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Promoting Compliance with Intellectual Property Rights (IPR) Disclosure Rules

[draft-polk-ipr-disclosure-02](#)

Abstract

The disclosure process for intellectual property rights (IPR) in IETF stream documents is essential to the accurate development of community consensus. However, this process is not always followed by participants during IETF standardization. Regardless of the cause or motivation, noncompliance with IPR disclosure rules can derail or delay completion of standards documents. This document describes strategies for promoting compliance with the IPR disclosure rules. The strategies are primarily intended for area directors, working group chairs, and working group secretaries.

Status of this Memo

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1. Introduction

The disclosure process for intellectual property rights (IPR) in IETF stream documents is essential to the accurate and efficient development of consensus by the community. Ensuring that IETF working groups and participants have as much information as possible regarding IPR constraints, as early as possible in the process, enables the community to develop an informed consensus regarding technical proposals. Statements to that effect appear in [\[RFC1602\]](#), [Section 5.5](#) Clause (B), and [\[RFC2026\]](#), [Section 10.4](#) Clause (B).

However, IPR disclosures often do not occur at the earliest possible stage in the IETF process. Individuals might delay disclosure through an oversight, to subvert the consensus process, or to introduce delay. Regardless of the cause or motivation, noncompliance with IPR disclosure rules can derail or delay completion of standards documents. Disclosure of IPR after significant decisions, such as Working Group Last Call (WGLC), might lead to reconsideration of those actions. For example, a working group (WG) might change course and use a previously rejected technical proposal with less onerous limitations. Such "course corrections" produce unnecessary delays in the standardization process.

This document suggests strategies for promoting compliance with the IPR disclosure rules and thereby avoiding such delays. The strategies are primarily intended for area directors (ADs), WG chairs, and WG secretaries.

The strategies are focused on promoting early disclosure by document authors, since late disclosure involving authors has historically caused significant delays in the standardization process. Many of the strategies also promote early disclosure by other contributors.

Naturally, even if ADs, WG chairs, and WG secretaries do not apply the strategies described in this document, IETF contributors are still bound by the rules defined in [BCP 79](#) (see [\[RFC3979\]](#) and [\[RFC4879\]](#)). This document does not modify those rules, nor does it normatively extend those rules; it merely provides suggestions intended to aid ADs, WG chairs, and WG secretaries.

In addition, this document does not consider the parallel, but important, issue of potential actions that can be taken by the IETF itself for lack of conformance with the IETF's IPR policy. That topic is discussed in [\[Sanctions\]](#).

1.1. Terminology

This document relies on the definitions provided in [section 1 of \[RFC3979\]](#).

By intent, this document does not use the conformance language described in [\[RFC2119\]](#).

2. Background

The responsibilities of contributors and IETF participants regarding IPR disclosure are documented in [\[RFC3979\]](#) and [\[RFC4879\]](#). These documents do not assign any further responsibilities to ADs, WG chairs, and WG secretaries, other than those imposed by their roles as contributors or participants. However, late disclosure of IPR has a direct impact on the effectiveness of working groups, WG chairs, and ADs.

According to [\[RFC2418\]](#), WG chairs are responsible for "making forward progress through a fair and open process" and area directors are responsible for "ensuring that working groups in their area produce ... timely output"; in addition, because WG chairs can appoint one or more WG secretaries to help them with the day-to-day business of running the WG (see [\[RFC2418\]](#)), some of the actions suggested in this document might fall to WG secretaries.

IPR disclosure at the earliest possible time is an essential feature of a "fair and open process", and late disclosure impedes timely output through recycling and appeals. To better fulfill their responsibilities in the IETF standards process, ADs, WG chairs, and WG secretaries might wish to adopt strategies to encourage early disclosure consistent with the responsibilities established in [\[RFC3979\]](#) and [\[RFC4879\]](#), such as the strategies described in this document.

3. Strategies for Working Group Documents

Building upon the framework provided in [\[RFC3669\]](#), this section identifies opportunities to promote IPR disclosure within the document lifecycle for IETF working group documents. In general, these opportunities are encountered during socialization, working group adoption, Working Group Last Call (WGLC), and IETF Last Call. The strategies described in this section are primarily implemented by WG chairs. (The exceptions are strategies for IETF Last Call, which would be implemented by ADs.) In cases where the WG secretary creates meeting agendas or initiates consensus calls, the secretary

might also implement these strategies.

3.1. Presenting an Internet-Draft at an IETF Meeting

The first opportunity to encourage early IPR disclosure might occur even before a technical proposal becomes a working group document.

