



Operating Procedures of the Intellectual Property Rights Policy Advisory Group (IPRPAG)

Edition: January 1, 2020

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INTRODUCTION

The American National Standards Institute (“ANSI”) serves as the national coordinating body for voluntary standards, conformity assessment and related activities in the United States of America through which organizations concerned with such activities may cooperate in establishing, improving and recognizing standards, based on a consensus of parties-at-interest, and conformity assessment programs to the end that such activities remain dynamically responsive to national needs. Among other things, ANSI’s goals are to further voluntary standards and conformity assessment activities as a means of (a) advancing the national economy; (b) benefiting the public health, safety, welfare and environment; and (c) facilitating domestic and international trade, commerce, communications and understanding. ANSI cooperates with departments and agencies of federal, state and local governments in promoting (i) optimum compatibility between government laws and regulations and the voluntary standards of industry and commerce; (ii) maximum common usage of American National Standards; and (iii) broader cooperation between government and industry on conformity assessment.

To assist ANSI in meeting these and other goals and consistent with the ANSI By-Laws approved by the ANSI Board of Directors in June 2019, the ANSI Board has established three Policy Advisory Groups (“PAGs”), each reporting to the ANSI Board Executive Committee (“Executive Committee”): the National Policy Advisory Group (“NPAG”), the International Policy Advisory Group (“IPAG”) and the Intellectual Property Rights Policy Advisory Group (“IPRPAG”). These PAGs: (i) provide a place for discussion, analyses and recommendations from experts and other parties who have an interest in the subject matter of the PAG; (ii) provide a mechanism for “early warning” of relevant trends within the expertise of the PAG; (iii) address issues of interest to the PAG; and (iv) identify broader-based issues and trends and, where appropriate, recommend that they be addressed by the Executive Committee. ANSI’s policies, including the ANSI Code of Conduct, apply to all persons participating in PAG activities.

These Operating Procedures set forth the rules of procedure for the IPRPAG and may be amended from time to time by the Executive Committee.

1. Responsibilities and Functions

The IPRPAG shall provide views and propose policies regarding the intersection of intellectual property rights and standards, including the incorporation of essential patents or other proprietary intellectual property (such as trademarks and copyright) in national, regional or international standards. The IPRPAG shall also provide views and propose policies regarding exploitation rights to the copyright in standards and the recognition of copyright protection for standards by courts, legislatures, regulatory bodies, industry and others. The IPRPAG responds to requests for input from the Board, Executive Committee, Committees of ANSI, Forums and other PAGs with respect to the foregoing subject-matter.

Any changes to the ANSI Essential Requirements proposed by the IPRPAG relative to the incorporation of essential patents or other proprietary intellectual property in standards are subject to the approval of the ANSI Executive Standards Council (ExSC) and Executive Committee. Any other guidelines, public statements or communications of the IPRPAG intended to be shared outside of ANSI are subject to the approval of the Executive Committee.

2. IPRPAG Membership and Membership Rights

Membership in the IPRPAG is open to all interested ANSI members¹ (other than Basic and International members). Participation in the IPRPAG is by voting and/or non-voting membership as follows:

¹ As delineated in Section 2.01 of the By-Laws.

Interested ANSI members may designate one (1) representative as its voting member on the IPRPAG. Once approved by the ExCo, voting members have the right to: (i) access all IPRPAG documents, including meeting minutes and agendas; (ii) participate in electronic communications and correspondence; (iii) attend all IPRPAG meetings; (iv) participate in discussions at all IPRPAG meetings; and (v) vote on matters coming before the IPRPAG.

Interested ANSI members may also designate one (1) non-voting representative to the IPRPAG (in addition to or in lieu of a designated voting member). Non-voting members, who do not require ExCo approval, have the right to: (i) access all IPRPAG documents, including meeting minutes and agendas; (ii) attend IPRPAG meetings, either in person or via appropriate electronic means, with in person attendance subject to space limitations; and (iii) participate in discussions at IPRPAG meetings and/or participate in electronic communications and correspondence, subject to time limitations. The IPRPAG Chair, with input from the IPRPAG Secretary, shall make decisions relative to space and time limitations that impact non-voting member participation. With permission of the chair, colleagues or other representatives of voting or non-voting members may be designated to attend IPRPAG meetings remotely and passively, via appropriate electronic means.

3. Voting vs. Non-voting Status

Voting members are generally those who wish to actively and consistently participate in IPRPAG meetings, debates, task forces and votes. They should ideally have experience in the application of the ANSI Essential Requirements' provisions pertaining to the incorporation of intellectual property rights in standards and/or exploitation rights to the copyright in standards, and are expected to attend meetings and have read materials distributed in advance of meetings. They are also expected to commit the time and resources that are necessary and appropriate to fulfill the purpose of the IPRPAG.

Non-voting members are generally those ANSI member representatives who are not active in the IPRPAG and wish to make a less substantial commitment to the work of the IPRPAG. They are often involved in the IPRPAG primarily for informational purposes, to be included on any distribution list and may attend meetings from time to time. However, non-voting members may also include a single additional representative of an ANSI member who has not himself/herself been designated the IPRPAG voting member for that ANSI Member.

