

November 7, 2008

PWG Policy on Intellectual Property and
Confidentiality



The Printer Working Group

The Printer Working Group Policy on Intellectual Property and Confidentiality

Status: Stable

Abstract: This document defines the

This document is available electronically at:

<ftp://ftp.pwg.org/pub/pwg/general/pwg-ip-policy.pdf>

Copyright (C) 2008, The Printer Working Group. All rights reserved.

This document may be copied and furnished to others, and derivative works that comment on, or otherwise explain it or assist in its implementation may be prepared, copied, published and distributed, in whole or in part, without restriction of any kind, provided that the above copyright notice, this paragraph and the title of the Document as referenced below are included on all such copies and derivative works. This document may not be modified in any way, including removal of the copyright notice or references to the Printer Working Group, a program of the IEEE-ISTO.

Title: The Printer Working Group Policy on Intellectual Property and Confidentiality

The IEEE-ISTO and the Printer Working Group DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED INCLUDING (WITHOUT LIMITATION) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

~~The Printer Working Group, a program of the IEEE-ISTO, reserves the right to make changes to the document without further notice. The document may be updated, replaced, or made obsolete by other documents at any time.~~

The IEEE-ISTO and the Printer Working Group, a program of the IEEE-ISTO take no position regarding the validity or scope of any intellectual property or other rights that might be claimed to pertain to the implementation or use of the technology described in this document or the extent to which any license under such rights might or might not be available; neither does it represent that it has made any effort to identify any such rights.

The IEEE-ISTO and the Printer Working Group, a program of the IEEE-ISTO invite any interested party to bring to its attention any copyrights, patents, or patent applications, or other proprietary rights, which may cover technology that may be required to implement the contents of this document. The IEEE-ISTO and its programs shall not be responsible for identifying patents for which a license may be required by a document and/or IEEE-ISTO Industry Group Standard or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention. Inquiries may be submitted to the IEEE-ISTO by e-mail at:

info@ieee-isto.org

The Printer Working Group acknowledges that the IEEE-ISTO (acting itself or through its designees) is, and shall at all times, be the sole entity that may authorize the use of certification marks, trademarks, or other special designations to indicate compliance with these materials.

About the IEEE-ISTO

The IEEE-ISTO is a not-for-profit corporation offering industry groups an innovative and flexible operational forum and support services. The IEEE Industry Standards and Technology Organization member organizations include printer manufacturers, print server developers, operating system providers, network operating systems providers, network connectivity vendors, and print management application developers. The IEEE-ISTO provides a forum not only to develop standards, but also to facilitate activities that support the implementation and acceptance of standards in the marketplace. The organization is affiliated with the IEEE (<http://www.ieee.org>) and the IEEE Standards Association (<http://standards.ieee.org>).

For additional information regarding the IEEE-ISTO and its industry programs visit:

<http://www.ieee-isto.org>.

About the Printer Working Group

The Printer Working Group (or PWG) is a Program of the IEEE-ISTO. All references to the PWG in this document implicitly mean “The Printer Working Group, a Program of the IEEE ISTO.” The PWG is chartered to make printers and the applications and operating systems supporting them work together better. In order to meet this objective, the PWG will document the results of their work as open standards that define print related protocols, interfaces, data models, procedures and conventions. Printer manufacturers and vendors of printer related software would benefit from the interoperability provided by voluntary conformance to these standards.

In general, a PWG standard is a specification that is stable, well understood, and is technically competent, has multiple, independent and interoperable implementations with substantial operational experience, and enjoys significant public support.

Contact information:

The Printer Working Group

c/o The IEEE Industry Standards and Technology Organization

445 Hoes Lane

Piscataway, NJ 08854

USA

PWG Web Page: <http://www.pwg.org/pwg> PWG Mailing List: <mailto:pwg@pwg.org>

Instructions for subscribing to the PWG mailing list can be found at the following link:

<http://www.pwg.org/mailhelp.html>

Members of the PWG and interested parties are encouraged to join the PWG and relevant Working Group mailing lists in order to participate in discussions, clarifications, and review of the Working Group product.

