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## FEATURE ARTICLE

### 2005 THE STANDARDS YEAR IN REVIEW

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**Introduction:** 2005 was a busy standards year – far busier than can be summarized in one article, or even one issue of this journal. The year had both high and low points, victories as well as losses, and stories that simply went sideways or sputtered out entirely.

In many ways, the year was characterized by struggle, as noted in this issue's [Editorial](#), in part because it was also beset by increasing complexity on many fronts: patent thickets grew thicker while the United States patent system became increasingly recognized for contributing to the problem; nations and regions became more skilled at incorporating standards into their commercial strategies; major corporations did as well; and with the increasing success of open source software came friction between the simple concept of Free and Open Software and the more complex licensing practices of traditional standard setting participants.

But the flip side of the coin is that these same complexities often arose from the fact that the importance of standards is becoming better recognized. With this realization of value and importance, for better or worse, comes greater incentive for commercial and governmental interests to play the standards game for maximum benefit.

In this third Annual Review of the year in standards, I will therefore not attempt to summarize every major event or story of the year just ended. Instead, I will memorialize what I believe to have been the most newsworthy highs and lows of the last twelve months, so that readers now and in the future can remember the best – and the worst – that 2005 had to offer.

#### 1? Standards Story of the Year: [Massachusetts and OpenDocument](#)

There was little doubt in my mind what to recognize as the 2005 IT standards story of the year. It involves a visionary (and now toppled) leader in the person of State CIO Peter Quinn, who announced his resignation to his employees on Christmas eve; a battle between the largest IT companies in the world, as companies like IBM and Sun saw an opening to break Microsoft's ownership of the office productivity software market; infighting among politicians in a scrabble for control of state IT procurement; the future of not only open standards but of open source software as well; the need for software vendors – and standards developers – to serve the accessibility needs of those with disabilities; the preservation of the historical record; and whether you or I will be able to access our individual past in the future.

My coverage of this saga began at the [News Portal](#) on September 1st, and at the [Standards Blog](#) on September 17th. I dedicated the [September issue](#) to the story, and have continued to follow it in all three of these venues ever since – as I will in 2006, since the story is far from over.

The twists and turns of this story are too Byzantine to be summarized in this article, but you can access the full database of news stories and blog entries, both already existing and as new material is added in the future, [here](#).

## 2? Open Source Story of the Year: The Embrace of Open Source by Big IT

While 2005 was not the first year in which big information technology companies invested heavily in Linux (IBM most prominently passed through that knothole years ago), 2005 was the year in which the floodgates opened, with many companies making public pronouncements as well as private strategic decisions intended to boost customer confidence and interest not just in Linux, but in open source alternatives to proprietary software products in general.

The most dramatic evidence of this trend was a series of public announcements by major patent owners that they would not assert their patents against Linux, and in some cases, against any open source software product. Those announcements were intended to allay customer concerns relating to the consequence of porous patent laws, and to underline the marketing message that the open source train was gathering steam, having already left the station.

The first announcement was made by IBM, which on January 10 [pledged](#):

...to open access to key innovations covered by 500 IBM software patents to people and groups working on open source software. The pledge applies to any individual, community, or company working on or using software that meets the Open Source Initiative (OSI) definition of open source software. This is believed to be the largest pledge ever of patents of any kind and represents a major shift in the way IBM manages and deploys its intellectual property portfolio.

IBM's pledge was followed rapidly by (often curiously reminiscent) announcements by other multinational IT vendors. Sun Microsystems, for example, [announced](#) a scant 15 days later:

... the largest single release of patent innovations into the open source community by any organization to date, marking a significant shift in the way Sun positions its intellectual property portfolio.... [S]aid Scott McNealy, Chairman and CEO, Sun Microsystems, Inc. "The release of more than 1,600 patents associated with the Solaris OS far eclipses any other vendor's contribution. Today represents a huge milestone for Sun, for the community, for developers and for customers." A more modest pledge was later made by Computer Associates, which was reported on March 3 to be planning a pledge of its own (it made its formal commitment in support of IBM's pledge on September 7, involving [14 patents](#) of its own). Nokia made its own pledge in support of Linux [in May](#).

