

CIP4 Intellectual Property Policy

3 June 2005

This Intellectual Property Rights Policy (hereinafter referred to as “IP Policy”) governs the role of intellectual property in relation to standards and specifications (hereinafter referred to as “Specifications”) created, accepted and published by the International Cooperation for the Integration of Processes in Prepress, Press and Postpress association (hereinafter referred to as “CIP4”). It has been adopted by the Advisory Board as of 3 June 2005 and is part of the membership agreement between CIP4 and each CIP4 member (hereinafter referred to as “Member”).

I. IP Policy Objectives: In all matters of intellectual property rights and procedures, the intention is to support and promote Specifications while respecting the legitimate rights of intellectual property owners. Each Member acknowledges and agrees that each Member shall retain full ownership of its intellectual property rights throughout its participation in CIP4. Any intellectual property developed by Members as part of their work with CIP4 will be owned by such developing Member, without any obligation of accounting to any other Member.

Except for rights expressly provided by this IP Policy, no Member grants or receives, by implication, or estoppel, or otherwise, any intellectual property rights from any other Member.

Member acknowledges that investment in the preparation and application of Specifications could be wasted as a result of intellectual property necessary for the implementation any areas of Specifications being unavailable. Therefore, it is desirable that, at the earliest opportunity, Members (especially those making contributions to any Specification) identify whether the implementation of a Specification may require the use of any patents or patent applications of their own and/or any third party. Any such disclosure is strictly voluntary, except as required in sections IV, V and X below.

CIP4 will provide a web-based forum through which Members can disclose patents that are related to Specifications. Use of this “CIP4 Patent Forum” is purely voluntary, will not be represented as a current or exhaustive list of related patents, and is provided only to help facilitate the adoption of Specifications.

Neither CIP4 nor its Members have an obligation to investigate or research any intellectual property rights, unless the Member elects option “C” in section IV, V and X below. CIP4 draws attention to the possibility that the practice or implementation of CIP4 Specifications may involve the use of claimed intellectual property rights. CIP4 takes no position concerning the scope, validity, or applicability of claimed intellectual property rights, whether asserted by Members or non-members.

II. Non-Confidentiality: Member understands and agrees that all CIP4 activities are conducted on a non-confidential basis. All submissions by Member for consideration as part of any Specification and all Member activities concerning such submissions shall be considered on a non-confidential basis.

III. Ownership of Copyrights: Except as provided below, Member agrees to assign and hereby assigns to CIP4 all right, title and interest worldwide in all copyrightable contributions of Member to any Specification, marketing and/or training collateral created, developed or adopted by CIP4 or by any of its committees including but not limited to the following: (a) draft Specifications (including without limitation corrections, modifications and/or enhancements to the JDF Specification initially developed by and distributed for comment by Adobe, Agfa, MAN Roland

and Heidelberg and later transferred to CIP4 for governance, and including without limitation all versions developed and distributed for comment prior to transfer to CIP4 and documents on Interoperability Conformance Specifications); and (b) contributions made to any such Specification during Advisory Board meetings, general meetings, committee meetings, working group sessions or other CIP4 events, activities and/or efforts. To the extent necessary, Member agrees to execute such documents or other instruments as may be required to vest clear title in CIP4.

CIP4 agrees and does hereby grant to Member an unrestricted, non-exclusive, royalty-free, irrevocable right and license (including unrestricted sublicensing rights) to use, reproduce, modify, translate, distribute, publicly display and publicly perform any such contributions made by Member.

Where the contribution of a Member, where that Member is a standards development organization, is a part of a published or draft standard or specification owned by such Member, then the ownership of copyright in such contribution will remain with said Member. Member agrees to grant to CIP4 a non-exclusive, royalty-free, irrevocable right and license to use, reproduce, modify, translate, distribute, publicly display and publicly perform any such contributions made by Member.

IV. Initial Specification Review: The CIP4 Chief Technology Officer (CTO) will identify when the first working draft of a new Specification is available for initial IP review and will notify the Members participating in the development of the new Specification accordingly. Within 60 days after such notification, each Member participating in the development of the new Specification shall give, for all patent claims necessary to implement any area of the new Specification, via email to the Secretariat@cip4.org, written assurance that:

- A.) When requested, Member will grant a license to any such patent claim, at any time issued, without compensation, to any applicant, regardless of competitive status, desiring to utilize the license for the purpose of implementing the Specification; or
- B.) When requested, Member will grant a license to any such patent claim, at any time issued, to any applicant, regardless of competitive status, under fair and reasonable terms and conditions, to utilize the license for the purpose of implementing the Specification; or
- C.) For each patent claim, at any time issued, that is necessary to implement areas of the Specification, the Member is not willing to comply with or to give assurances under “A” or “B”.