Voting and non-voting members may become (and stay) involved in the IPRPAG as follows:

Voting Members. All voting members shall be approved by the ANSI Executive Committee. ANSI members who wish to designate a voting representative to the IPRPAG, shall indicate their interest in or around June of each year in response to ANSI's formal call for nominations. Voting members shall serve for terms of three years and, if they remain eligible, be entitled to serve an unlimited number of terms. Voting members must stay active at the IPRPAG: the status of voting members who fail to attend two consecutive IPRPAG meetings (in person or remotely) or fail to respond to two consecutive Letter Ballots during a single three-year term may be subject to reclassification to non-voting member status upon due consideration by the Executive Committee. There is a limit of one voting member of the IPRPAG from any single ANSI member.

Non-voting Members. ANSI members who wish to designate a non-voting representative to the IPRPAG may register such representative to participate as a non-voting member of the IPRPAG by contacting the ANSI membership department. Non-voting members do not serve for specific terms and may remain on the IPRPAG as long as they are otherwise eligible to serve.

Mid-term appointments to voting status on the IPRPAG will be considered by the Chair of the ANSI Board of Directors if: (i) a new ANSI member (joining outside the normal nomination cycle) wishes to engage immediately in the PAG's activity; or (ii) a resignation or departure by a voting member occurs outside the normal nominating cycle. Such "mid-term" changes will be resolved by the Chair of the ANSI Board on a case-by-case basis.

4. Alternates

On any matters requiring a vote either at a meeting of the IPRPAG or via Letter Ballot, a current voting member may appoint a temporary alternate upon prior written notice sent by electronic means to the IPRPAG Chair and IPRPAG Secretary.

5. Officers

The Chair of the Board shall appoint the Chair of the IPRPAG subject to approval by the Board. The Chair shall serve for two years and shall be eligible to serve for a maximum of two full consecutive terms. The Chair of the IPRPAG shall maintain impartiality at all times and shall not be entitled to vote on any matters brought to a vote before the IPRPAG. However, the ANSI member with whom the Chair is affiliated may appoint an IPRPAG voting member (and alternate, see above), apart from the Chair.

The Chair of the Board shall also appoint up to two (2) Vice Chairs to serve for two years and who shall be eligible to serve for a maximum of two full consecutive terms. The Vice Chair(s) shall assist the Chair with matters that come before the IPRPAG and may substitute as Chair at any meeting in which the Chair is unable to attend. The IPRPAG Chair, together with the Vice Chair(s) and the Copyright Group Chair, shall constitute the IPRPAG Leadership Team and shall be supported by the IPRPAG Secretary. A staff member designated by the ANSI President shall serve as the non-voting Secretary of the IPRPAG.

In any year in which the current IPRPAG Chair or a Vice Chair's term is to expire, the IPRPAG Leadership Team shall appoint a Nominating Committee for the purpose of evaluating candidates, for the next IPRPAG Chair and Vice Chair(s). The Nominating Committee shall consist of at least three voting members of the IPRPAG. The IPRPAG Leadership Team shall make every effort to ensure that the Nominating Committee is representative of the diversity of organizations and viewpoints participating in the IPRPAG.

In each such year, the Secretary will issue a call to the IPRPAG voting members to solicit interested candidates for any open positions. By October 1 of such year, interested candidates shall furnish to the Secretary a biographical statement setting forth the candidate's relevant qualifications. Based on this information, by November 1, the Nominating Committee by majority vote shall recommend to the ANSI Board Chair (via the IPRPAG Secretary) proposed nominees for open IPRPAG Chair and/or Vice Chair(s) positions.

6. Meetings and Agendas

Meetings of the IPRPAG generally shall be held two times a year with such additional meetings as are deemed necessary or desirable at the discretion of the IPRPAG Chair and approved by a majority of the IPRPAG. At any meeting of the IPRPAG, the presence (either in person or via appropriate electronic means) of a majority of the current voting membership (i.e., the authorized voting membership not counting vacancies) shall constitute a quorum.

Notice of the time and place of meetings of the IPRPAG shall be given by the IPRPAG secretary. Written notice shall be sent by electronic means to each member of the IPRPAG at least forty-five (45) calendar days before the meeting. Meetings of the IPRPAG may be attended by voting members or their alternates and, space permitting, by non-voting members. Attendance may be either in person or via appropriate

electronic means. Non-member guests may also be invited by the IPRPAG Chair, if and when relevant to the work of the IPRPAG, space permitting.

All suggestions for agenda items must be submitted to the IPRPAG Secretary at least four weeks before an IPRPAG meeting, unless allowed by the Chair on shorter notice. The Leadership Team shall make the final decision on which agenda items will be included in a meeting agenda. Unless otherwise allowed by the Chair on shorter notice, the Secretary of the IPRPAG will cause the agenda and all related materials (except summary presentations, see below) to be distributed to voting and non-voting members of the IPRPAG reflecting the items to be considered at least two weeks before an IPRPAG meeting. With respect to agenda items and related materials distributed later than two weeks prior to an IPRPAG meeting, the Chair shall ask if there is objection to discuss the later-delivered documents. If so, this Chair, after having such objection(s), shall have the discussion to determine whether such additional items will be discussed.