When IETF participants wish to socialize a personal draft, in hopes of future adoption by a working group, one common strategy is to request a slot on the agenda at an upcoming face-to-face meeting. Before the community commits resources to reviewing and considering the draft, it is very reasonable for the WG chairs to confirm (often via email) that all IPR disclosures have been submitted. The chairs ought to request confirmation from each of the authors, especially if authors are from multiple organizations.

If necessary disclosures have not been submitted, the chairs have a choice: insist on an informal disclosure in the presentation, or deny the agenda slot unless the IPR disclosure is submitted. One factor in this decision could be the number of revisions that have occurred: the chairs might wish to permit presentation of a -00 draft with a verbal disclosure, but not after a draft has gone through multiple cycles.

In some cases, an IETF participant has not developed an Internet-Draft but might still request a slot on the agenda to discuss a proposal for a new draft, or a new feature for an existing working group document. Again, it is very reasonable for the WG chairs to confirm that all IPR disclosures have been submitted before approving the agenda slot, so that the community does not commit resources to analyzing the proposal without knowledge of IPR limitations.

3.2. Requesting WG Adoption

When a technical proposal is considered for adoption by a working group, the chairs have an opportunity to confirm (or reconfirm) IPR compliance with authors and listed contributors. In addition, the chairs might wish to explicitly ask the WG participants if anyone is aware of IPR that is associated with this proposal. While requiring confirmation from each working group participant is clearly impossible, silence might be interpreted as a weak "No".

3.3. Requesting WG Last Call

Working Group Last Call is a particularly significant milestone for a working group document, measuring consensus within the working group one final time. If IPR disclosure statements have not been submitted, the judgement of consensus by the chairs would be less

than reliable. Even if the procedures such as those described above have been implemented to promote IPR disclosure during socialization and adoption, features might have evolved in a way that introduces new IPR concerns. In addition, new participants with knowledge of IPR claims might have joined the working group. Therefore chairs might wish to reconfirm with each of the authors that appropriate IPR disclosure statements have been filed, even if the authors all work for the same organization. Chairs might also wish to include a reminder about the importance of IPR disclosures in any WGLC message to the working group. (Note: If IPR disclosure statements have been filed, the chairs might wish to include a link in the WGLC message to ensure that the consensus call reflects this information.)

3.4. AD Review

After successfully completing WGLC, a working group document is forwarded to the appropriate Area Director for AD review, with a request that the AD process the document for publication as an RFC. Such a publication request is accompanied by a Document Shepherd Write-up as required by [RFC4858] using the template found at <http://www.ietf.org/iesg/template/doc-writeup.html>. The current version of the template asks the document shepherd to answer the following question:

(7) Has each author confirmed that any and all appropriate IPR disclosures required for full conformance with the provisions of [BCP 78](#) and [BCP 79](#) have already been filed. If not, explain why.

Additionally, the AD can ask the chairs whether they took explicit action to promote disclosure of IPR. If the answer to the write-up question is not favorable, or if the chairs did not take any of the actions listed above, the AD might choose to contact the authors and other key contributors (e.g., those listed in the acknowledgements) to confirm that the appropriate IPR disclosure statements have been filed before advancing the document through the publication process.

3.5. IETF Last Call

IETF Last Call is the AD's vehicle for gauging IETF-wide consensus. It is critical that the community have easy access to all related IPR statements when considering an Internet-Draft. The current tools automatically include the URL for each IPR statement explicitly linked to the draft when the default Last Call message is generated. If the AD edits this message, the links to IPR disclosure statements ought to be preserved.

4. Strategies for Individual Submissions

This section identifies opportunities to promote IPR disclosure within the IETF document lifecycle for documents that are processed outside the context of a working group (so-called "individual submissions"). In general, these opportunities are encountered during socialization, area director review, and IETF Last Call.

4.1. Presenting an Internet-Draft at an IETF Meeting

When IETF participants wish to socialize a personal draft not intended for a working group, it is still common to request a slot on the agenda at an upcoming face-to-face meeting. These requests might be made to related working groups or area meetings, or even during plenary time. Before the community commits resources to reviewing and considering the draft, it is very reasonable for the chairs of that meeting (WG chair, AD, IESG chair, or IAB chair) to confirm that all IPR disclosures have been submitted.

The meeting chairs ought to request confirmation from each of the authors, especially if authors are from multiple organizations. Where the presentation covers a concept that has not been documented as an Internet-Draft, the chairs ought to request confirmation from any co-authors and from contributors acknowledged in the presentation materials.

