



Intellectual Property Rights Policy *WFAG*

1 March 2022

BACKGROUND

Work in the IWG:

- in the public interest & for use free of charge
- open structure which enables the exchange of information and experiences leading to the development of relevant regulations and mutual resolutions.

Goal:

- ensure a stable and transparent working environment
- encourage and achieve regulatory compatibility and cooperation

IPR Policy

- Setting the general rules pertaining to the management of IPRs belonging to Members
- Setting the consequences in case of breach of prescribed obligations
- Fully enforceable and applies to all members taking part in the work of the IWG

FIVE key OBLIGATIONS

1. Disclose essential IPR
2. Licence (royalty free)
3. Refrain from appropriation of output of WG
4. Inform about IPRs of others
5. Continuation of above obligations for any transferee of essential IPR

Other provisions:

- **Conduct of meetings in IWG:** active engagement of Chairman with the IWG in the identification of relevant IPRs
- **Confidentiality:** no duty of confidentiality (general rule), except for information expressly identified as confidential
- **Disclaimer:** no liability of UNECE for any possible infringement of a claimed IPR belonging to a Member



Thank you for the attention

Annex I

Intellectual property rights policy for WP.29

I. BACKGROUND:

The UN World Forum for Harmonization of Vehicle Regulations (“WP.29”) promotes an open development process through an extensive cooperation with stakeholders, as well as a wide adoption of its outputs in order to aim for a shared and harmonized set of rules that would contribute to a faster and improved development of the sector.

The various Working Parties (“GRs”) of WP.29 including the informal working groups (“IWGs”) under them, operate within an open structure, which enables the exchange of information and experiences leading to the development of relevant regulations, guidelines and resolutions. Any output of their work shall be implemented and accessed freely and without restrictions. The work setting and objectives, the development process, the terms of reference and rules of procedure of the WP.29 and UNECE are enacted in the Blue Book of the WP.29, as well as in the documentation and guidance available on the UNECE website (<https://unece.org/>).

The Administrative Committee for the Coordination of Work (“AC.2”) of WP.29 decided to set general rules pertaining to the management of use and ownership of all Intellectual Property Rights through this Intellectual Property Rights Policy (the “IPR Policy”). The IPR Policy applies to all members taking part in the work of the GRs/IWGs, who therefore understand and consent to be bound by the obligations set hereunder.

It is essential that all members disclose any Intellectual Property Rights that may be of relevance to the activities carried out within a GR/IWG. The disclosure will ensure a transparent working environment, safeguarding the achievement of the objectives of WP.29 while reducing the risk of investing in the development and adoption of an output that cannot be implemented without the infringement of Intellectual Property Rights.

If one of the members of the GR/IWG holds Intellectual Property Rights necessary for the development of an output and its subsequent implementation, the conditions for its use should be clearly established before the approval of said output.

II. DEFINITIONS:

For the purpose of this IPR Policy, the following definitions shall apply:

- (i) “**Affiliate**” of a first entity means any other entity that:

- a. owns or controls the first entity;
- b. is owned or controlled by the first entity; or
- c. is under the same ownership or control as the first entity.

Under this definition, there is a situation of ownership or control at least whenever:

- (a) an entity owns 50% or more of another entity, entitling it to vote for the election of its directors or similar positions or functions; or
 - (b) an entity has the right to elect or appoint directors or persons who can collectively control another entity.
- (ii) “**Essential IPR**” means any Intellectual Property Rights that, on the basis of the state of the art at the time of the approval of the Output, would be, by itself or together with other technologies, required, on technical grounds, to implement the Output;
 - (iii) “**Implementer**” means anybody (including, but not limited to individuals, associations, organizations, corporations and other entities), who implements an Output, irrespective of their membership to a GR/IWG;
 - (iv) “**Intellectual Property Rights**” or “**IPR**” means all intellectual and industrial property rights conferred by law including applications therefor;
 - (v) “**Member**” means an individual, association, organization, company or any other entity that is part of an IWG in any capacity. The references to a Member shall include both that Member and its Affiliates;
 - (vi) “**Output**” means any result of the activities of the IWG, including but not limited to UN Regulations, Global Technical Regulations, Mutual Resolutions, UN Rules, Guidelines and official working documents;
 - (vii) “**Viable Alternative**” means an alternative way to implement an Output without infringing an Essential IPR.

