

Source: MCC (Adrian Scrase)

### *Guidance for calls for IPRs*

Under Article 3.1 of the Third Generation Partnership Project, the Organizational Partners undertook to encourage that their IPR Policies are respected by their members and that their respective members declare their willingness to grant licences on fair, reasonable terms and conditions on a non discriminatory basis, and consistent with their IPR Policies.

A list of essential patents declared with regard to transposed 3GPP deliverables can be found at [http://www.3gpp.org/pcg/ipr\\_declarations.htm](http://www.3gpp.org/pcg/ipr_declarations.htm)

3GPP Individuals Members are required to make reasonable endeavours to inform their respective Organizational Partners, in a timely manner, of Essential IPRs of which they become aware. You, as a Technical Specification Group Chairmen, are urged to remind your members of this obligation.

*The objectives of the call for IPRs* should be to:

- remind the Individuals Members and the person making the technical proposal of technical solution about their obligation under their respective Organizational Partners IPR Policy. To draw attention to any of their own IPRs which might be essential to a 3GPP Technical Specification and Technical Report, if their proposed solution is adopted; and other IPRs which they think could be Essential to the 3GPP Technical Specification and Technical Report under preparation
- seek a statement from the person submitting a technical solution concerning the existence of IPRs (especially patents), which are, or are likely to become, Essential to any 3GPP Technical Specification and Technical Report based on the proposed technical solution (**an IPR statement**)

It is obvious that the members' representatives present in 3GPP Technical Specification Groups cannot be deemed to know details of all IPRs owned by their company. However, you need to invite them to contact the patent experts of their company.

### *When?*

A **formal call** for IPR must be made by the Chairman at **the beginning** of each meeting.

A shorter **call** for IPRs should be made:

- on formal creation of a work item;
- on formal submission of a technical solution;
- on completion of the first stable draft of the 3GPP Technical Specification and Technical Report;
- on working group approval of a draft 3GPP Technical Specification and 3GPP Technical Report ;
- on TSG approval of a draft 3GPP Technical Specification and 3GPP Technical Report .

### *How?*

- 1) The formal call for IPRs needs to be made by the Chairman orally or in writing according to the example given in **the attached Appendix**. Individuals Members needs to be informed that the **form for the notification** of essential IPRs and licensing declaration is available to them (For ETSI :<http://www.etsi.org/ipr/IPRForms.pdf>)).

2) During the meeting the **shorter call of IPRs** can consist in the following sentence **"Does anyone have an essential IPR to declare?"** as a reminder of the call for IPRs made in the beginning of the meeting.

If a member of your 3GPP Technical Specification Group informs you, as Chairman, that his company or someone else has a potentially Essential IPR, you should be aware of the fact that:

- the owner of an Essential IPR does not have to disclose anything other than its existence and identity, e.g. in the case of a patent, its number or that of the application;
- the holder of an Essential patent should never be asked to disclose the commercial terms under which licenses for the Essential patent may be made available,
- Members have no obligation to conduct formal IPR searches.

***What needs to be done if no IPR statement can be obtained or if the IPR owner refuses to grant licenses?***

As 3GPP Technical Specification Group Chairmen, you need to encourage Individual Members to make IPR statement and Licensing Declaration at an early stage in order to avoid undue delay to the work of the Technical Specification Group. However, organizations may need time to study the IPR situation – this may especially be the case for large organizations.

If it becomes apparent to you that an IPR statement is unlikely to be provided to you, you should inform the Project Coordination Group who will arrange with the Organizational Partners for the necessary declarations to be obtained.

## Appendix      Example of a formal call for IPRs

The attention of the members of this Technical Specification Group is drawn to the fact **that 3GPP Individual Members have the obligation** under the IPR Policies of their respective Organizational Partners to **inform their respective Organizational Partners of Essential IPRs they become aware of.**

The members take note that they are hereby invited:

- to investigate in their company whether their company does own IPRs which are, or are likely to become Essential in respect of the work of the Technical Specification Group.
- to notify the Chairman, or the Director-General of their **respective** Organizational Partners, of all potential IPRs that their company may own, by means of the IPR Statement and the Licensing declaration forms.