Other actions of many types followed. In August, Novell announced that it would open source its flagship [Suse Linux](#) software, and even less directly involved vendors shifted position towards a world in which open source software might become even more powerful. Intel, for example, announced in May that it had formed an internal [open source group](#). In April, it was even announced that Microsoft had [extended an olive branch](#) to the open source community (although no watershed change in its public strategy followed its call for a "for a sit-down to discuss how the software giant can better work with the open-source world.")

By the end of the year, it seemed certain that the open source genie would never be tricked back into the proprietary bottle, if only because too many proprietary vendors were themselves too committed to any longer back away from their public commitments.

## 3? Standard of the Year: XML

If there was a standard of the year, surely it was XML. But not just XML (which achieved W3C Recommendation status on February 10, 1998), but all of its schematic and other children – whether supported by independent organizations (such as XBRL international, which has adapted XML for public accounting reporting purposes), organizations within organizations (such as LegalXML, a Member Section within OASIS, which in turn supports a myriad of XML-related activities), less formal multi-member forums, and even individual companies, university labs and government agencies.

In fact, there are few information domains in which XML cannot be useful – and in most cases, has already been put to use - from human resources HR-XML Consortium, to sports data ([SportsML](#)). This trend continued in 2005, with the formation of new groups, both formal and informal, including the [International Molecular Exchange](#) (Imex), which was formed to "jointly curate and exchange data" in the five publicly available databases that are based upon the Molecular Interaction XML Interchange standard developed for proteomics use.

Look for more activities of all types involving XML in 2006 (and after).

#### **4? Standards Developer of the Year (Organization): OASIS**

By almost any measure, OASIS was the standards development organization that found itself (by design or otherwise) in the middle of the most action in the IT sector. All in the same year, it:

- Continued to play a central role in the development of Web services and other ebusiness standards
- Completed a nearly three year struggle to achieve consensus on one of the first formal intellectual property policies to offer an elective rules track to create standards that would be friendly to open source software implementations (OASIS was then [condemned](#) for its trouble in a letter signed by 29 open source advocates, who wanted OASIS to mandate use of the open source-friendly terms for all of its Technical Committees)
- Adopted and released eight new standards, including version 1.0 of the OpenDocument format in May, providing the first open office productivity application format (and the basis for the commercial and political struggle in [Massachusetts](#) that I named above as the 2005 Standards Story of the Year).
- Launched six new Technical Committees to address a wide array of new needs..

While some other consortia and accredited standards developers may have had more projects in motion in 2005, it was OASIS that, through a perfect storm of commercial and political forces, found itself to be at the center of more of what was newsworthy in 2005 than any other organization.

#### **5? Standards Developer of the Year (Country): China**

In April, we dedicated an issue of the **CSB** to the [rising power](#) of China, which has deployed its formidable resources to the creation of what may be the best funded and staffed standards infrastructure that the world has ever seen. While that infrastructure appears to still be finding its voice in the established bureaucracy of global standard setting, the influence that China can be expected to assert will be substantial, given the size of the market subject to its control.

China has even more reasons to flex its standards muscles than most countries, given the preponderance of patents in the West that currently forces it to function as the cut-rate job shop for the high-priced occidental brands that reap the margins generated by the sweat of Chinese brows. If China can create and enforce its own standards without violating the World Trade Organization's Technical Barriers to Trade Act, it will do so, adding another weapon to an already formidable commercial armamentarium.

Already, there have been major international repercussions over China's efforts to require compliance with a home-grown wireless standard. That issue has only been partially resolved, and additional tests are in the offing involving Chinese standards for 3G cell phones, DVD players and video/video compression.

Stay tuned. You'll be hearing more on this story in 2006 as well.

