



Overview: The ANSI Intellectual Property Rights Policy Committee (“IPRPC”): Challenges, Organization, and Mission

ANSI New Member Orientation
October 10, 2012

Patricia A. Griffin
ANSI Vice President & General Counsel



What is the History of the Intellectual Property Rights Policy Committee (IPRPC)?

- **ANSI Intellectual Property Rights Policy Committee** established in 2005 to:
 - develop Institute positions on issues relating to the incorporation of essential patents or other proprietary intellectual property in national, regional or international standards;
 - develop Institute positions relating to exploitation rights to the copyright in standards and the recognition of copyright protection for standards by courts, legislation, regulatory bodies and the industry;
 - develop broad-based policy and position decisions regarding national, regional and international intellectual property matters, including the global trade aspects of such matters.

What are the Responsibilities of the IPRPC?

- The Intellectual Property Rights Policy Committee shall be responsible for broad-based policy and position decisions regarding national, regional and international intellectual property matters, including the global trade aspects of such matters (except as otherwise delegated by the Board to another body or to the extent such decision would significantly change or affect the strategic direction of the Institute or the federation). The Intellectual Property Rights Policy Committee shall also be responsible for developing Institute positions on issues relating to the incorporation of essential patents or other proprietary intellectual property in national, regional or international standards and for developing Institute positions relating to exploitation rights to the copyright in standards and the recognition of copyright protection for standards by courts, legislation, regulatory bodies, industry and others. (From ANSI Bylaws)

What are the Intellectual-Property-Rights Challenges Facing the Institute?

- **Two critical IPR-related challenges:**
 - Antitrust issues relating to the inclusion of intellectual property in standards;
 - Challenges to developers' assertion of copyright in standards.
- **These and other IPR-related challenges are now global in scope.**