If Member selects option “C”, the Member is to identify in writing such claim(s) of an issued patent or draft claim(s) of a published patent application or any portion(s) of the published patent application which may serve as a basis for any additional claim(s), as well as the anticipated technical area of the Specification to which they may apply.

In the case of an unpublished patent application for which a Member wishes to choose option “C”, the Member holding the application is to identify the affected technical area of the Specification and to either disclose the portion of the patent application that applies to the affected technical area of the Specification publicly or submit such portion of the patent application to a neutral third party under non-disclosure agreement for the purpose of said neutral party advising CIP4 about possible modifications of the affected technical areas of the draft specification. The Member will bear any costs related to the neutral third party advice procedure. The neutral third party shall be appointed by CIP4, and will report the findings about the patent application limited to information that is necessary to enable CIP4 to modify the draft specification to the CIP4 executive director (or the CIP4 CTO). Should the Member be barred from disclosure of the patent application under a

binding and enforceable non-disclosure agreement with a business partner, Member is to notify CIP4 accordingly, and to disclose the identity of the business partner concerned.

Information relating to option C.) is to be delivered to the CIP4 Secretariat via courier (delivery confirmed by signature) and by providing additionally a highlighted PDF copy of the Specification, identifying the technical areas of the Specification affected, by e-mail to the CIP4 executive director (or the CIP4 CTO) within the sixty day review period as described above.

If Member fails to provide assurances described in option “A” or “B” above, or in relation to all necessary patent claims, at any time issued, that have not been individually identified pursuant to option “C”, Member is deemed to have elected option “B” above. CIP4 will publish to all Members a list of Members (including past Members), that were required to give assurances in regard to the first working draft Specification as described above, which identifies the above options applied to each such Member, as well as any detail provided by each such Member.

V. Publication Specification Review: At least 30 days prior to when the CTO intends to declare that no further substantive changes will be made to the working draft of a Specification, the CTO will make a “Call for final changes to the draft.” During that period all Members are encouraged to review the working draft for patent claims that they may hold that are necessary for the implementation of any area of the Specification.

After reviewing the suggested changes received from any Member and incorporating such revisions as deemed reasonable, the CTO will submit the final working draft for approval by the Technical Steering Committee and all working group members for comments and IP review within a specified period which shall be not less than 45 days. Working group and Technical Steering Committee Members agree to give, for all patent claims necessary to implement any area of the Specification, via email to the Secretariat@cip4.org, prior to the expiration of the 45-day review period, written assurance as set forth below. Members that made assurances under section IV above, agree not to select option “C” except in relation to changes that have been made to the draft Specification following the initial Specification review (as described in Section IV above). After this period, Members that participated during the development of the Specification (including technical steering committee members) agree to waive the right to select option “C” below for any patent claim necessary to implement the Specification.

A final draft of each proposed Specification will be distributed to all Members for review not less than 60 days prior to final acceptance and publication of such Specification and the Member agrees to give, for all patent claims necessary to implement any area of the Specification, via email to the Secretariat@cip4.org, prior to the expiration of the 60-day review period, written assurance that:

- A.) When requested, Member will grant a license to any such patent claim, at any time issued, without compensation, to any applicant, regardless of competitive status, desiring to utilize the license for the purpose of implementing the Specification; or
- B.) When requested, Member will grant a license to any such patent claimant any time issued, to any applicant, regardless of competitive status, under fair and reasonable terms and conditions, to utilize the license for the purpose of implementing the Specification; or
- C.) For each patent claim, at any time issued, that is necessary to implement areas of the Specification, the Member is not willing to comply with or to give assurances under “A” or “B”.

If Member selects option “C”, the Member is to identify in writing such claim(s) of an issued patent or draft claim(s) of a published patent application or any portion(s) of the published patent

application which may serve as a basis for any additional claim(s), as well as the anticipated technical area of the Specification to which they may apply.