III. OBLIGATIONS

Considering the need for a stable working environment where each Member can freely discuss and contribute to the development of the state-of-the art outputs and the accomplishment of the UNECE mission, in particular to encourage regulatory compatibility and cooperation, the following obligations shall apply to all Members of the GRs/IWGs:

1. Disclosure of IPR

- 1.1. Each Member shall disclose to the GR/IWG any IPR relevant to the activities of the IWG, which it directly or indirectly owns or for which it has obtained a licence. The disclosure shall be done by using the template provided in Annex II.
- 1.2. The disclosure mentioned in the previous paragraph shall take place before the start of the IWG activities or, if this is not possible, at the earliest possible stage of the development of the Output and, in any case, before the approval of the Output.
- 1.3. If a Member is aware of any IPR owned by a third party (including by other Members) that might become an Essential IPR, it shall bring it to the attention of the GR/IWG as soon as possible.

2. Existence of a Viable Alternative

- 2.1. Where a Member discloses any IPR that might become an Essential IPR, the GR/IWG shall review the implementation requirements of the Output under discussion and assess to what extent a Viable Alternative is available.
- 2.2. Where a Viable Alternative is available, the Output shall be approved on the basis of the Viable Alternative.

3. Non-existence of a Viable Alternative: availability of licences

- 3.1. When a Viable Alternative is not available, the GR/IWG shall ask the owner of the Essential IPR to provide an irrevocable undertaking in writing, signed by one of its authorised representatives, committing to grant to each potential Implementer for all the uses, activities and duration required to implement the Output:
 - a) an irrevocable free of charge licence on fair, royalty-free and non-discriminatory terms and conditions; or
 - b) an irrevocable licence specifying the implied royalties on fair, reasonable and non-discriminatory terms and conditions.;
- 3.2. A licensing commitment in respect of an Essential IPR that binds the owner, binds any subsequent owner. To this end, in the event of a transfer, the owner of the Essential IPR shall provide for adequate provisions in the relevant transfer document to ensure the

binding nature of the encumbrance. Any change in ownership of an Essential IPR must be notified to the GR/IWG in a timely manner.

- 3.3. If no Viable Alternative is available, the Output shall not be approved until the undertaking above is given. The existence of an Essential IPR and of this undertaking shall be described in the Output.

4. Availability of Outputs

- 4.1. An Output shall be made publicly available and remain freely accessible. Anyone, including but not limited to Members and Implementers, shall be free to reproduce the text of the Outputs.
- 4.2. The Members irrevocably and unconditionally waive any copyright in text contributed to an Output. Should this waiver for any reason be judged legally invalid or ineffective under any applicable law, the contributing Member hereby affirms not to exercise any copyright or related rights in any manner that would in any way restrict or limit the use, reproduction and availability of an Output.
- 4.3. Any Member contributing software for an Output shall release the software under an open source licence that allows it to be freely used, modified and shared.
- 4.4. Members shall not apply for any new patents, utility models, or in general secure any IPR based on any information gathered on the GR/IWG.

5. Consequences of non-compliance with the obligations

- 5.1. In the absence of the disclosure by a Member of an Essential IPR, which it directly or indirectly owns, the Member hereby undertakes to grant each potential Implementer an irrevocable free of charge licence on fair, royalty-free and non-discriminatory terms and conditions for all the uses, activities and duration required to implement the Output.
- 5.2. The Member in breach of any obligation under the IPR Policy shall be excluded from the work of the GR/IWG.
- 5.3. The Chairman of the GR/IWG will discuss in advance with the concerned Member who will have the possibility to express its position. The possible exclusion of a Member will be made on a case-by-case basis, after appropriate consultations with the other Members, respecting the principle of fair treatment.

IV. CONDUCT OF THE MEETINGS

The Chairman of each GR/IWG, in the course of the development of an output, will request the disclosure of any IPR relevant for the Output via the disclosure statement of Annex II. This request shall be recorded in the meeting report. The Chairman shall share any disclosure declaration with the Members.

V. CONFIDENTIALITY

As a general rule, the UNECE and the Members have no duty of confidentiality in relation to any information provided within the context of the GR/IWG, with the exception of information expressly identified as confidential.

Any Member submitting information must assert their claim to confidential treatment at the time the information is submitted. No information transferred that is subject to any requirement of confidentiality or any restriction on its dissemination will be considered for inclusion in an Output.

VI. DISCLAIMER

The UN does not accept any liability for any possible infringement of an IPR or any other right because of the implementation of an Output.

Declaration

The undersigned *(name of the undersigned)*, duly authorised to represent for the purposes of signing of this Declaration *(name of the Member)*, Member of the Working Group *(name of the Working Group)*, hereby declares that he/she has read and understood the “Intellectual property rights policy for WP.29” (IPR Policy) that forms Annex I of the present Declaration, and that *(name of the Member)* adheres to all the clauses and provisions of this IPR Policy, and that it complies/will comply with its clauses and provisions.

Place and Date:

Name and Capacity of the undersigned:

Member:

Signature: