

# **ITU-T Rapporteur and Editor Tutorial**

**(Geneva, 28 – 29 November 2011 )**

## **Intellectual Property Rights (IPR)**

**Gary Fishman**

**Pearlfisher International**

**TSAG Chairman (1996-2008)**

Rapporteur/Editor Tutorial: IPR



# Intellectual Property Rights and ITU-T standardization

- Patents
- Copyright and input contributions
- Software Copyright
- Marks

# Common Patent Policy of ITU-T/ITU-R/ISO/IEC

- A patent embodied in a Rec must be accessible to everybody without undue constraints. To meet this requirement in general is the sole objective of the code of practice.
  - ➔ Detailed arrangements arising from patents (e.g., licencing) are left to the parties concerned
- Recs are drawn up by technical, not patent experts; thus, they may not necessarily be very familiar with the complex international legal situation of IPRs

# Common Patent Policy – 3 Situations

- 2.1 Patent holder willing to negotiate licenses free of charge on RAND (Reasonable And Non-Discriminatory) terms and conditions; negotiations are left to parties concerned; performed outside ITU-T/ITU-R/ISO/IEC.
- 2.2 Patent holder willing to negotiate licenses on RAND terms and conditions; negotiations are left to the parties concerned and are performed outside ITU-T/ITU-R/ISO/IEC.
- 2.3 If not 2.1 or 2.2: the Recommendation shall not include provisions depending on the patent.

# Patent Statements

- Patent and licensing declaration shall be made in writing to Director, using standard forms on website
- Statement must not include additional provisions, conditions, or any other exclusion clauses in excess of what is provided for on the forms
- TSB maintains Patent Statement database

# Patent Policy Implementation

- It is expected that discussions will include consideration of including patented material in a Recommendation, however the technical bodies may not take a position regarding the essentiality, scope, validity or specific licensing terms of any claimed Patents.

# Recommendation text

- On the cover sheet of all ITU-T Recs:

ITU draws attention to the possibility that the practice or implementation of this Rec may involve the use of a claimed IPR. ITU takes no position concerning the evidence, validity or applicability of claimed IPRs, whether asserted by ITU members or others outside of the Recommendation development process.

As of the date of approval of this Rec ITU [had/had not] received notice of intellectual property, protected by patents, which may be required to implement this Recommendation. However, implementers are cautioned that this may not represent the latest information and are therefore strongly urged to consult the ITU Patent Information database.

(see Guidelines for Implementation of the Patent Policy)

# Copyrights and Contributions

- Material (e.g., text, diagrams) submitted as a contribution is presumed by ITU to have no restrictions in order to permit the normal distribution of this material for discussions within appropriate groups and possible use in resulting ITU-T Recs
- By submitting the contribution, authors acknowledge this condition of submission
- Authors may state any specific conditions on other uses of their contribution

(Rec ITU-T A.1, §3.1.5)



# Software Copyright

- Software Copyright Guidelines:
  - Recommendations often can be written around copyrighted material using performance-based requirements
  - ITU-T strongly discourages including copyrighted software owned elsewhere than ITU in an ITU-T Rec
  - If SG decides to incorporate such normative software, the Software Copyright Guidelines shall be followed

# Software Copyright

- Member submitting material must submit Software Copyright Statement and Licensing Declaration form
- Software (with necessary license agreement) must be made available to SG for evaluation
- TSB maintains appropriate database

# Marks

- Marks Guideline document
- General approach is to avoid use of marks if possible
  - Avoid appearance of endorsement of particular products
- Non-endorsement Uses of Marks
- When in doubt, consult Director
- Inclusion of Marks in ITU-T Recs is subject to approval by TSB

# The “IPR Question”

- Chairmen/ Rapporteur will ask, during each meeting, whether anyone has knowledge of patents or software copyrights, the use of which may be required to implement the Recommendation being considered. The fact that the question was asked shall be recorded in the meeting report, along with any affirmative responses.

Ref: (ITU-T A.1, §1.4.6 for SG/WP; ITU-T A.1, §2.3.3.12 for RG)

- Do not give personal views on IPR or member obligations; ask the question, record the responses and stop



**Thank you**

**Mr. Gary Fishman**  
**PEARLFISHER INTERNATIONAL**  
**Tel: +1 732 778-9572**  
**Fax: +1 732 583-3051**  
**[gryfishman@aol.com](mailto:gryfishman@aol.com)**  
**Skype: gryfishman**

# Additional Information

<b>Doc.</b>	<b>Link</b>
Common Patent Policy for ITU-T/ITU-R/ISO/IEC	<a href="http://www.itu.int/en/ITU-T/ipr/Pages/policy.aspx">http://www.itu.int/en/ITU-T/ipr/Pages/policy.aspx</a>
Guidelines for Implementation of the Common Patent Policy for ITU-T/ITU-R/ISO/IEC (01 March 2007)	<a href="http://www.itu.int/dms_pub/itu-t/oth/04/04/T04040000010001MSWE.doc">http://www.itu.int/dms_pub/itu-t/oth/04/04/T04040000010001MSWE.doc</a>
ITU-T Software Copyright Guidelines	<a href="http://www.itu.int/dms_pub/itu-t/oth/04/04/T04040000040001MSWE.doc">http://www.itu.int/dms_pub/itu-t/oth/04/04/T04040000040001MSWE.doc</a>
ITU-T Guidelines related to the inclusion of Marks in ITU-T Recommendations	<a href="http://www.itu.int/dms_pub/itu-t/oth/04/04/T04040000060001MSWE.doc">http://www.itu.int/dms_pub/itu-t/oth/04/04/T04040000060001MSWE.doc</a>
ITU-T Patent Information Database	<a href="http://www.itu.int/ipr/IPRSearch.aspx?iprtype=PS">http://www.itu.int/ipr/IPRSearch.aspx?iprtype=PS</a>
ITU-T Software Copyrights Database	<a href="http://www.itu.int/ipr/IPRSearch.aspx?iprtype=SW">http://www.itu.int/ipr/IPRSearch.aspx?iprtype=SW</a>