4.2. AD Review

When considering the possibility of sponsoring an individual submission, an AD ought to also confirm that all IPR disclosures have been submitted. The AD ought to require confirmation from each of the authors, even if authors are from the same organization. As with WG documents, a Document Shepherd Write-up is also required for AD sponsored documents, and this must follow the template at <http://www.ietf.org/iesg/template/individual-doc-writeup.html>. The current version of the template asks the document shepherd to answer the following question:

(7) Has each author confirmed that any and all appropriate IPR disclosures required for full conformance with the provisions of [BCP 78](#) and [BCP 79](#) have already been filed. If not, explain why.

4.3. IETF Last Call

As with working group documents, IETF Last Call is the AD's vehicle for gauging IETF-wide consensus. It is critical that the community have easy access to all related IPR statements when considering an Internet-Draft. The current tools automatically include the URL for

each IPR statement explicitly linked to the draft when the default Last Call message is generated. If the AD edits this message, the links to IPR disclosure statements ought to be preserved.

5. Conclusions

WG chairs and ADs are not expected to enforce IPR disclosure rules, and this document does suggest that they take on such a role. However, lack of compliance with IPR disclosure policies can have a significant impact on the standardization process. To support the efficient development of IETF standards and avoid unnecessary delays, WG chairs and ADs are encouraged to look for opportunities to promote awareness and compliance with the IETF's IPR policies. The strategies in this document promote compliance by raising the question of IPR disclosure at critical junctures in the standardization process.

6. Security Considerations

This document suggests strategies for promoting compliance with IPR disclosure rules during the IETF standards process. These procedures do not have a direct impact on the security of the Internet.

7. IANA Considerations

This document has no actions for IANA.

8. References

8.1. Normative References

- [RFC3979] Bradner, S., "Intellectual Property Rights in IETF Technology", [BCP 79](#), [RFC 3979](#), March 2005.
- [RFC4879] Narten, T., "Clarification of the Third Party Disclosure Procedure in [RFC 3979](#)", [BCP 79](#), [RFC 4879](#), April 2007.

8.2. Informative References

- [RFC1602] Huitema, C. and P. Gross, "The Internet Standards Process -- Revision 2", [RFC 1602](#), March 1994.
- [RFC2026] Bradner, S., "The Internet Standards Process -- Revision 3", [BCP 9](#), [RFC 2026](#), October 1996.

- [RFC2119] Bradner, S., "Key words for use in RFCs to Indicate Requirement Levels", [BCP 14](#), [RFC 2119](#), March 1997.
- [RFC2418] Bradner, S., "IETF Working Group Guidelines and Procedures", [BCP 25](#), [RFC 2418](#), September 1998.
- [RFC3669] Brim, S., "Guidelines for Working Groups on Intellectual Property Issues", [RFC 3669](#), February 2004.
- [RFC4858] Levkowetz, H., Meyer, D., Eggert, L., and A. Mankin, "Document Shepherd from Working Group Last Call to Publication", [RFC 4858](#), May 2007.
- [Sanctions]
Farrel, A. and P. Resnick, "Sanctions Available for Application to Violators of IETF IPR Policy", [draft-farrresnickel-ipr-sanctions-04](#) (work in progress), March 2012.

[Appendix A](#). Sample Messages

This section provides sample messages of the kind that ADs, WG chairs, and WG secretaries can send to meeting presenters, document authors, document editors, and contributors during various stages of the Internet Standards Process. The messages use a hypothetical working group called the "FOO WG", hypothetical WG chairs named "Alice" and "Bob", a hypothetical author named "Nigel Throckmorton", a hypothetical AD named "Christopher", and hypothetical documents about a hypothetical technology called "wiffle"; any resemblance to actual working groups, WG chairs, ADs, or documents is strictly coincidental. The last two messages might be appropriate for sending to individuals who have requested a slot on the agenda during an IETF meeting or who have requested AD sponsorship of an individual submission.

[A.1](#). General WG Reminder

Subject: Reminder about IETF IPR Policy

Dear FOO WG:

Everyone who participates in the Internet Standards Process (whether by posting to IETF mailing lists, authoring documents, attending IETF meetings, or in other ways) needs to be aware of the IETF rules with regard to Intellectual Property Rights (IPR). These rules are described in [BCP79](#) and can be referenced through [<http://www.ietf.org/ipr/policy.html>](http://www.ietf.org/ipr/policy.html).

Please note that these are personal requirements applying to all IETF participants as individuals, and that these requirements also apply to all participants in the FOO WG.

