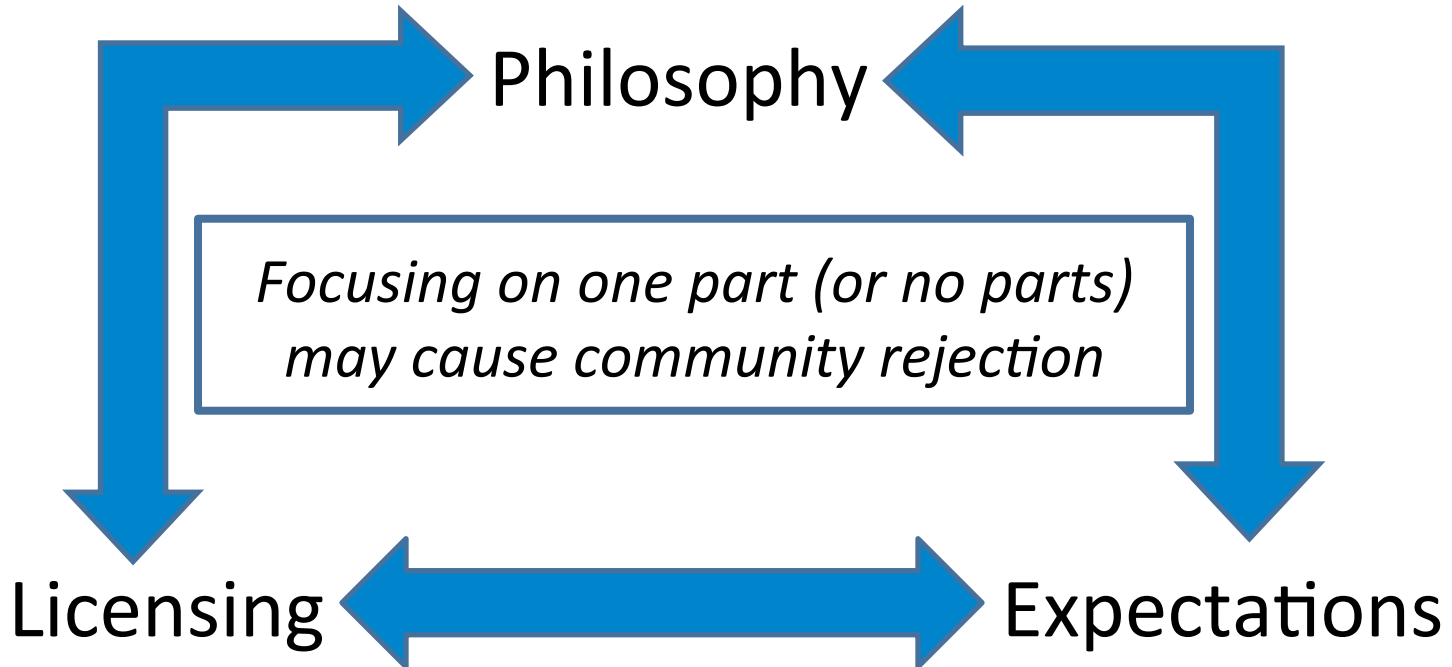
- A Set of Community Expectations
 - Collaborative development
 - Right to “fork”
 - Acceptance on technical merit

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!”



*“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

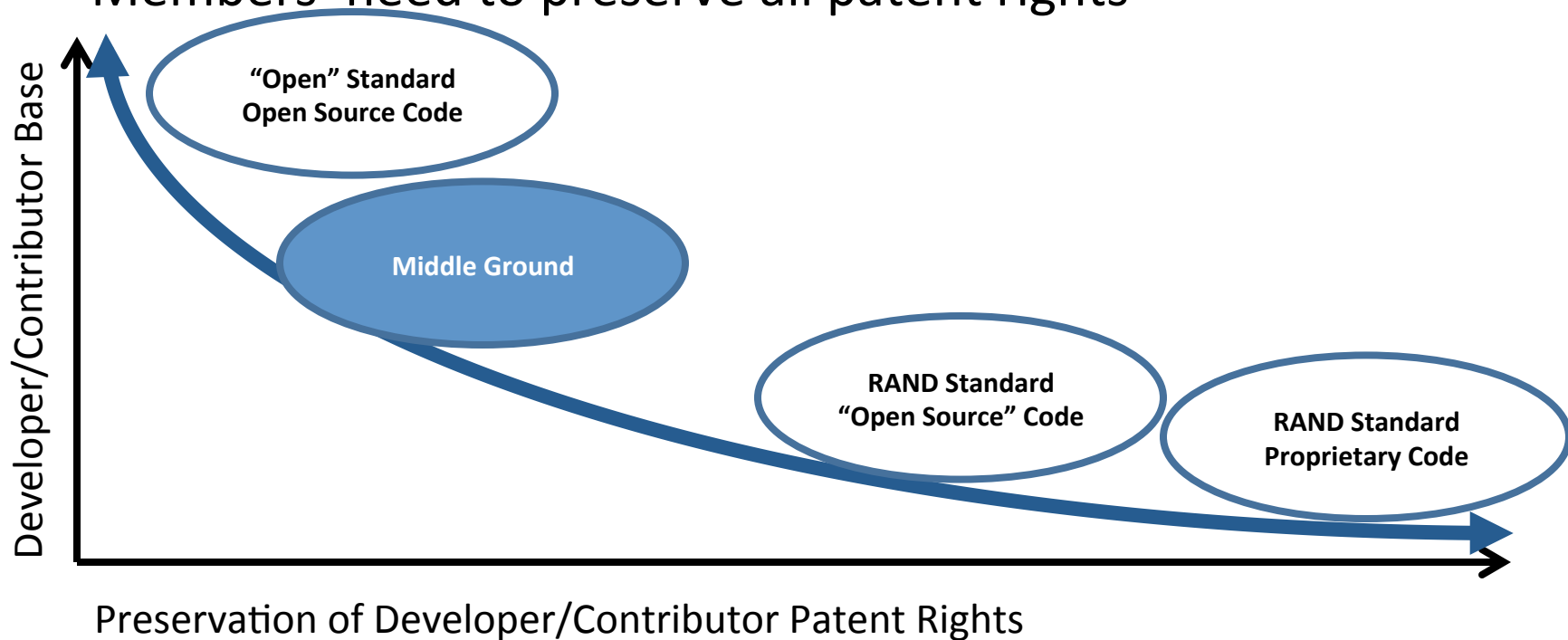
“The standard *must* be royalty-free, for any use”
 (“Open Standard”)

