

Digital Rights Management

*Mitigating the Risk of Copyright
Infringement*

IHS Whitepaper

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The trend of toughening up on copyright violations is moving beyond the music, movie, and software industries into the world of standards users as the courts and Standards Developing Organizations (SDOs) crack down on copyright infringements as never before.

This white paper explores:

- three groups of standards copyright violators
- how standards copyright violations are being confronted by SDOs
- how concerned standards users can continue to leverage the convenience of digitally delivered standards while minimizing their vulnerability to copyright violations

A Brief Overview of the Standards Copyright Challenge

From 1994 to 1999, an employee at the financial services firm, Legg Mason, purchased a \$700/year single-user subscription to a weekly newsletter published by Lowry's Reports, Inc. During that time, the employee redistributed the newsletter via fax and the firm's Intranet despite an internal company policy against unauthorized distribution of copyrighted works and warnings from Lowry's to desist.

On October 3, 2003, a Federal District Court in Maryland brought down a \$19.7 million verdict against the firm for copyright violation, and four months later denied a motion for a new trial, upholding the precedent-setting damages award.¹

Following this trend of taking a harder line on copyright infringement are SDOs no longer willing

to accept the copyright violations of their Intellectual Property (IP) that have become commonplace among standards users in today's digital world.²

The emergence of the Internet has not only increased the commonality of standards copyright violations, but has also created among standards users the expectation and demand for quick access to standards documents that are easily copied, shared, and redistributed.

The result is that standards users concerned about mitigating their risk of copyright violation are faced with increasingly complex copyright agreements – often unique across documents and/or SDOs – all attempting to address the ever changing and unique copyright issues inherent to digital mediums.

As such, the current challenge for standards users is optimizing the benefits of digitally based standards while finding the help they need to navigate the minefield of electronic copyright.

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Standards Copyright Infringement Clarified

Although typical copyright agreements for standards documents are lengthy and intricate, the Concise Oxford Dictionary simply defines copyright as:

“the exclusive legal right, given to the originator or his or her assignee for fixed number of years, to print publish, perform, film or record literary, artistic or musical material, and to authorize others to do the same.”

In other words, copyright protects the ownership rights of those who create original works. The World Intellectual Property Organization (WIPO) defines

such works as Intellectual Property (IP):
*“Intellectual property refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.”*³

When applied to standards users, copyright infringement occurs whenever standards are copied, modified, shared, or redistributed in any manner the creating SDO did not give express permission for.

Three Groups of Standards Copyright Violators

Standards Developing Organizations recognize that different standards users commit copyright violations in different ways and for different reasons. As such, SDOs are taking a four-prong approach in confronting the three general groups of copyright violators:

Copyright Violator Group	Result of Violation	SDO Response
Defiant: general disregard for copyright, with the possibility of actions deliberately taken to violate copyright.	-- undermines SDO revenues -- jeopardizes integrity of standards that may be tampered with or modified -- spreads similar attitudes and actions	(1) Digital Rights Management (DRM) is largely aimed at this group. DRM generally refers to technologies designed to prevent copyright violations by limiting what standards users can do with digital documents. See the table below for explanations of common DRM measures, such as disabling copy or print functions.
Generally Unaware: general lack of awareness of how copyright works and its significance.	-- unknowingly puts user's company at risk through acquisition and use of possibly illegal copies of standards -- unknowingly puts user's company and others at risk through actions such as illegal posting of standards on a website or Intranet	SDOs are investing in (2) educational campaigns designed to raise the general copyright awareness of standards users. At the same time, just as the Internet makes it easy for standards users to search for online documents, it also makes it easy – and common – for SDOs to find standards users illegally using or redistributing those standards. In turn, SDOs are frequently (3) confronting standards users directly , taking up valuable time and energy.
Specifically Uninformed: lack of familiarity with copyright limitations of specific standards documents commonly due to (a) being overwhelmed with copyright agreements specific to individual standards and/or SDOs, or (b) poor internal company communication where the standards purchaser forwards access information to the standards user without adequate information regarding associated copyright agreements.	-- standards users hope they're not violating copyright, but are unsure --standards users experience growing concern that SDOs will eventually enforce their copyright policies	SDOs are (4) rewriting copyright agreements in hopes of clarifying the limitations on documents, but also to toughen up their policies. DRM measures serve as friendly and automatic reminders of copyright limitations for this group. Finally, SDO educational campaigns also target raising the standards-specific knowledge of users.

The four-prong approach of Digital Rights Management, educational campaigns, rewriting copyright agreements, and confronting copyright violators directly will enable SDOs to reduce, but not eliminate instances of their copyright being violated.

