

Opening up patents - Collaborative & Open Mechanisms in Patent Law

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Studying different mechanisms

Patent pledges/commitments*

Pledge to refrain from asserting one's patents/to limit the enforcement of one's patent.

Defensive Patent strategy

Examples

Tesla: "all our patents are belong to you"

IBM: IBM's Legally Binding Commitment Not To Assert the 500 Named Patents Against OSS

Google: Open Patent Non-Assertion Pledge

DPL - Defensive Patent License

The Defensive Patent License (DPL) is a new legal mechanism to protect innovators by networking patents into powerful, mutually-beneficial legal shields that are 100% committed to defending innovation

OIN - Open Innovation Network

(Google; IBM; Sony; etc...)

OIN is a defensive patent pool and community of patent non-aggression which enables freedom of action in Linux.

* for a complete list see Program on Information Justice and iP Washington College of Law (Jorge L. Contreras) at www.PIJIP.org/non-sdo-patent-commitments/

“Open Patent” licensing



BIOS (Biological Open Source) is a legally enforceable framework to enable the sharing of the capability to use patented and non-patented technology

“Protected Common”

- **Technology is available royalty free for use in research or in creating products.**
- **All the agreements are non-exclusive**
- **BIOS Agreement users may not assert IP rights over the technology or improvements made available be under a BIOS licences.**
- **Licensees share improvements making them available to all other BIOS users.**

- **Transposing open source-like models to patents? Adapting open-source style licences to patented invention.**
- **Inclusive patent* - G. Van Overwalle. "Rather than offering a right to exclude, the 'inclusive patent' encompasses the right to include: it empowers the owner to include others, to control licensing conditions and to enforce alignment with the open source like commitments."**
- **Methodology: Analysis of all the mechanisms/licences & Classification**
- **Licences inspired from US Law - Compatibility and enforcement in French/EU Law?**
- **Challenging the traditional way we understand/use patents**
- **Flexibility within the patent system**

* Inventing Inclusive Patents. From Old to New Open Innovation -
Essays on Intellectual Property, vol. 1, P. Drahos, G. Ghidini & H. Ullrich (eds.), Edward Elgar, 2015