Alternative to Necessary Patent Claims Language and Standard Outbound Licensing Model

JCP EC Meeting
November 20, 2012
Necessary Patent Claims

• **Problem Statement:** The current JSPA language prevents JCP members and EG members from using patents to prevent implementation of a Specification unless they identify the patents prior to the Specification's approval.

• **Objective:** Find an alternative that reduces burden on JCP members while continuing to protect implementers and customers from intentionally undisclosed patent claims by JCP members.

• **Alternatives:**
  – Remove requirements to grant patent rights outside contributions
    • Pro: very easy to implement
    • Con: significant reduction of patent protection for implementers and customers, “takeaway” may raise concerns with customers, etc.
  – Require non-contributing JCP members to disclose all known necessary patents the member wants to protect
    • Pro: would not require JCP members to review all ongoing JSRs, retains protections for implementers and customers
    • Con: IP environment is less certain than current regime, implementers and customers are exposed to potential litigation from within JCP

• **Recommendation:** Modify JSPA to limit non-contribution RAND obligation to known patents.
Standard Outbound Licensing

• **Key Assumptions:**
  
  – Includes all three licenses in JCP - Specification, RI and TCK licenses
  
  – Licenses would support the goals of the JCP to promote the consumption and use of the Java Platform with strong compatibility requirements
  
  – Licenses would be Exhibits to the JSPA
  
  – Continues to allow spec lead choice in licensing within limits
  
  – Inbound licensing would also require change - will likely require contributors to make supplemental grants to Oracle to fulfill their TLDA obligations
  
  – Would not be retroactive to completed JSRs, potential for voluntary application to “in-flight” JSRs, and compulsory for JSRs started once the revised JSPA is proliferated
Standard Outbound Licensing

• **Problem Statement:** The current “roll-your-own” licensing model increases inefficiencies in the JSR process, and the resultant license complexity has been a material impediment to Java technologies adoption.

• **Objective:** Reduce the complexity of the JCP licensing model, streamline the JSR process, and improve the consumability of Java technologies by specifying a set of standard licenses all JCP members must use as a condition of participation while protecting the community’s IP and business models.

• **License goals:**
  – **Specification License:** Substantially similar to the existing Oracle Specification License with modifications to harmonize it with other licenses.
  – **RI Licenses:** Spec lead choice from set of licenses: e.g. BSD, ASF, GPL with CPE, ...
  – **TCK License:** License terms required to protect compatibility and provide pricing flexibility that support the spec lead’s ability to be compensated for its investment.
  – **Supplemental License:** Any JSR intended for inclusion in a Java Platform will require a license grant to Oracle sufficient to allow fulfillment of its TLDA obligations.

Is Oracle open to EC negotiation of a JSPA standard licensing model?