

IALA Guideline No. ####

On

**IALA Patent Policy
and associated procedures**

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IALA Patent Policy and associated procedures

Revisions to the IALA Document are to be noted in the table prior to the issue of a revised document.

Date	Page / Section Revised	Requirement for Revision

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IALA Patent Policy and associated procedures

1 INTRODUCTION

The following is a policy relating to patents covering, in varying degrees, the subject matters of IALA Documents (Standard, Recommendation, Guideline, Manual, etc.).

The Patent Policy encourages the early disclosure and identification of Patents that may relate to IALA Documents under development. In doing so, greater efficiency in document development is possible and potential patent rights problems can be avoided.

IALA should not be involved in evaluating patent relevance or essentiality with regards to IALA Documents, interfere with licensing negotiations, or engage in settling disputes on Patents; this should be left to the parties concerned.

IALA Documents are non-binding; their objective is to ensure compatibility of technologies and systems on a worldwide basis. To meet this objective, which is in the common interests of all those participating, it must be ensured that IALA Documents, their applications, use, etc. are accessible to everybody.

It follows, therefore, that a patent embodied fully or partly in an IALA Document must be accessible to everybody without undue constraints.

The detailed arrangements arising from patents (licensing, royalties, etc.) are left to the parties concerned, as these arrangements differ from case to case.

This Guideline establishes the IALA policy on patents relevant to IALA Documents and describes the associated procedures.

2 OBJECTIVES

The primary objective of this guideline is to ensure that patents embodied fully or partly in an IALA Document become accessible to all relevant stakeholders without undue constraints.

3 DEFINITIONS

3.1 Essential Patents (source Wikipedia)

An essential patent or standard-essential patent is a patent that claims an invention that must be used to comply with a technical standard.[1] Standards organizations, therefore, often require members disclose and grant licenses to their patents and pending patent applications that cover a standard that the organization is developing.

If a standards organization fails to get licenses to all patents that are essential to complying with a standard, owners of the unlicensed patents may demand or sue for royalties from companies that adopt the standard. This happened to the GIF and JPEG standards, for example.

4 POLICY STATEMENT

4.1 General statement of policy

It is the intent of IALA to develop standards, recommendations, guidelines and other guidance Documents that do not require the use of patented technologies, processes or principles to comply with requirements set out in these documents (essential patents).

4.2 Adoption of policy on essential patents

IALA adopts the Common Patent Policy for ITU-T/ITU-R/ISO/IEC of 23 April 2012 for essential patents. The policy, along with the common guidelines adopted by those organizations is available at <http://tinyurl.com/ngks4ne>.

The terms used in the abovementioned guidelines and patent policy shall have the following meanings with respect to IALA:

- a. "ITU-T/ITU-R/ISO/IEC". Wherever any of these organizations are referred to, the provision shall be understood as also applying to IALA.
- b. "Recommendations", "deliverables" and "document types" are IALA document types.
- c. "Technical bodies" are IALA Committees.

5 PROCEDURES RELATING TO PATENTS

5.1 Patent Disclosure

As mandated by the adopted Common Patent Policy for ITU-T/ITU-R/ISO/IEC in its paragraph 1, any party participating in the work of IALA should, from the outset, draw the attention of IALA to any known Patent or to any known pending Patent application, either its own or that of other organisations or individuals. This should be done in writing as early as possible.

The IALA Patent Statement and Licensing Declaration form is at Annex A.

IALA is not in a position to give authoritative or comprehensive information about evidence, validity or scope of patents or similar rights, but it is desirable that the fullest available information should be disclosed.

Therefore, any party participating in the work of IALA should, from the outset, draw the attention of the IALA Secretariat to any known patent or to any known pending patent application, either their own or of other organisations or individuals, although IALA is unable to verify the validity of any such information.

If an IALA Document is developed and such information has been disclosed, at least three different situations may arise:

- a The patent holder is willing to negotiate licences free of charge with other parties on a non-discriminatory basis on reasonable terms and conditions. Such negotiations are left to the parties concerned and are performed outside IALA.
- b The patent holder is willing to negotiate licences with other parties on a non-discriminatory basis on reasonable terms and conditions. Such negotiations are left to the parties concerned and are performed outside IALA.
- c The patent holder is not willing to comply with the provisions of either paragraph a or b; in such case, the IALA Document shall not include provisions depending on the patent.

Whatever case applies, the patent holder has to provide a written statement to be filed at the IALA Secretariat using the appropriate "Patent Statement and Licensing Declaration" form. This statement must not include additional provisions, conditions, or any other exclusion clauses in excess of what is provided for each case in the corresponding boxes of the form in Annex A of this guideline.