Common Digital Rights Management technology	How It Works
Copy, edit, save, print and/or share disabling	Prevents standards users from performing any of the actions listed where such actions would violate a copyright agreement.
File open limit	Limits the number of times a standards document can be opened on a computer, effectively limiting access to the file as outlined in a licensing agreement.
File time limit	Limits the amount of time a standards document can be opened on a computer, effectively limiting access to the file as permitted.
PDF lock down	Portable Document File (PDF) standards can be "locked down" to only open on the computer they were originally downloaded to in the case of single-user licenses.
Watermarking	Standards documents can be altered at the point of purchase to include a watermark indicating such information as the identification of the original purchaser, the download location, and licensing terms, all of which would be retrievable from illegally copied or distributed versions.

While these copyright protecting measures cost Standards Developing Organizations extra time, energy and money, SDOs know their actions will ultimately strengthen their case when they choose to take copyright violators to court – where the current prosecuting trend is to their advantage – in order to recoup some of their copyright-related costs and lost revenues.

Ironically, despite all the efforts of Standards Developing Organizations to protect their copyright, there is no standardized approach being taken. With each SDO implementing different approaches, the minefield of digital copyright issues becomes ever more difficult for standards users to navigate. Regardless of the complexity and uniqueness of the copyright agreements involved, whichever violator group a standards user falls into, not even a plea of

ignorance is grounds for innocence as Lehman and Brown point out:

“Copyright infringement is determined without regard to the intent or the state of mind of the infringer; ‘innocent’ infringement is infringement nonetheless.”⁴



Standards Distributors as Copyright Violation Protection Partners

Rather than braving the digital copyright minefield alone, standards users can rely on the help of standards distributors committed to the success of both the SDOs whose standards they distribute, and the standards users who procure those standards.

Such standards distributors create a win-win environment when it comes to copyright issues by protecting the rights of SDOs while protecting standards users from prosecution by:

- providing certainty of access to legal copies of standards documents
- simplifying and clarifying the process of understanding licensing agreements and copyright terms across standards and SDOs
- enforcing licensing agreements and copyright law to ensure the ongoing innovation and viability of the standards industry

Dealing with such a standards distributor allows standards users to remain compliant while operating in confidence of using legal standards documents. Beyond procurement, standards distributors can offer copyright violation protection by providing systematic licensing notifications and access restrictions across SDOs and documents, such as:

- licensing overviews at the time of purchase or lease
 - licensing agreements that appear on the standard’s first online access screen
 - online reference notices that reiterate copyright use restrictions
 - locking technology that restricts users to permitted usage (e.g., view but not print)
 - auto-inserting document-specific footers on printable documents outlining copyright ownership and licensing information
 - auto-display of upgrade information where user’s license or subscription does not allow for an intended action (e.g., making multiple reproductions)

By creating a centralized, copyright-friendly access point to multiple standards and SDOs, standards distributors can provide a measure of standardization that is lacking when it comes to standards copyright issues.

Taken together, the benefits offered by standards distributors can effectively provide standards users with copyright violation protection while reducing the amount of time and effort associated with standards research and procurement.

IHS Solutions and Copyright Violation Protection IHS (<http://www.ihs.com>) is an industry-leading standards distributor providing all the copyright-related solutions explored above and more. IHS offers integrated, online solutions for the searching, researching, procuring, and tracking of both current and historic standards. Whether leasing access to a set of documents through a subscription, or purchasing individual retail documents, IHS solutions are geared for companies rightly concerned about copyright violations.

For more information on standards copyright issues and related IHS solutions, refer to “Perspectives on Copyright” by Alison Ruger, IHS Senior Manager, Standards Business Development: <http://www.aardvarknet.info/access/number39/monthnews06.cfm>

Sources

¹TrendAlert: Lowry’s Reports v. Legg Mason – The \$20 Million Copyright Wake-Up Call.” InfoAboutInfo Briefing Volume 7, April 9 2004.

² Pace, John, and O’Brien, Tom. “Focus on Intellectual Property.” ASTM Standardization News. ASTM. February 2004. 16 August 2006 <http://www.astm.org/SNEWS/FEBRUARY_2004/pacobr_feb04.html>.

³“What is Intellectual Property?” World Intellectual Property Organization. 26 August 2006. <<http://www.wipo.int/about-ip/en/>>.

⁴Lehman, Bruce A., and Brown, Ronald H. “The Report Of The Working Group On Intellectual Property Rights.” Ladas & Parry LLP Intellectual Property Law. Information Infrastructure Task Force, September 1995. August 28 2006. <<http://www.ladas.com/NII/CopyrightInfringement.html>>.

“Navigating Copyright in a Digital World.” Standards Council of Canada. September 2004.

Ruger, Alison C. “Perspectives on Copyright.” Speech by Sr. Manager, Standards Business Development, IHS, July 20 2001.

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