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

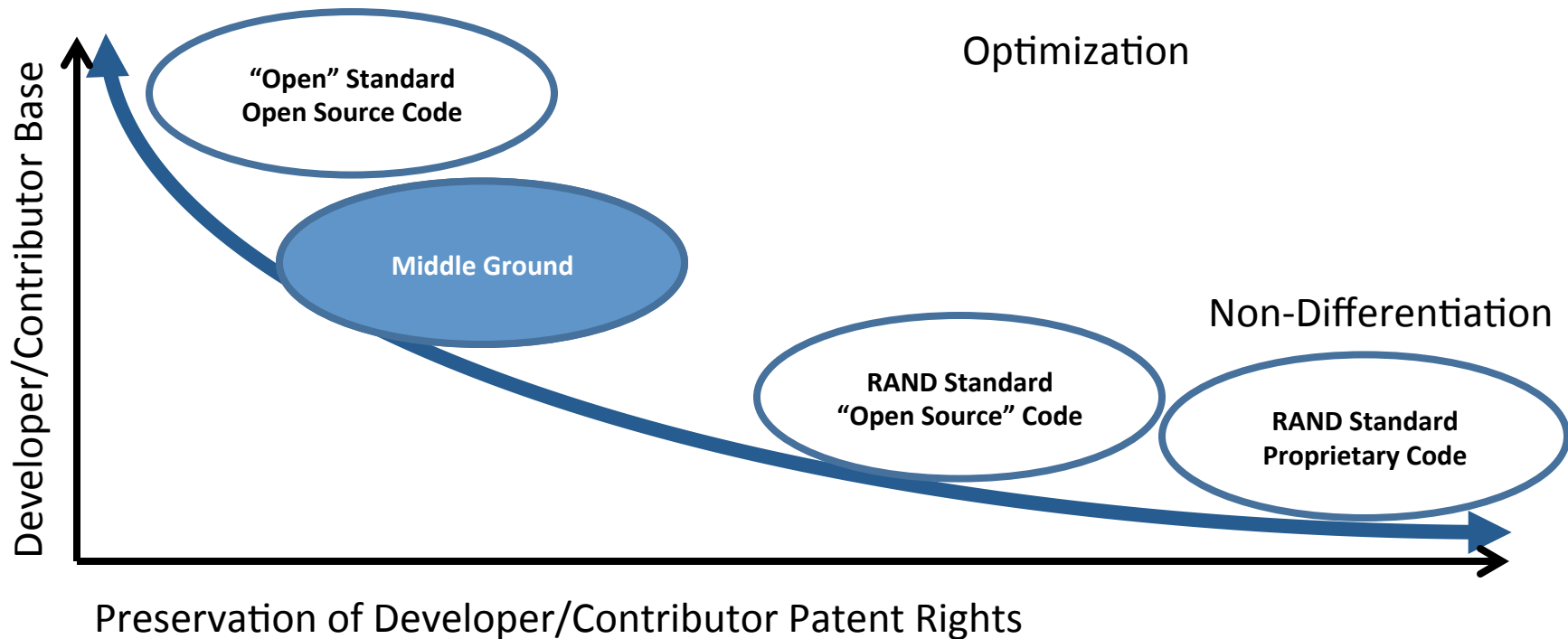
The Bigger Picture

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



The Bigger Picture

- License choice, IPR policy & code development administration should work together
- Optimization vs. Non-Differentiation



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