TABLE OF CONTENTS:

1. Introduction	5
2. Patents	5
2.1 Definitions	5
2.2 Policy	6
3. Rights in PWG Contributions.....	7
3.1 Definitions	7
3.2 Confidentiality Obligations	7
3.3 Granting of Rights and Permissions	8
3.4 Representations and Warranties	8
3.5 No Duty to Publish	8
3.6 Trademarks	9
4. Acknowledgements	9

1. Introduction

This document describes the current policy of the PWG relating to intellectual property rights and confidentiality rights and obligations that shall be followed during the course of PWG business. Membership in the PWG as well as participation in PWG efforts by non-members is contingent on the acceptance of these policies. Any modification of these policies is subject to either a Last Call and Formal Approval vote, as described in the "PWG Definition of the Standards Development Process", with 100% of all PWG members voting approve (abstentions/non-votes are not allowed); or the signing of a new membership agreement by all PWG members during the membership renewal period.

2. Patents

2.1 Definitions

The following terms, when capitalized, have the following meanings:

"Accepted Letter of Assurance" and *"Accepted LOA"* shall mean a Letter of Assurance that the PWG Officers have determined is complete in all material respects and has been posted to the PWG web site.

"Affiliate" shall mean an entity that directly or indirectly, through one or more intermediaries, controls the Submitter, is controlled by the Submitter, or is under common control with the Submitter. For the purposes of this definition, the term "control" and its derivatives, with respect to for-profit entities, means the legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the capital stock (or other ownership interest, if not a corporation) of an entity ordinarily having voting rights. "Control" and its derivatives, with respect to nonprofit entities, means the power to elect or appoint more than fifty percent (50%) of the Board of Directors of an entity.

"Enabling Technology" shall mean any technology that may be necessary to make or use any product or portion thereof that complies with the PWG Standard but is neither explicitly required by nor expressly set forth in the PWG Standard (e.g., semiconductor manufacturing technology, compiler technology, object-oriented technology, basic operating system technology, and the like).

"Essential Patent Claim" shall mean any Patent Claim the use of which was necessary to create a compliant implementation of either mandatory or optional portions of the normative clauses of the PWG Standard when, at the time of the PWG Standard's approval, there was no commercially and technically feasible non-infringing alternative. An Essential Patent Claim does not include any Patent Claim that was essential only for Enabling Technology or any claim other than that set forth above even if contained in the same patent as the Essential Patent Claim.

"Letter of Assurance" and *"LOA"* shall mean a document, including any attachments, stating the Submitter's position regarding ownership, enforcement, or licensing of Essential Patent Claims for a specifically referenced PWG Standard, submitted in a form acceptable to the PWG Officers.

"Patent Claim(s)" shall mean one or more claims in issued patent(s) or pending patent application(s).

"PWG-SC" shall refer to the PWG Steering Committee

"PWG Standard" shall mean a PWG Candidate Standard or PWG Standard as defined in the PWG Definition of the Standards Development Process.

"Reasonable and Good Faith Inquiry" includes ~~but is not limited to~~, a Submitter using reasonable efforts to identify and contact those individuals who are from, employed by, or otherwise represent the Submitter and who are known to the Submitter to be current or past participants in the development process of the PWG Standard identified in a Letter of Assurance, including ~~but~~

~~not limited to, participation in a Formal Approval Vote or a Working Group. If the Submitter did not or does not have any participants, then the Submitter is encouraged but not required to contact individuals who are from, employed by, or represent the Submitter and who the Submitter believes are most likely to have knowledge about the technology covered by the PWG Standard.~~

~~If the Submitter did not or does not have any participants, then a Reasonable and Good Faith Inquiry may include, but is not limited to, the Submitter using reasonable efforts to contact individuals who are from, employed by, or represent the Submitter and who the Submitter believes are most likely to have knowledge about the technology covered by the PWG Standard.~~

"Statement of Encumbrance" shall mean a specific reference to an Accepted LOA or a general statement in the transfer or assignment agreement that the Patent Claim(s) being transferred or assigned are subject to any encumbrances that may exist as of the effective date of such agreement. An Accepted LOA is an encumbrance.

"Submitter" when used in reference to a Letter of Assurance shall mean an individual or an organization that provides a completed Letter of Assurance. A Submitter may or may not hold Essential Patent Claims.

