

Title:- Intellectual Property Matters

Source:- BT

At the San Jose meeting Annex 4 to #216R was produced as a possible proforma for an intellectual property agreement.

BT has studied this document, together with Annex 3 of the report of the April 87 meeting of WP XV/I.

Our comments are as follows:-

1. On the question of legality, it is not all clear that the statement would be legally enforceable, since (a) there is not clearly another 'party' to the statement who would be in a position to enforce it, (b) we do not know whether CCITT has the legal capacity to sue, and (c) under the laws of England and certain other countries such an undertaking would not be legally binding unless given for some consideration or executed under seal.
2. This does not necessarily mean that BT could not sign the statement. In view of the above we may (subject to 3 below) take a fairly relaxed attitude towards its wording which is less than ideal.
3. We cannot make such a statement on behalf of our subsidiaries (eg Mitel). We could however undertake to employ all reasonable efforts to persuade subsidiaries to grant licences (or sign the statement themselves).
4. It would be preferable to have a more formal agreement addressing such matters as enforceability, pre-existing contractual obligations, the applicable law etc.
5. There is an increasing awareness that intellectual property questions in relation to Standards need to be taken more seriously and BT hopes ultimately to make some progress in approaching a carefully thought-out agreement that could apply to all CCITT matters.

Proposal

It is clear from the above comments that the proposed agreement is not ideal and indeed the present CCITT policy on patents needs further study. A special CCITT group should be set up involving legal experts to draw up a legally binding intellectual property agreement (to include licence terms and conditions) to cover all CCITT matters.

It is suggested that the specialists group propose this course of action to the main study group.