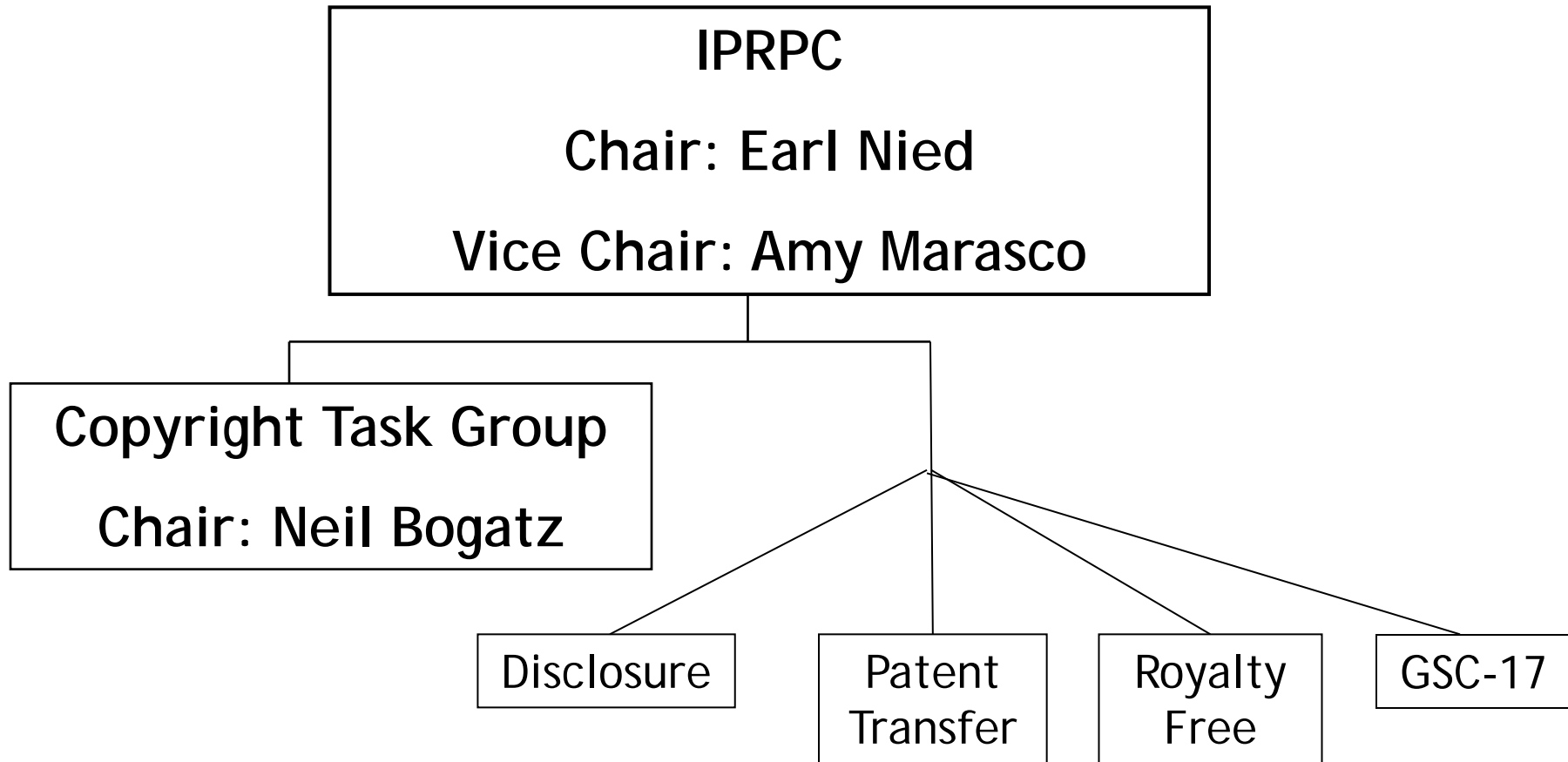
The Antitrust Challenge

- Successful standards typically incorporate the best technical solutions given market requirements;
- Sometimes the best technical solutions are patented;
- This raises antitrust concerns since the owner of the essential patents for the embedded technology could achieve monopoly power and charge unreasonable fees or discriminate against certain competitors in licensing for use of the patented technology;
- ANSI's Patent Policy seeks to provide a balanced mechanism for addressing this situation in a way intended to reduce antitrust risks without unduly burdening the process.