2.2 Policy

PWG standards may be drafted in terms that include the use of Essential Patent Claims. If the PWG receives notice that a PWG Standard may require the use of a potential Essential Patent Claim, the PWG shall request licensing assurance, on the PWG approved Letter of Assurance form, from the patent holder or patent applicant. The PWG shall request this assurance without coercion.

The Submitter of the Letter of Assurance may, after Reasonable and Good Faith Inquiry, indicate it is not aware of any Patent Claims that the Submitter may own, control, or have the ability to license that might be or become Essential Patent Claims. If the patent holder or patent applicant provides an assurance, it should do so as soon as reasonably feasible in the standards development process. This assurance shall be provided prior to Formal Approval of the PWG Standard. If the PWG receives notice of a potential patent claim after the PWG Standard has been approved, the PWG shall request a LOA. An asserted potential Essential Patent Claim for which an assurance cannot be obtained (e.g., a Letter of Assurance is not provided or the Letter of Assurance indicates that assurance is not being provided) shall be referred to the PWG Officers.

A Letter of Assurance shall be either:

- a) A general disclaimer to the effect that the Submitter without conditions will not enforce any present or future Essential Patent Claims against any person or entity making, using, selling, offering to sell, importing, distributing, or implementing a compliant implementation of the standard; or
- b) A statement that a license for a compliant implementation of the standard will be made available to an unrestricted number of applicants on a worldwide basis without compensation or under reasonable rates, with reasonable terms and conditions that are demonstrably free of any unfair discrimination. At its sole option, the Submitter may provide with its assurance any of the following: (i) a not-to-exceed license fee or rate commitment, (ii) a sample license agreement, or (iii) one or more material licensing terms.

Copies of an Accepted LOA may be provided to the working group, but shall not be discussed, at any standards working group meeting.

The Submitter and all Affiliates (other than those Affiliates excluded in a Letter of Assurance) shall not assign or otherwise transfer any rights in any Essential Patent Claims that are the subject of such Letter of Assurance that they hold, control, or have the ability to license with the intent of circumventing or negating any of the representations and commitments made in such Letter of Assurance.

The Submitter of a Letter of Assurance shall agree (a) to provide notice of a Letter of Assurance either through a Statement of Encumbrance or by binding any assignee or transferee to the terms of such Letter of Assurance; and (b) to require its assignee or transferee to (i) agree to similarly provide such notice and (ii) to bind its assignees or transferees to agree to provide such notice as described in (a) and (b).

This assurance shall apply to the Submitter and its Affiliates except those Affiliates the Submitter specifically excludes on the relevant Letter of Assurance.

If, after providing a Letter of Assurance to the PWG, the Submitter becomes aware of additional Patent Claim(s) not already covered by an existing Letter of Assurance that are owned, controlled, or licensable by the Submitter that may be or become Essential Patent Claim(s) for the same PWG Standard but are not the subject of an existing Letter of Assurance, then such Submitter shall submit a Letter of Assurance stating its position regarding enforcement or licensing of such Patent Claims. For the purposes of this commitment, the Submitter is deemed to be aware if any of the following individuals who are from, employed by, or otherwise represent the Submitter have personal knowledge of additional potential Essential Patent Claims, owned or controlled by the Submitter, related to a PWG Standard and not already the subject of a previously submitted Letter of Assurance: (a) past or present participants in the development of the PWG Standard, or (b) the individual executing the previously submitted Letter of Assurance.

The assurance is irrevocable once submitted and accepted and shall apply, at a minimum, from the date of the standard's approval to the date of the standard's withdrawal.

The PWG is not responsible for identifying Essential Patent Claims for which a license may be required, for conducting inquiries into the legal validity or scope of those Patent Claims, or for determining whether any licensing terms or conditions provided in connection with submission of a Letter of Assurance, if any, or in any licensing agreements are reasonable or non-discriminatory.

Nothing in this policy shall be interpreted as giving rise to a duty to conduct a patent search. No license is implied by the submission of a Letter of Assurance.

In order for PWG's patent policy to function efficiently, individuals participating in the standards development process: (a) shall inform the PWG (or cause the PWG to be informed) of the holder of any potential Essential Patent Claims of which they are personally aware and that are not already the subject of an existing Letter of Assurance, owned or controlled by the participant or the entity the participant is from, employed by, or otherwise represents; and (b) should inform the PWG (or cause the PWG to be informed) of any other holders of such potential Essential Patent Claims that are not already the subject of an existing Letter of Assurance.

