

EDITOR'S NOTE

THE CHALLENGE OF IPR

For better or worse, intellectual property rights (IPR), and particularly patent claims, are part of the very atmosphere that standards developers must breathe as they practice their craft. As a result, I write about them frequently, not only in this journal, but in every other section of this site as well.

This focus arises not only from the fact that impacting IPR cannot be avoided in standard setting, but also because so many things change so frequently in the standard setting environment that affect IPR. Given the economic importance of IPR, there is always a lot to think and write about in this area.

In this issue, I will examine IPR issues from both ends of the telescope. For the benefit of those that are not already acquainted with the intricacies of IPR, I'll provide a high-level overview of what they are all about in the context of standard setting. And for those that are already well versed in this area, I'll focus on some of the IPR stories that are currently in the news.

In this month's **Editorial**, I review and commend the recent efforts by VITA and the IEEE, two standard setting organizations that have elected to boldly go where few of their peers have as (as yet) traveled. Each has taken the difficult, time-consuming, and even traumatic step of revising its IPR policy to permit (in the case of IEEE) and require (in the case of VITA) its members to disclose the licensing terms they would require to implement their necessary claims in a draft standard, if adopted. This type of "ex ante" disclosure raises legal and other concerns that merit careful attention, but the practice could also increase the efficiency and effectiveness of the standard setting process as well. By becoming first adopters of *ex ante* disclosure, these pioneers are providing a service to all other standard setting organizations that may choose to follow their lead in the future.

In my **Feature Article**, I provide a comprehensive overview of the role of IPR in standard setting, providing a historical introduction, a description of the rights themselves, and an overview of the policies and procedures standard setting organizations have evolved to address them. This is the latest in a series of overview articles I have written that are intended, when taken together, to help anyone to become well-grounded in the essentials of standard setting. Each time I publish one of these articles in the CSB, I also add it to the [Essential Guide to Standard Setting Organizations and Standards](#). At some point in the future, I may make these articles available as a book, to provide a reference in hard copy form for those that elect, or are asked by their employers, to participate in standard setting activities.

In my **Standards Blog** selection for this month, I report on a recent IPR-based court decision involving two industry giants (QUALCOMM, Incorporated and Broadcom Corporation), and on allegations by the latter that the former engaged in the same type of abuse of the standard setting process that Rambus, Inc. was convicted of practicing (last week, a federal judge agreed with Broadcom).

In an **Update**, I describe what's new with Rambus itself. Two weeks ago, the Federal Trade Commission granted the semiconductor technology company a partial stay of the penalties the FTC had imposed upon Rambus in February, pending the hearing of its appeal. Under the FTC's decision, however, Rambus may only have access to the amount of royalties allowed under the penalty order – the balance must be paid by implementers into an escrow account. If Rambus is successful in its appeal, it will receive those funds. If it loses, they will be returned to the manufacturers that paid them.

And finally, in this month's **Consider This**, I explore the dire and deleterious impact that *de facto* standards can sometimes have on the user experience, using that most feared and loathed of all garments – the medical jammy – as an example.

As always, I hope you enjoy this issue.

Andrew Updegrove
Editor and Publisher
*2005 ANSI President's
Award for Journalism*

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