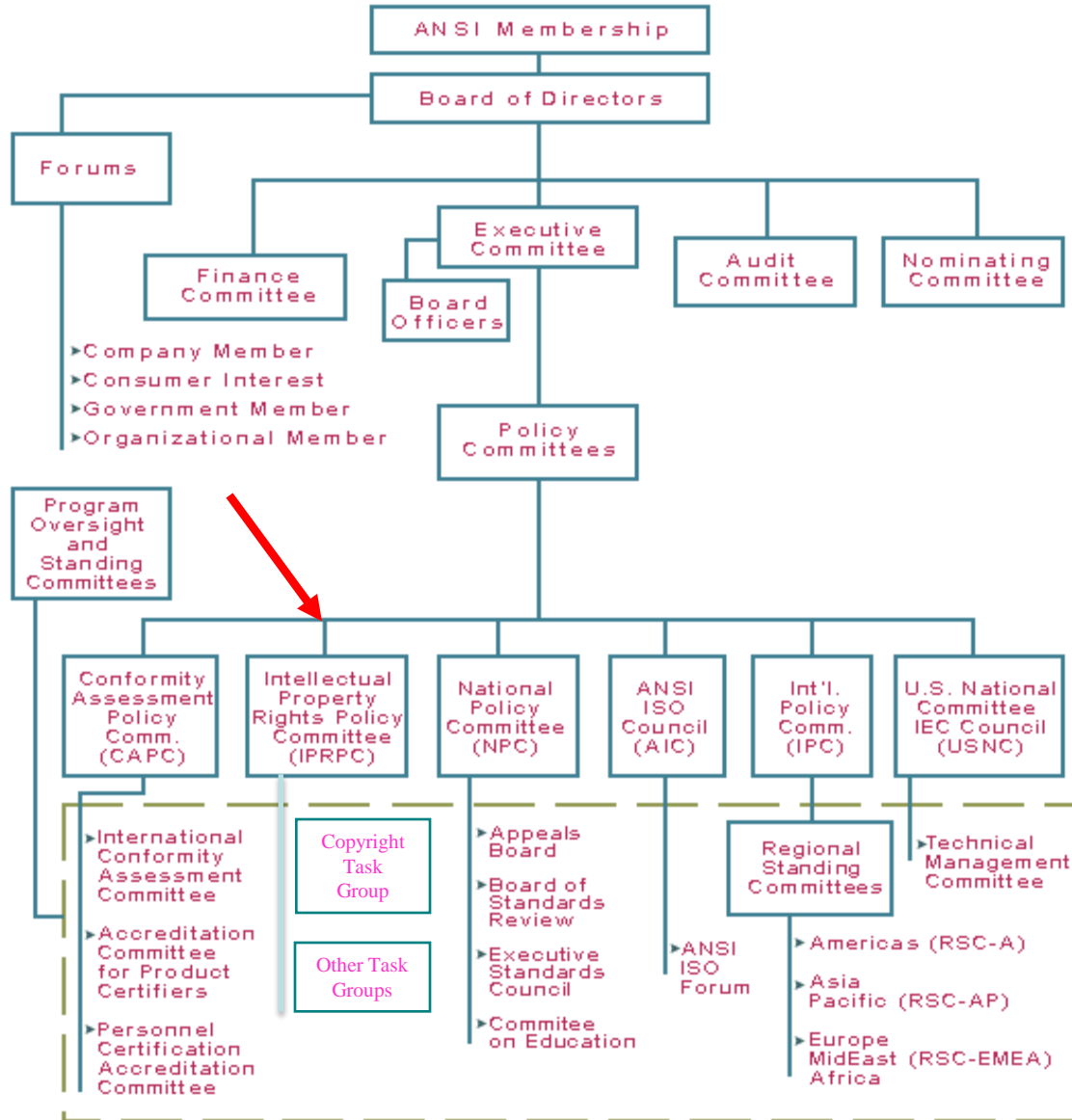
The Copyright Challenge

- Standards that are developed by some committees often embody ideas for how to do something and sometimes are incorporated by reference in laws and regulations.
- An SDO's right to assert copyright in standards has been challenged on the basis that:
 - Technical committee members - not SDOs -- "own" copyrights to the standards;
 - Standards are non-copyrightable "ideas;"
 - To the extent standards are incorporated into the law, they should be free.

How Does ANSI Deal with these Challenges?



Institute-Wide Organizational Chart Depicting IPRPC



IPRPC Objectives

- Continue to implement necessary changes to the ANSI Patent Policy and Guidelines (*e.g.*, patent hold up problem);
- Develop Institute positions on issues relating to IP embedded in the standards; *e.g.*, essential patent claims, copyrighted source code, trademarks, etc.;
- Provide guidance to other ANSI committees that address such IP-related issues, such as the Executive Standards Council (“ExSC”) and the Board of Standards Review (“BSR”); and Appeals Board (“AB”);
- Monitor and seek to influence domestic and international activities related to standards setting and patents (*e.g.*, FTC, DOJ, USPTO, USTR, GSC, ETSI, WTO, ISO, IEC, ITU-T, WIPO, OECD, foreign governments, etc.);
- Continue to articulate ANSI’s position that access to standards does not have to be ‘free,’ but rather just ‘reasonably available’



for more information

Patricia A. Griffin
Vice President
&
General Counsel
pgriffin@ansi.org

American National Standards Institute

Headquarters

1899 L Street, NW
11th Floor
Washington, DC 20036

T: 202.293.8020
F: 202.293.9287

New York Office

25 West 43rd Street
4th Floor
New York, NY 10036

T: 212.642.4900
F: 212.398.0023

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