Presentations that summarize a speaker's intended remarks, for example PowerPoint Presentations, are not subject to the "two-week" distribution rule as they are normally prepared in the days immediately preceding the IPRPAG meeting by various IPRPAG members and staff. These presentations will be distributed ideally two days before the meeting.

The Secretary of the IPRPAG will prepare a report of each IPRPAG meeting, which will be circulated as soon as practicable after the meeting. The meeting report shall be approved by the IPRPAG either between meetings or at the next scheduled meeting. Such meeting report shall succinctly report on motions and their disposition as well as significant points of discussion, together with follow-up responsibilities.

7. Authorization of Letter Ballots

The IPRPAG, in session, or the Chair of the IPRPAG may authorize the Secretary to distribute letter ballots. Letter ballots shall be closed on the twentieth (20th) working day following the date of issue, unless extended by the Chair to allow for a quorum to respond. The Chair, for good cause and with the concurrence of the IPRPAG Secretary, may authorize a shorter interval for letter ballots. Non-responses to shortened ballots will not count as a violation of a voting member's obligation to vote as outlined above. When the letter ballot has been closed, the Secretary shall report the results to the IPRPAG.

8. Recommendations by the IPRPAG

Recommendations by the IPRPAG may be approved by voting either at an IPRPAG meeting or by Letter Ballots between meetings, depending on the nature of the recommendation and the applicable timetable.

Supermajority Votes: IPRPAG recommendations on proposed changes to the ANSI Patent Policy ("Patent Policy"), ANSI Patent Policy Guidelines ("Guidelines") and other substantive documents relating to the Patent Policy or Guidelines (such as forms, white papers or other communications that seek to recommend interpretations or implementations) must be conducted by Letter Ballot and shall require approval by two-thirds (2/3) of the combined "yes" and "no" votes cast (not including abstentions) by current IPRPAG voting members in which "yes" votes come from at least a majority of the current IPRPAG members eligible to vote.

Majority Votes: All other IPRPAG recommendations can be taken by a vote in which a majority of the voting members return ballots ("yes", "no" or "abstain") or at a meeting at which a quorum is present. A decision is determined by a majority of the "yes" and "no" votes cast (not including abstentions) by the current voting IPRPAG members.

An anonymized tally of all votes as well as any comments (without attribution) that may accompany such votes, will be shared by staff with all members of the IPRPAG and with other groups within ANSI as appropriate.

9. Disclosure Policy for Consultants/Advisors

As a supplement to the ANSI Code of Conduct, and to ensure that each ANSI voting member votes only once on matters coming before the IPRPAG, each IPRPAG voting member who is a consultant or advisor shall provide the ANSI IPRPAG Secretary at the beginning of each year (or whenever a consulting or advisory relationship is created), with an answer to the question in subsection “a” and the additional information requested in subsection “b” if appropriate:

- a. During the past three years, have you, either directly or indirectly (for example, through an entity in which you hold a controlling interest), received any compensation, financial or otherwise, in a consultancy or advisory capacity from: 1) any person currently or then serving as a voting member of the IPRPAG; or 2) such person’s employer; or 3) an entity in which such person holds a controlling interest?
- b. If so, identify to the IPRPAG Secretary each such source of compensation, the nature of the consulting relationship and any other information you think relevant.

For the purpose of this Section, a “consultant” or “advisor” is someone not an employee of an ANSI member who provides professional advice or representation to an ANSI member in exchange for compensation, financial or otherwise. A consultant or advisor does not include a retired or former employee of an ANSI member who continue to works exclusively for the same ANSI Member, as long as his/her affiliation is disclosed.

The IPRPAG Secretary will provide the information and data received from IPRPAG members in response to subsection “b” on the IPRPAG confidential homepage under “Disclosure Policy” at the beginning of each year.

10. Subcommittees and Task Forces of the IPRPAG

The IPRPAG by a majority vote or the IPRPAG Chair for good cause may establish such additional subcommittees and task forces as are considered desirable to accomplish its mission. Chairs of task forces and any other subcommittees established by the IPRPAG shall be appointed by the IPRPAG Leadership Team from the members of the IPRPAG. Under special circumstances, subcommittees and task forces may be limited to voting members of the IPRPAG or their designee at the discretion of the IPRPAG Chair.

The ANSI Copyright Task Force is a standing task force of the IPRPAG that provides views and proposes policies regarding exploitation rights to the copyright in standards and the recognition of copyright protection for standards by courts, legislatures, regulatory bodies, industry and others. The Chair shall serve for two years and shall be eligible to serve for a maximum of two full consecutive terms.

Any positions or recommendations of any subcommittee or task force of the IPRPAG (e.g., to disband such subcommittee or task force, to approve amendments to the Patent Policy or Guidelines, to publish positions or approve new policies) shall be submitted by the Chair of such subcommittee or task group to the IPRPAG for approval.