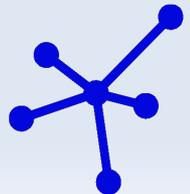


# Patents and Standards: the Role for the WIPO SCP

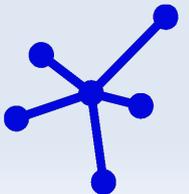
- What is Patented?
  - Patent Subject Matter
  - Inventive Step
    - (are standards too low a GATT violation?)
- Transparency of Patents, Disclosure of relevant claims
  - National or global approaches?
  - Disclosure extended beyond standards organizations
- Remedies to Abuses of Patent Rights
- Government Procurement

James Love, KEI  
WIPO SCP, 23 March 2009



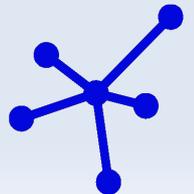
# What is Patented?

- Patent Subject Matter
  - Is software particularly problematic?
    - Inherently complex inventions, that rely upon follow-on innovation and interoperability
    - Informal literature regarding innovative ideas
    - Patents not required to stimulate innovation
    - Special issues regarding free software
    - Patents on data formats create special issues
- Inventive Step
  - (are standards too low a GATT violation?)



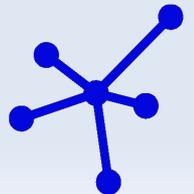
# Transparency

- Should transparency of relevant patent claims be managed by a patchwork of national systems? Or by a global framework?
- Should requirements for disclosure extend beyond the members of standard making organizations, to so called patent trolls?
- Should WIPO test a global system for managing the constructive disclosure of patent claims on important standards?



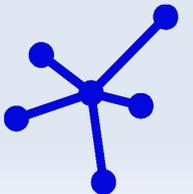
# Remedies for Abuses of Patent Rights

- In certain sectors, should we be moving away from strong exclusive rights, to liability rules for relevant patents on key standards?
- How does TRIPS framework address refusals to license on reasonable terms and conditions?
  - Article 31.k of TRIPS
  - Article 44.2 of TRIPS
- Will Bilateral, Regional or Plurilateral Agreements undermine TRIPS flexibilities
  - FTAs, EPAs, ACTA, etc



# Role of Government Procurement

- IGF DCOS proposals for government agreement on procurement and open standards



# For More Information

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