

POSITION STATEMENT

An Overall Approach to Intellectual Property Protection

*Adopted by the IEEE-USA
Board of Directors, 19 June 2015*

Intellectual property (IP) is a significant and growing component of our national economy. IEEE-USA recommends that the U.S. administration develop an overall approach to the handling of federal intellectual property protection, including restructuring existing intellectual property organizations, to help both IP owners and licensees.

IEEE-USA believes that a unified approach to federal intellectual property protection policy can benefit not only current protection needs, but also it can better accommodate new forms of protections, such as those required for fast-moving technologies and databases, beyond copyright. We suggest that the administration consider a model similar to that of the Office of Science and Technology Policy. .

IEEE-USA believes that registration of patents, copyrights, trademarks, and any new form of intellectual property be given to independent operational agencies, for each particular form of intellectual property, as appropriate. Each of these operational agencies should be fee-supported, with flexibility in setting fees subject to congressional oversight, and following appropriate administrative law procedures.

IEEE-USA believes that private assertion of intellectual property, including initiation through demand letters, is an essential function in an innovation economy. Demand letters are used to inform and coordinate development with technology partners; to provide notices that facilitate early design-around efforts; and to signal to individuals and companies the need to license, or to cease infringing, intellectual property. IEEE-USA supports efforts to curb abuses by those who engage in a pattern or practice of sending demand letters in bad faith--those that are fraudulent or misleading, and threaten the integrity of legitimate protection of intellectual property rights.

IEEE-USA supports federal legislation that is narrowly tailored in setting forth a clear, national standard for courts or federal agencies to prohibit fraudulent activities, without unduly abridging commercial speech, or adversely affecting the ability of all owners of federal intellectual property rights to conduct legitimate licensing communications.

IEEE-USA believes that fee diversion should end. All fees these agencies collect should remain in the respective agency. In the past, the appropriations process has worked to the detriment of the quality of the patenting process, and to patent applicants in particular, by allowing the diversion of revenues derived from patent application fees away from the U.S. Patent and Trademark Office towards funding unrelated government activities.

IEEE-USA also believes that the functions of the patent, trademark and copyright offices, and any other new agencies that benefit the public (such as providing material for the Library of Congress and making information available to all on the Internet), should be funded through general tax revenues.

This statement was developed by the IEEE-USA Intellectual Property Committee, and represents the considered judgment of a group of U.S. IEEE members with expertise in the subject field. IEEE-USA advances the public good and promotes the careers and public policy interests of more than 200,000 engineering, computing and allied professionals, who are U.S. members of the IEEE. The positions taken by IEEE-USA do not necessarily reflect the views of IEEE or its other organizational units.