3. Rights in PWG Contributions

3.1 Definitions

"PWG Contribution" Any submission to the PWG intended by the Contributor for publication as all or part of a PWG Document or any such statement made within the context of a PWG activity. This includes oral statements in PWG sessions or conference calls, as well as written and electronic communications made at any time or place, that are addressed to:

- the PWG plenary session,
- any PWG working group session or call,
- any PWG mailing list, PWG web site, or PWG wiki site

Statements made outside of a PWG session, mailing list or other function, that are clearly not intended to be input to a PWG activity, group or function, are not PWG Contributions in the context of this policy.

"Contributor" An individual submitting a PWG Contribution.

3.2 Confidentiality Obligations

No information or document that is subject to any requirement of confidentiality or any restriction on its dissemination may be submitted as a Contribution or otherwise considered in any part of the PWG Standards Process, and there must be no assumption of any confidentiality obligation with respect to any Contribution. Each Contributor agrees that any statement in a Contribution, whether generated automatically or otherwise, that states or implies that the Contribution is confidential or subject to any privilege, can be disregarded for all purposes, and will be of no force or effect.

3.3 Granting of Rights and Permissions

By submission of a Contribution, each person actually submitting the Contribution, and each named co-Contributor, is deemed to agree to the following terms and conditions, and to grant the following rights, on his or her own behalf and on behalf of the organization the Contributor represents or is sponsored by (if any) when submitting the Contribution.

To the extent that a Contribution or any portion thereof is protected by copyright and other rights of authorship, the Contributor, and each named co-Contributor, and the organization he or she represents or is sponsored by (if any) grant a perpetual, irrevocable, non-exclusive, royalty-free, world-wide right and license to the PWG:

- a) to copy, publish, display, and distribute the Contribution as part of the PWG Standards Process or in a PWG Document,
- b) to prepare or allow the preparation of translations of the Contribution into languages other than English,
- c) to reproduce any trademarks, service marks or trade names which are included in the Contribution solely in connection with the reproduction, distribution or publication of the Contribution and derivative works thereof as permitted by this paragraph. When reproducing Contributions, the PWG will preserve trademark and service mark identifiers used by the Contributor of the Contribution, including TM and ® where appropriate, and
- d) to extract, copy, publish, display, distribute, modify and incorporate into other works, for any purpose (and not limited to use within the PWG Standards Process) any executable code or code fragments that are included in any PWG Document.

No Patent License. The licenses granted under this section (3.3) shall not be deemed to grant any right under any patent, patent application or similar intellectual property right.

3.4 Representations and Warranties

With respect to each Contribution, each Contributor represents that to the best of his or her knowledge and ability:

- a) The Contribution properly acknowledges all major Contributors. A major Contributor is any person who has materially or substantially contributed to the PWG Contribution.
- b) No information in the Contribution is confidential and the PWG may freely disclose any information in the Contribution.
- c) There are no limits to the Contributor's ability to make the grants, acknowledgments, and agreements herein that are reasonably and personally known to the Contributor.
- d) The Contributor has not intentionally included in the Contribution any material which is defamatory or untrue or which is illegal under the laws of the jurisdiction in which the Contributor has his or her principal place of business or residence.
- e) All trademarks, trade names, service marks and other proprietary names used in the Contribution that are reasonably and personally known to the Contributor are clearly designated as such where reasonable.

3.5 No Duty to Publish

The Contributor, and each named co-Contributor, acknowledges that the PWG has no duty to publish or otherwise use or disseminate any Contribution. The PWG reserves the right to withdraw or cease using any Contribution at any time, for any reason.

3.6 Trademarks

Contributors, and each named co-Contributor, who claim trademark rights in terms used in their PWG Contributions are requested to state specifically what conditions apply to implementers of the technology relative to the use of such trademarks.

4. Acknowledgements

Portions of the PWG's Policy on Intellectual Property as well as the PWG's Letter of Assurance Form were adapted directly from the equivalent policies and forms from the IEEE Standards Association, and used with permission.