

Sanctions Are Available

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I Am Not A Lawyer



Nor am I a police dog
studying law



Get Legal Advice

- Protect yourself and your employer
- Your employer probably has an IPR and/or legal department
 - Use them
 - For advice
 - To file disclosures

Why Sanctions?

- All disclosures are good things
 - They let us know where we stand
 - They let us choose how to proceed
- Late disclosures can be disruptive
 - We may have to revisit work
 - They are still better than no disclosure
- Very late disclosures can be very disruptive
 - We may have to pull a document back for further WG consideration
 - They may mean revisiting an RFC
 - They are still better than no disclosure
- Late, very late, or failed disclosures
 - Show lack of respect
 - Disrupt our work
 - May “trick” us into making particular choices
 - Might constitute “bad” in law
 - They are an abuse of IETF processes

The IETF Has A Process For Sanctions

- RFC 6701
 - The punishment should fit the crime
 - Decisions and punishments made by WG chairs working with their ADs
 - There should be discussion with the individual (and possibly their legal representatives) before applying sanctions

What Might Happen in the IETF

- a) A private discussion between the working group chair or area director and the individual
- b) A formal, but private, warning
- c) A formal warning on an IETF mailing list
- d) Announcement to the working group of the failure by the individuals ("name and shame")
- e) Refusal to accept the individuals as editors of any new WG group documents
- f) Removal of the individuals as WG document editors
- g) Re-positioning of the individuals' attribution in a document to the "Acknowledgements" section with or without a note explaining why they are listed there and not in the "Authors' Addresses" section (viz. the IPR policy violation)
- h) Deprecation or rejection of the individual document (RFC or I-D) or cessation of work on the affected technology
- i) Temporary posting ban on the WG mailing list
- j) Year-long posting ban on WG and other IETF lists

IETF Mitigation / Non-Mitigation

- “There is no excuse under the law”
- “Shit happens”
- Every situation has to be weighed
- Unreasonable excuses include...
 - I forgot to disclose
 - I forgot about this patent
 - I have so many patents I can’t be expected to track them all
 - I didn’t know that patent had been filed with my name on it
 - I asked my company to disclose, but they didn’t
 - Do a third-party disclosure or don’t participate
 - I moved to a new company
 - Do a third-party disclosure or don’t participate

The Courts May Also Apply Sanctions

- In the end, patents may come to court
- Courts have been known to be unsupportive of IPR when a standards body's procedures have been violated
 - Award discount licences
 - Strike down patents
 - Etc.