

Objectively False IPR Disclosure Policy

Background

Purpose

The purpose of this policy is to ensure that IPR disclosures that contain a material statement of purported fact that is objectively false are not published as IPR disclosures. This policy provides guidance to the IETF Administration LLC (IETF LLC) staff and contractors who process IPR disclosures.

Non-conforming IPR disclosures

RFC 8179¹ requires that IPR disclosures include certain information (section 5.4.1), or they are deemed non-conforming. The IESG has determined that a disclosure that contains a material statement of purported fact that is objectively false is non-conforming.

RFC 8179 goes on to say that the IETF may post non-conforming disclosures as general disclosures or it may decline to post them on the basis that they are "not relevant to IETF activities" or "suspected of being, defamatory, false, [or] misleading, in violation of privacy or other applicable laws or regulations ..." (section 5.8).

Impact on IPR disclosure publication process

All IPR disclosures are automatically published when received. This policy does not change that, but it clarifies that an objectively false IPR disclosure will be removed after publication.

This policy has no impact on an attempted IPR disclosure that has insufficient information to be considered a conforming IPR disclosure, and may still be published as a general disclosure.

The application of this policy does not confirm that statements of purported fact in an IPR disclosure are in fact true and so this does not change the position for parties

¹ <https://tools.ietf.org/html/rfc8179>

relying on any statement in an IPR disclosure, who should continue to perform their own due diligence.

Determining if an IPR disclosure is objectively false

Initiating an investigation

An investigation may be initiated through one of two routes:

1. All newly published IPR disclosures are read by IETF counsel as a matter of course. If that read-through raises immediate concerns that the IPR disclosure may be objectively false then counsel may initiate an investigation.
2. We are put on notice by a third party that they believe an IPR disclosure contains a material statement of purported fact that is objectively false.

Investigation

Our general counsel will investigate to determine if a material statement of purported fact in the IPR disclosure is objectively false.

The investigative effort is to be very modest, to meet the threshold of "easily determined".

Examples of purported facts that may be checked include:

- Checking that listed patents or patent applications do exist and are approximately as described in the disclosure.
- Checking with anyone listed on the disclosure as having been a source of the disclosure that this is correct.

The level of investigation is not intended to confirm that statements of purported fact in the IPR disclosure are in fact true.

Action

If there is any uncertainty at all then no action will be taken and the IPR disclosure will remain published.

If it is confirmed that a material statement of purported fact in the IPR disclosure is objectively false, then the disclosure will be removed from the database and the submitter informed.

A removed IPR disclosure will not be re-published as a general disclosure (which is distinct from an IPR disclosure) on the grounds that doing so would mean publishing a false or misleading general disclosure.
