

JT/01-0150

March 14, 2001

Subject: ISO Patent Policy

JTC 1 TAG Members -

Several JTC 1 TAG members asked for the current ISO Patent Policy to review in conjunction with JTC 1 N 6394 - Template Patent Statement for Common Text with ITU-T.

The JTC 1 Secretariat contacted ISO and got the following response:

March 14, 2001

Lisa,

For info, Keith is attending the SC 29 plenary in Singapore. Attached is ISO/IEC Directives, Part 2, AMENDMENT 1, ANNEX A regarding the Patent Policy. There might be a more current text, but in that case, Keith will need to let you know on his return on Monday, 19 March.

Regards.

Brenda Hops

The referenced text is attached.

ISO/IEC DIRECTIVES

PART 2

Methodology for the development of
International Standards

AMENDMENT 1

(1995-05-31)

Second edition, 1992

FOREWORD

This amendment has been approved by ISO/CEI Councils in 1994.

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5.7 *Reference to patented items*

Replace the title and text of 5.7 by the following:

5.7 *Reference to patent rights*

If, in exceptional situations, technical reasons justify such a step, there is no objection in principle to preparing an International Standard in terms which include the use of items covered by patent rights — defined as patents, utility models and other statutory rights based on inventions, including any published applications for any of the foregoing — even if the terms of the standard are such that there are no alternative means of compliance. The rules given in annex A shall be applied.

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Replace the existing annex A by the following:

Annex A
(normative)

Reference to patent rights

A.1 A published International Standard for which no patent rights are identified during the preparation thereof, shall contain the following notice:

Attention is drawn to the possibility that some of the elements of this International Standard may be the subject of patent rights. ISO [*and/or*] IEC shall not be held responsible for identifying any or all such patent rights."

A.2 If technical reasons justify the preparation of an International Standard in terms which include the use of items covered by patent rights, the following procedures shall be complied with.

- a) The originator of a proposal for an International Standard shall draw the attention of the technical committee or sub-committee to any patent rights of which the originator is aware and considers to cover any item of the proposal. Any party involved in the preparation of a standard shall draw the attention of the technical committee or sub-committee to any patent rights of which it becomes aware during any stage in the development of the standard.

- b) If the proposal is accepted on technical grounds, the originator shall ask any holder of such identified patent rights for a statement that the holder would be willing to negotiate worldwide licences under his rights with applicants throughout the world on reasonable and non-discriminatory terms and conditions. Such negotiations are left to the parties concerned and are performed outside the ISO or IEC. A record of the right holder's statement shall be placed in the registry of the ISO Central Secretariat or IEC Central Office as appropriate, and shall be referred to in the introduction to the relevant International Standard (see item *e*) below). If the right holder does not provide such a statement, the technical committee or sub-committee concerned shall not proceed with inclusion of an item covered by a patent right in the International Standard without authorization from ISO Council or IEC Council as appropriate.
- c) All drafts submitted for comment shall include on the cover page the following text:
Recipients of this document are invited to submit, with their comments, notification of any relevant patent rights of which they are aware and to provide supporting documentation.
- d) An International Standard shall not be published until the statements of the holders of all identified patent rights have been received, unless the Council concerned gives authorization.
- e) A published International Standard for which patent rights have been identified during the preparation thereof, shall include the following notice in the introduction:

The International Organization for Standardization (ISO) [*and/or*] International Electrotechnical Commission (IEC) draws attention to the fact that it is claimed that compliance with this International Standard may involve the use of a patent concerning (*..subject matter..*) given in (*..subclause..*).

The ISO [*and/or*] IEC take[s] no position concerning the evidence, validity and scope of this patent right.

The holder of this patent right has assured the ISO [*and/or*] IEC that he is willing to negotiate licences under reasonable and non-discriminatory terms and conditions with applicants throughout the world. In this respect, the statement of the holder of this patent right is registered with the ISO [*and/or*] IEC. Information may be obtained from:

[*...name of holder of patent right...*]
[*...address...*]

Attention is drawn to the possibility that some of the elements of this International Standard may be the subject of patent rights other than those identified above. ISO [*and/or*] IEC shall not be held responsible for identifying any or all such patent rights.

A.3 Should it be revealed after publication of an International Standard that licences under patent rights, which appear to cover items included in the standard, cannot be obtained under reasonable and non-discriminatory terms and conditions, the International Standard shall be referred back to the relevant technical committee or sub-committee for further consideration.