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| **TSAG** |
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| **TD** |
| **Source:** | Rapporteurs of the TSAG ad hoc group meeting on IPR matters in Contributions C195 and C197 |
| **Title:** | Report of the TSAG ad hoc group meeting on IPR matters in Contributions C195 and C197 (26 October 2021) |
| **Purpose:** | Information |
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| **Keywords:** | IPR; marks guidelines; |
| **Abstract:** | This TD contain the report of the meeting of the ad hoc group on IPR matters in TSAG contributions C195 and C197 (26 October 2021). |

# Introduction

The first plenary meeting of TSAG, which took place on 25 October 2021, created an ad hoc group that would address the proposal to modify the IPR section on the covers of A-series Recommendations as described in [TSAG-C-195](https://www.itu.int/md/T17-TSAG-C-0195/en), as well as the proposal of modification of the ITU Marks Guidelines as contained in [TSAG-C-197](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=T17-TSAG-C-0197).

The meeting took place on Tuesday 26 October, 2021, 16h30-17h30, and was chaired by Mr. Serge Raes (Orange) for the issue on the IPR section, and by Mr Hung Ling (Nokia) for the Marks Guidelines. This TD reflects the conclusions of the meeting.

# Discussion and Conclusions

**1. IPR section as described in TSAG Contribution** [**TSAG-C-195**](https://www.itu.int/md/T17-TSAG-C-0195/en)

Chaired by Mr Serge Raes (Orange), rapporteur for patents issues of the TSB Director’s AHG on IPRs.

The proposal to remove the boilerplate on Intellectual Property Rights at the bottom of the first page in the A-series of Recommendations, as shown in Contribution [TSAG-C-195](https://www.itu.int/md/T17-TSAG-C-0195/en), or in its entirety, as suggested during the meeting, was discussed during the first half of the meeting.

It was recalled that TSAG has no authority to change this boilerplate, which is found in Resolution 1, and that it can only be amended by WTSA.

Certain meeting participants acknowledged that there is strictly speaking no need to have the boiler plate on Intellectual Property Rights (IPR boiler plate) in the covers of the A-series Recommendations because working methods and processes are not subject to technical patents rights. Two options were discussed:

Option 1: Status quo – no change to the current text.

Option 2: Removal of the entire IPR boiler plate or adoption of a revised template for the A-series – This would require a change to Resolution 1.

Concern was expressed that the removal of the IPR section from the covers of the A-series Recommendations could propagate to other series, and that could create unexpected difficulties.

To conclude, there was no consensus on the proposal.

**2.** [**TSAG-C-197**](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=T17-TSAG-C-0197)

Chaired by Mr Hung Ling (Nokia), rapporteur for marks issues of the TSB Director’s AHG on IPRs.

During the Plenary meeting on Monday 25 October, Mr Gracie provided a response to the questions posted in [TSAG-C-197](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=T17-TSAG-C-0197).

For the Russian contribution to the IPR AHG on Marks issues, Russia was offered the opportunity to speak and elaborate on its concerns raised in its contribution to a TSAG audience. Two highlighted proposals were:

(1) Section 2/paragraph 2: Russia proposes to change “should” to “shall” in “if the use of a mark is such that it would require a license, then it should not be included in the Recommendation.”; and

(2) Section 2/paragraph 1: Russia believes there is not alignment in the sentence of “The appearance that a Recommendation endorses any particular products, services or companies/organizations must be avoided” and the following sentence where the word “should” is used in “Therefore, proper names, trademarks, service marks or certification marks of specific companies/organizations, products or services should not be included in the text of an ITU-T Recommendation or in an appendix (or the equivalent) if it appears that they might cause this effect on a reader of an ITU-T Recommendation”.

There was no opinion expressed to support those concerns in the session, while a number of opinions were expressed to support NO change to the Marks Guidelines document (other than a minor correction to a link embedded in the document). The reasons vary from opting to give ITU flexibility and possibility to negotiate for a “no license needed” to concern about unintended consequences from such proposed changes.

The Chair concluded as such, and as the IPR AHG is the guardian of the Marks Guidelines, will bring the topic and collective comments from the TSAG session back to the IPR AHG one more time to see if there is consensus to continue such discussion on the mailing list or via an e-meeting.

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