

in030359

March 14, 2003

**Subject: ISO Council Voting report on the implementation of the ISO/IEC
patent policy**

From: Alan Bryden ISO Secretary-General

Dear Sir or Madam,

As Council member representative, please be informed that the draft resolution on the above subject, placed on the Council Web site on 2003-02-05 for vote, has been adopted as Council Resolution 01/2003 .

I will convey this ISO Council resolution to the IEC General Secretary to establish together a panel of experts in the field of intellectual property rights.

The ISO members are being informed accordingly by circular letter.

Council members having voted positively on this matter are AENOR, AFNOR, ANSI (with comments), BSI, DIN (with comments), IRAM, JISC, KEBS, NSAI, SCC, SPRING SG and TSE.

Votes were not received from BIS, DSM, KATS, MASM, SIS and SIST.

The results are the following:

12 positive votes

6 votes not cast

Please find attached the relevant Council resolution.

Yours faithfully,

Alan Bryden
Secretary-General



Council Resolution 1/2003

Council,

recalling that the intent of the ISO and IEC patent policy, as set out in the ISO/IEC Directives, is to ensure that all ISO (or IEC) standards can be used by anyone, anywhere in the world, and that where patent issues are involved, the intent extends to ensuring that any user can obtain licences under reasonable and non-discriminatory terms and conditions anywhere in the world,

noting the WTO guidelines related to intellectual property rules,

confirms the relevancy and usefulness of the existing ISO and IEC patent policy,

further confirms that any patent issues should continue to be treated case-by-case in a manner consistent with the ISO/IEC Patent Policy by the ISO and IEC Chief Executive Officers,

recognizing the increasing litigation and regulatory review relating to the inclusion of intellectual property in standards and its effect on competition,

further recognizing that similar issues may occur in relation with the inclusion within a standard of proprietary copyrighted material such as software,

asks the ISO Secretary-General, together with the IEC General Secretary, to establish a panel of knowledgeable experts in the field of intellectual property rights to be recommended by ISO and IEC members. The panel will be required to provide assistance when asked by the ISO and IEC Chief Executive Officers, for an interpretation (directly or through the ISO/IEC Directives Maintenance Team) of, or advise regarding, the policy relating to the inclusion of patented items, and by analogy to copyright-protected software, tailored to the needs of the various fields of standardization and taking into account the related complex legal issues and the need to protect ISO and IEC their members and participants from legal challenges. The panel will operate electronically whenever possible.

further asks the Secretary-General to seek concurrence of the IEC and to keep the ITU Director of the Telecommunication Standardization Bureau informed.