5.2 Prompting for patent disclosures at IALA Committee meetings

Chairmen of Committees will ask, at an appropriate time in each meeting, whether anyone has knowledge of their own or other organizations' patents, including published pending patents, the use of which may be required to practice or implement the content of IALA Documents being considered. This can be done by reading the following statement to all committee members:

Does anyone present have the knowledge of any patents, including pending Patents, held either by themselves or by other organisations or individuals, the use of which may be required to practice or implement the content of IALA Documents being developed or worked on in this committee?

The fact that the question was asked shall be recorded in the meeting report, along with any affirmative responses.

5.3 Use of patented elements in IALA Documents

Patented elements may be included in a document, as long as the patented item is not essential to comply with the requirements set out in the document. For example, a patented element may be essential to the implementation of one type of solution which meets the requirements, as long as other solutions are available to meet the requirements without using the patented element.

5.4 Information on patented elements in IALA Documents

In lieu of an IALA patent database, each IALA Document shall list the patents which have been declared as applicable to that document. In addition to essential patents, non-essential patents for which IALA has received information shall also be listed.

6 REFERENCES

- [1] *Guidelines for Implementation of the Common Patent Policy for ITU-T/ITU-R/ISO/IEC* available at <http://tinyurl.com/ngks4ne>

ANNEX A IALA PATENT DECLARATION FORM

PATENT STATEMENT AND LICENSING DECLARATION FORM FOR IALA DOCUMENTS

This declaration does not represent an actual grant of a license

Please return to:
Secretary General, AISM-IALA
10, rue des Gaudines, 78100 Saint Germain en Laye, France

Patent Holder:	
Legal Name	_____
Contact for license application:	
Name & Department	_____
Address	_____
Tel.	_____
Fax	_____
E-mail	_____
URL (optional)	_____
Document type:	
<input type="checkbox"/> Standard	<input type="checkbox"/> Recommendation
<input type="checkbox"/> Manual	<input type="checkbox"/> Other
	<input type="checkbox"/> Guidelines
Number	_____
Title	_____

Licensing declaration:

The Patent Holder believes that it holds granted and/or pending applications for Patents, the use of which would be required to implement the above document and hereby declares, in accordance with the Common Patent Policy for IALA, that (check one box only):

☐

1. The Patent Holder is prepared to grant a Free of Charge license to an unrestricted number of applicants on a worldwide, non-discriminatory basis and under other reasonable terms and conditions to make, use, and sell implementations of the above mentioned document. Negotiations are left to the parties concerned and are performed outside the IALA.

Also mark here ___ if the Patent Holder's willingness to license is conditioned on Reciprocity for the above document.

Also mark here ___ if the Patent Holder reserves the right to license on reasonable terms and conditions (but not Free of Charge) to applicants who are only willing to license their Patent, whose use would be required to implement the above document, on reasonable terms and conditions (but not Free of Charge).

☐

2. The Patent Holder is prepared to grant a license to an unrestricted number of applicants on a worldwide, non-discriminatory basis and on reasonable terms and conditions to make, use and sell implementations of the above document. Negotiations are left to the parties concerned and are performed outside the IALA.

Also mark here ___ if the Patent Holder's willingness to license is conditioned on Reciprocity for the above document.

☐

3. The Patent Holder is unwilling to grant licenses in accordance with provisions of either 1 or 2 above. In this case, the following information must be provided to IALA as part of this declaration:

- granted patent number or patent application number (if pending);
- an indication of which portions of the above document are affected;
- a description of the Patents covering the above document.

Free of Charge: The words “Free of Charge” do not mean that the Patent Holder is waiving all of its rights with respect to the Patent. Rather, “Free of Charge” refers to the issue of monetary compensation; *i.e.*, that the Patent Holder will not seek any monetary compensation as part of the licensing arrangement (whether such compensation is called a royalty, a one-time licensing fee, etc.). However, while the Patent Holder in this situation is committing to not charging any monetary amount, the Patent Holder is still entitled to require that the implementer of the same above document sign a license agreement that contains other reasonable terms and conditions such as those relating to governing law, field of use, warranties, etc.

Reciprocity: The word “Reciprocity” means that the Patent Holder shall only be required to license any prospective licensee if such prospective licensee will commit to license its Patent(s) for implementation of the same above document Free of Charge or under reasonable terms and conditions.

Patent: The word “Patent” means those claims contained in and identified by patents, utility models and other similar statutory rights based on inventions (including applications for any of these) solely to the extent that any such claims are essential to the implementation of the same above document. Essential patents are patents that would be required to implement a specific Recommendation | Deliverable.

Patent Information (desired but not required for options 1 and 2; required for option 3 (NOTE))				
No.	Status [granted/ pending]	Country	Granted Patent Number or Application Number (if pending)	Title
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

☐ Check here if additional patent information is provided on additional pages.

NOTE: For option 3, the additional minimum information that shall also be provided is listed in the option 3 box above.

Signature (include on final page only):	
Patent Holder	_____
Name of authorized person	_____
Title of authorized person	_____
Signature	_____
Place, Date	_____

FORM: 23 April 2015