#### **6? Intellectual Property Issue of the Year: The ITC Patent Mess**

To paraphrase an old saying, "Nobody doesn't love to hate the U.S. patent system." And well they might, as a variety of events in 2005 demonstrated.

On the litigation front, multiple high-profile lawsuits ground on that many considered to involve patents that should never have been issued, while new threats emerged involving patents that are also popularly thought to be invalid.

An example of continuing litigation was the ongoing effort by a one-employee company called Eolas Technologies to collect on a multi-hundred million dollar judgment against Microsoft involving the Internet Explorer browser – a threat that had earlier inspired a plea to the U.S. Patent and Trademark Office (PTO) by the W3C, signed personally by Tim Berners-Lee, to void the patent in question. An example of a new threat is the contention of another small company, this time based in North Carolina and called Scientigo, which claims that use of [XML](#) (first released in 1998) would infringe its patent.

At the same time, endemic cries against the formation and funding of new patent "trolls" (i.e., companies formed for the sole purpose of purchasing, and asserting, patents against operating companies) reached the pages of even the [Wall Street Journal](#). One such company is Acacia Technologies, which has acquired 120 patents in a variety of technical areas and has brought suit already against companies large and small, including Intel. Another, named Thinkfire, is venture backed and was founded by former Microsoft chief technology officer Nathan Myhrvold. Thinkfire licenses patents it has purchased, and manages those owned by others as well.

At the heart of the matter is the long-held belief that patents in the U.S., and particularly software patents, are [too easy to get and too hard to challenge](#), thereby enabling the owners of patents that should never have been issued to put innocent software developers and end-users to the choice of paying up or facing an uphill – and extremely expensive – battle in court to challenge those patents. A bill is currently in Congress to address the situation, but the opinions on the specific changes that should be made to existing law are as fiercely held as they are diverse.

Meanwhile, 2005 saw a pitched battle in Europe over whether to permit the award of software patents at all. By years end, the question had been overwhelmingly answered in the [negative](#), at least for now. And in this country, various initiatives were launched in support of open source software, while awaiting whatever relief, if any, Congress might provide. One such initiative was an information resource launched by Open Source Development Labs (OSDL) to create an [on-line patent commons reference library](#). More ambitiously, an [open invention network](#) was formed by IBM, Philips, Sony, Red Hat, and Novell to actually buy patents that might be infringed by Linux users, in order *not* to assert them.

As the year ended, it appeared that the best that could be hoped for would be the eventual passage of a patent reform bill that would be likely to leave everyone equally unhappy.

All in all, no one was happy with the U.S. patent system in 2005 – except the trolls.

### **7? *International (Non?) Event of the Year: WSIS***

Perhaps the only thing that was less popular in 2005 than U.S. patent laws was the U.S. position on a question that came to be phrased, "Who Should Govern the Internet?"

As I reported for months at the ConsortiumInfo.org [News Portal](#) and explored in depth in the [November](#) issue of the **CSB**, the controversy focused on whether the U.S. would (as earlier promised) or would not (as it announced in June) relinquish control of the Internet Council on Assigned Numbers and Names (ICANN). Internationally, pressure and angst mounted following the U.S. backtracking, while domestic determination not to give in rose in equal measure.

By the time the second plenary meeting of the World Summit on the Internet Society (WSIS), a multi-year endeavor commissioned by the United Nations and administered by the International Telecommunication Union, convened in Tunis, virtually all other topics had been eclipsed by the Internet governance controversy.

At the last minute, a compromise (of sorts) was reached that largely gave the U.S. what it wanted – continuation of the status quo – while granting those that wanted a global resource to be administered

collectively only a new "Internet Governance Forum" that might – or might not – grow into something meaningful.

**Summary:** All in all, the Year in Standards was contentious and clamorous, and by turns both regressive and progressive, infuriating and encouraging -- much like the year in domestic and international relations. It's a safe bet that we can look forward to more of the same in 2006, as few of the stories highlighted above have run their course, nor have the underlying conditions, attitudes and strategic interests that fueled their heat abated.

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