

The Use and Abuse of Standards Development Organizations

Adam Mossoff
Professor of Law
Antonin Scalia Law School
George Mason University

Twitter: @AdamMossoff



What are Standards?



Why Standards?

**Resistance is
Futile....**

**Standardized Norms
Will Be Adopted in the
Marketplace**



Evolution of Standards

1. De Facto Standard



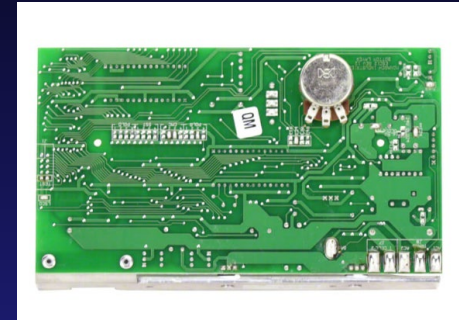
2. Standards War



3. There is another way

Standards Development Organizations

- SDOs are private-ordering solution to sub-optimal alternatives (de facto or war)
- SDOs are sources of immensely valuable industrial, mechanical, and electrical products & services in all innovation economies



Standards Development Organizations

- All institutional solutions to resolve transaction-cost problems in the market entail trade offs
- SDOs bring together all stakeholders in innovation economy
 - Innovators
 - Implementers
- The **right incentives** have to be maintained in the **rules**



Tensions Within SDOs Today

- Growing Divide Between Innovators and Implementers
- Efforts to Change SDO policies:
 - Regulation (Antitrust)
 - Litigation (Courts)
 - Internally at SDOs
- BIG concern: changes in SDO policies & legal rules are ex post



Why Be Concerned?

- SDOs are an important innovation as private-ordering mechanism in facilitating faster and more efficient innovation made available in the marketplace



Why Be Concerned?

➤ Strategic changes in rules raise real concerns:

❑ Fair?

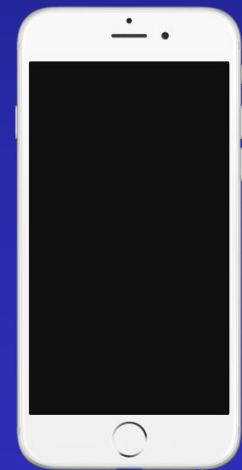
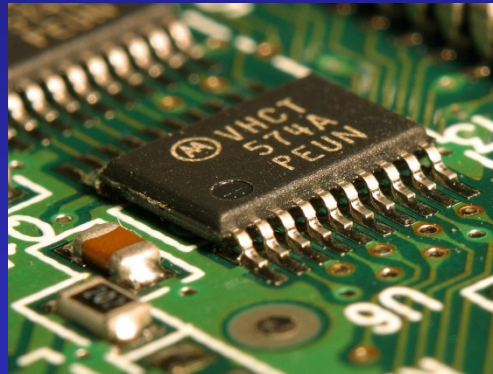
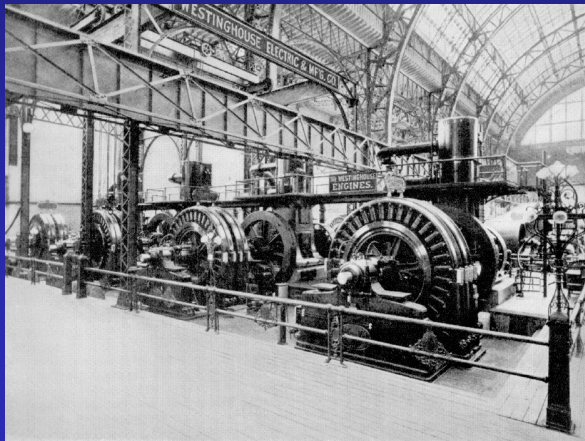
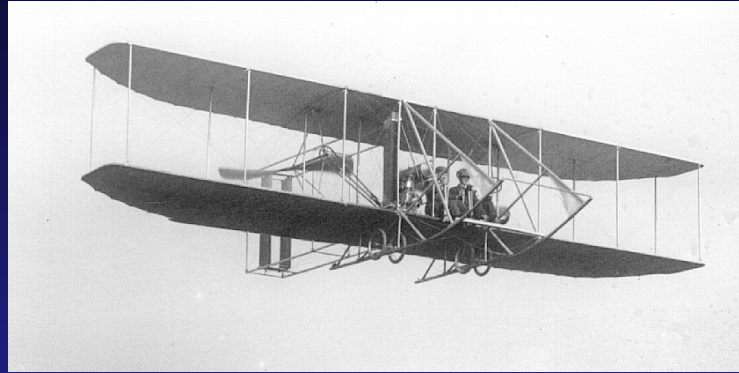
❑ Efficient?

➤ Innovators bear the burden of long-term, risky, and massive R&D expenditures



➤ Concern: if can't rely on settled rules of the game, loss of dynamic efficiency in both new technology and in new innovation markets facilitated by SDOs

What is at Stake



Twitter: @AdamMossoff

