



# GS1 Intellectual Property Policy (IPP) Made Simple

## Intellectual Property (IP)

Intellectual property (IP) is a legal concept which refers to creations of the mind for which exclusive rights are recognised and granted in law. Common types of intellectual property rights include copyrights, trademarks, patents, industrial designs and trade secrets.

GS1 working groups specify business requirements, guidelines and specifications. Many patents either already exist or are being filed today in these areas. As the world's leading global organisation for neutral, open standards in the supply chain, GS1 strives to protect its community of users and their efforts and investments to the best of its ability. The GS1 IP Policy is a key part of that effort. Under its IP Policy, GS1 seeks to develop standards that can be practiced on a royalty-free basis to the greatest extent possible.

## The purpose of the GS1 Intellectual Property Policy (IPP)

- The GS1 IP Policy (IPP) sets out licensing terms for participants in GS1 Standards Development (GSMP).
- The aim of the IP Policy is to obtain royalty free or RAND (reasonable and non-discriminatory) licensing terms from IP holders participating in GS1 working groups that have essential patents (necessary claims) that read on the standard being developed in the working group.
- Necessary claims mean patent claims that would be infringed by implementing the mandatory features or functions of a standard.
- As a condition of participating in a GS1 working group, participants are required to sign the IPP and the working group Opt-in Agreement.

## Scope & limitations

- The license (royalty free or RAND) granted under the IPP is limited to GS1 members and working group participants. Third parties with necessary claims relative to the published standard are not covered by the IP Policy and may request licenses from implementers of the standard.
- The IPP is not a broad policy requiring disclosure of all intellectual property owned by a participant and signing the IPP does not give a blanket license to a company's patent portfolio.
- The IPP is limited to necessary claims in patents that cover the specific requirements (required features or functions) in a standard.
- By limiting the licensing of patent rights under the IPP to only what is required to implement a particular standard, we fully expect that participants and others will develop proprietary improvements that enhance the features and functions, systems and methods covered in standard, thereby enhancing the implementation of the standard.
- Patent claims covering optional features and improvements relative to a standard are outside the scope of any licensing requirements or disclosures required under the IPP.
- Because each working group has its own opt-in and charter, the IPP for a particular working group only applies to the standard that the particular working group develops.
- The limited nature of the opt-in and charter for each working group prevents the IPP from applying to any other working group or other standard, unless the participant has signed a blanket opt-in for all current and future working groups (see below).

## Opting-in to a working group

- A participant company signs the IPP and then opts in to a specific working group.

- An opt-in agreement is signed each time a participant company joins a working group because each opt-in only applies to the work of a specific working group.
- There is however a blanket opt-in that allows a participant company to be automatically opted in to all current and future GSMP working groups.
- A participant may choose whether to utilise the blanket opt-in or a specific opt-in for a particular working group.
- A company may opt out of a working group (but there may be continuing licensing obligations). For more information, please see our FAQ and the question: Can a company withdraw from participating in a working group at: <http://www.gs1.org/gsmip/advantages>

### Submitting an IP declaration

- If a company wishes to request RAND (“reasonable and non-discriminatory”) licensing terms, rather than granting a royalty-free license relative to its necessary claims as defined in the IPP, it must submit an IP declaration.
- If a company does not specifically submit an IP declaration relative to its necessary claims covering requirements in a specification, any such necessary claims covering required features or functions in a standard are licensed royalty-free.
- Any patent claims that read on optional features or functions in a specification are not covered by the licensing terms in the IPP.
- In the IP declaration, the participant must designate the patent name, number, relevant portions of the specification and a brief description of how the necessary claims are relevant to the specification.
- The IP declaration is then submitted to the GS1 IP Advisory Group (IPAG) for analysis.
- If the review process by the IPAG yields a finding that there are necessary claims, GS1 has the option of accepting the RAND licensing terms or sending the specification back to the working group for possible revision to eliminate the requirement for the feature or function covered by the necessary claim.

### Reciprocal Licensing provided by the IPP

- The IPP requires reciprocal licensing by those receiving a royalty free license under the IPP: if a participant does not grant a royalty-free license to its necessary claims, then that participant will not receive a royalty-free license from other participants owning necessary claims.

### Withdrawing from a working group & licensing obligations

- A participant may withdraw from a working group at any time by giving written notice to the working group Chairman. However, there may be continuing licensing obligations following a participant’s withdrawal from a working group as follows:
  - Licensing obligations continue for subject matter included in a draft standard more than sixty (60) days before the withdrawal date (when there is no IP declaration), even if the specification is approved after withdrawal date.
  - Licensing obligations continue for subject matter included in a draft standard more than sixty (60) days before the withdrawal date (when there is no IP declaration), even if the specification is approved after withdrawal date.
- Licenses granted by other participants to the withdrawing participant remain in effect for a standard that has been approved and ratified before the participant withdrew from the working group.
- There is no royalty-free licensing for a participant’s contribution that is not incorporated into a specification or was the subject of an IP declaration by the withdrawing participant.

### Transfer of IP to third parties

- Participants cannot transfer IP with necessary claims to a third party outside of the working group who is not bound by the terms of the IP Policy In order to circumvent the responsibilities under the IPP.
- If a participant does transfer its IP with necessary claims to a third party outside of the working group, the transfer must incorporate participant’s existing obligations under the IPP.



## Protection for the Community

- The provisions of the IPP are designed to protect the community of GS1 users to the greatest extent possible.
- The IPP was developed to assure the GS1 community that those participating in a working group developing a standard are not participating with a hidden agenda in formulating the requirements of the standard.