As FOO WG chairs, we would like to minimize or hopefully even eliminate late disclosures relating to documents under consideration within the FOO WG. Therefore you might see us send "reminder" messages in the future to authors or to the FOO WG email list as a whole, asking people whether they know of IPR relating to specific documents. In order to comply with IETF processes while avoiding unnecessary delays, document authors and contributors to our discussions in the FOO WG are asked to take these messages seriously, and to reply in a timely fashion. However, these messages are only reminders of existing IETF policy, and we are all bound by that policy even in the absence of such reminder messages.

Thanks,

Alice and Bob

(as FOO WG co-chairs)

A.2. Reminder before WG Adoption of an Individual Internet-Draft

Subject: Reminder about IPR relating to [draft-throckmorton-wiffle-foo](#)

Dear FOO WG:

As you can see from the consensus call the WG chairs have sent out, the authors have asked for [draft-throckmorton-wiffle-foo](#) to be considered for adoption as a WG document. We would like to check whether there are claims of Intellectual Property Rights (IPR) on the document that need to be disclosed. We will weigh this information when we judge the consensus on the call for adoption.

Are you personally aware of any IPR that applies to [draft-throckmorton-wiffle-foo](#)? If so, has this IPR been disclosed in compliance with IETF IPR rules? (See RFCs 3979, 4879, 3669 and 5378 for more details.)

If you are a document author or listed contributor on this document, please reply to this email message regardless of whether or not you are personally aware of any relevant IPR. We will not be able to advance this document to the next stage until we have received a reply from each author and listed contributor.

If you are on the FOO WG email list but are not an author or listed contributor to this document, then please reply only if you are

personally aware of IPR that has not yet been disclosed in conformance with IETF rules.

Alice

(as FOO WG co-chair)

A.3. Reminder before Working Group Last Call

Subject: Reminder about IPR relating to [draft-ietf-foo-wiffle](#)

Dear FOO WG:

The authors of [draft-ietf-foo-wiffle](#) have asked for a Working Group Last Call. Before issuing the Last Call, we would like to check whether any claims of Intellectual Property Rights (IPR) on the document have not yet been disclosed.

Are you personally aware of any IPR that applies to [draft-ietf-foo-wiffle](#)? If so, has this IPR been disclosed in compliance with IETF IPR rules? (See RFCs 3979, 4879, 3669 and 5378 for more details.)

If you are a document author or listed contributor on this document, please reply to this email regardless of whether or not you are personally aware of any relevant IPR. We will not be able to advance this document to the next stage until we have received a reply from each author and listed contributor.

If you are on the FOO WG email list but are not an author or listed contributor, then please reply only if you are personally aware of any IPR that has not yet been disclosed in conformance with IETF rules.

Thanks,

Bob

(as FOO WG co-chair)

A.4. Reminder to Meeting Presenter

Subject: IPR about [draft-throckmorton-wiffle-bar](#)

Dear Nigel,

I have received your request to give a talk about [draft-throckmorton-wiffle-bar](#) at the next IETF meeting. Before

approving this request, I would like to check whether there are any claims of Intellectual Property Rights (IPR) on this document.

Are you aware of any IPR that applies to [draft-throckmorton-wiffle-bar](#)? If so, has this IPR been disclosed in compliance with IETF IPR rules? (See RFCs 3979, 4879, 3669 and 5378 for more details.)

Please reply to this email regardless of whether or not you are personally aware of any relevant IPR. I will not be able to approve your request for a slot on the agenda until I have received a reply from you and any listed contributor.

Thanks,

Christopher

(as AD)

[A.5.](#) Reminder to Author of an Individual Submission before IETF Last Call

Subject: Reminder about IPR relating to [draft-throckmorton-wiffle-bar](#)

Dear Nigel,

Before proceeding with your request for AD sponsoring of [draft-throckmorton-wiffle-bar](#), I would like to check whether there are any claims of Intellectual Property Rights (IPR) on the document.

Are you personally aware of any IPR that applies to [draft-throckmorton-wiffle-bar](#)? If so, has this IPR been disclosed in compliance with IETF IPR rules? (See RFCs 3979, 4879, 3669 and 5378 for more details.)

Please reply to this email regardless of whether or not you are personally aware of any relevant IPR. I will not be able to advance this document to the next stage until I have received a reply from you and any listed contributor.

Thanks,

Christopher

(as AD)

Appendix B. Acknowledgements

Thanks to Adrian Farrel for his detailed comments and suggestions; to Stephen Farrell and Pete Resnick for their feedback; and to Loa Andersson, Ross Callon, and George Swallow for drafts of some of the sample email messages.

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