

The ETSI IPR Policy

*Obligations, rights and
current developments*

I. Overview

Main characteristics of the ETSI IPR Policy:

- IPR owners entitled to hold and benefit from their IPRs, including the right to refuse the granting of licenses.
- Standards based on solutions which best meet the technical objectives of ETSI.
- Balance finding between the needs of standardization for public use in the field of telecommunications and the rights of the owners of IPRs.
- Reduce the risk that investment in the preparation, adoption and application of standards could be wasted as a result of an essential IPR for a standard being unavailable.
- Seeking for knowledge of the existence of essential IPRs as early as possible
- Licensing negotiations are commercial issues between the companies and are to be addressed outside ETSI.

II. Rights and obligations

Member's obligations

- to inform ETSI about their own, and other people's Essential IPRs (*clause 4.1*).
- to abstain from claiming copyright on standards documentation on behalf of the member itself and its employees (*clause 9.1*).
- requested to undertake to grant licenses on FRAND terms and conditions (*clause 6.1*).
- In case of refusal to grant license when no alternative is available, requested to reconsider their position and provide the Director-General with a justification (*clause 8.1*).

II. Rights and obligations

Member's rights

- no obligation to conduct IPR searches (*clause 4.2*).
- to refuse the inclusion of own IPRs in standards (*clauses 8.1 and 8.2*).
- to be rewarded for the use of their IPRs (*clause 3.2*), i.e. to be granted licenses on FRAND terms and conditions (*clause 6.1*).
- to make copies of standards documentation (*clause 11*) free of charge.
- to use IPRs owned by ETSI free of charge (*clause 9.3*).
- no obligation to disclose within the Technical Body the commercial terms for licenses
- no obligation to inform ETSI of any updates to their essential IPRs.

II. Rights and obligations

Third parties obligations

- IPR Policy is only binding on ETSI Members. Third parties do therefore not have any legal obligations
- But may be requested to undertake to grant licenses on fair, reasonable and non-discriminatory terms and conditions (*clause 6.1*).

II. Rights and obligations

Third parties rights

- to refuse the inclusion of their own Essential IPRs in ETSI Deliverables (*clause 8.1 and 8.2*).
- to be rewarded for the use of their IPRs (*clause 3.2*), i.e. to be granted licenses on FRAND terms and conditions (*clause 6.1*).
- to be granted licenses for ETSI owned IPRs (*clause 9.3*) on FRAND terms and conditions.
- to have confidential information within a Technical Body respected until publication of the relevant Deliverable (*clause 10*).

II. Rights and obligations

Institute/Secretariat's obligations (1)

- to inform users of standards about Essential IPRs declared and ensure that this information is publicly available (*clause 7*).
- to perform IPR searches if the EC and/or EFTA so require and reasonable expenses are met (*clause 6.2*).
- to grant licenses on ETSI-owned IPRs (other than copyright) on fair, reasonable and non-discriminatory terms and conditions to third parties, free of charge to ETSI Members (*clause 9.3*).

II. Rights and obligations

Institute/Secretariat's obligations (2)

- to respect confidential information within a TB until publication of the relevant Deliverable (*clause 10*).
- to initiate a procedure of clause 8 when no licensing declaration can be obtained (*clauses 8.1 and 8.2*).
- the Director-General to request the owner of an Essential IPR to give within three months an undertaking in writing that it is prepared to grant licenses (*clause 6.1*).
- to assist the Chairmen in IPR matters

III. Current developments

- In November 2005 the ETSI GA #46 established an ad hoc group in order to Review the ETSI IPR policy (IPR R AHG).
- One preparatory meeting and six meetings have taken place (average of 80-100 participants and 15-25 documents a time).
- Meetings were characterised of in-depth discussion on different topics of a high complexity (e.g. transparency of essential IPRs; transparency of licensing terms, etc.).
- In its last meeting on 7-8 September 2006 the IPR R AHG decided on a list of 16 items, recommended how to treat them and made suggestions for further handling and follow up. The decisions were made by consensus.
- ETSI GA #48 (21-22 November 2005) is asked to endorse the recommendations and proposals for implementation and follow up.