In the case of an unpublished patent application for which a Member wishes to choose option “C”, the Member holding the application is to identify the affected technical area of the Specification and to either disclose the portion of the patent application that applies to the affected technical area of the Specification publicly or submit such portion of the patent application to a neutral third party under non-disclosure agreement for the purpose of said neutral party advising CIP4 about possible modifications of the affected technical areas of the draft specification. The Member will bear any costs related to the neutral third party advice procedure. The neutral third party shall be appointed by CIP4, and will report the findings about the patent application limited to information that is necessary to enable CIP4 to modify the draft specification to the CIP4 executive director (or the CIP4 CTO). Should the Member be barred from disclosure of the patent application under a binding and enforceable non-disclosure agreement with a business partner, Member is to notify CIP4 accordingly, and to disclose the identity of the business partner concerned.

Information relating to option C.) is to be delivered to the CIP4 Secretariat via courier (delivery confirmed by signature) and by providing additionally a highlighted PDF copy of the Specification, identifying the technical areas of the Specification affected, by e-mail to the CIP4 executive director (or the CIP4 CTO) within the sixty day review period as described above.

If Member fails to provide assurances described in option “A” or “B” above, or in relation to all necessary patent claims, at any time issued, that have not been individually identified pursuant to option “C”, Member is deemed to have elected option “B” above. If a Member specifies option “C” for any patent claims, CIP4 may elect to cease any or all development activities and/or to withdraw any proposed, interim, or published Specification requiring the use of such patent claim(s).

For minor functional revisions of a particular Specification there will be a 60-day review of the revised final draft Specification, during which Members may change their assurance option selection for any patent claims. Members may only change an assurance under option “A” or “B” to option “C” with an explanation in writing of the reasons for such change, in addition to the disclosure requirements for executing option “C”. Should this occur, CIP4 may elect not to release the proposed revised version in which case the previous assurance of the Member in relation to the existing Specification shall remain in place. The Advisory Board will determine if a new edition of a Specification is a minor functional revision or a major revision of the Specification. For major revisions of any Specification, the standard three step review cycle shall apply.

Interoperability Conformance Specifications, being a subset of the current published edition of the Job Definition Format (JDF) without additions, shall not require a review cycle of any type, nor shall errata that are issued to correct errors, technical bugs, or editorial mistakes in a published Specification that do not substantially change the Specification.

A Member granting assurance under paragraph “A” or “B” above may refuse, at its discretion, to grant a license to an applicant or suspend a current license necessary for the implementation of any areas of the Specification in the event that applicant refuses to grant license for any patent or pending application in the name of said applicant, that is required for the implementation of any area of any CIP4 Specification.

VI. Publication of IP Assurances: CIP4 will publish to all Members a list of Members (including past Members) that were required to give assurances regarding a Specification as described in

sections IV and V which identifies the above options applied to each Member, as well as any detail provided by each Member, and this list will be updated with each cycle of review for each Specification under development. Once a Specification has been published, then said list shall be made available to the public.

VII. Guests of CIP4: Each working group chair should make and record a statement at the beginning of each meeting that non-members attending working group meetings should not make contributions involving claimed intellectual property, and any contribution made during CIP4 meetings becomes the copyrighted property of CIP4. If guests do find it necessary to contribute claimed intellectual property, they are required to notify the working group chair and confirm in writing to the working group chair with a summary detailing the disclosed intellectual property within 15 days. Any such guest making such a disclosure shall be required to join CIP4 and accept this IP Policy in order to attend a subsequent CIP4 working group meeting. A statement summarizing this policy for guests of CIP4 should also be provided via email in advance of meetings to guests by the working group chair.

VIII. New Members: Within 60 days of a party becoming a new Member, such new Member must make an assurance by choosing option “A” or “B” or select option “C” for all patent claims necessary to implement any area of published and unpublished draft Specifications that have been made available to all Members pursuant to section V above. If the new Member fails to provide assurances described in option “A” or “B” above, or in relation to all necessary patent claims that have not been individually identified pursuant to option “C”, the new Member is deemed to have elected option “B” above.

IX. Withdrawal and Termination: As of the date of expiration of membership or the date of written notice of termination from either the Member or CIP4, the obligations of Section III of this IP Policy and any elections by Member under Section IV, V, and X of this IP Policy will continue in full force and effect perpetually as to (1) any Specifications that have been published on or before the date of termination or expiration of membership; and/or (2) any elements of draft Specifications that have been made available for review by Members on or before the date of termination or expiration of membership and are subsequently incorporated in a final Specification. All other rights, licenses, obligations, terms and conditions of this IP Policy shall terminate with respect to such withdrawing or terminated Member.

X. Acquisition of Intellectual Property: Member acknowledges that the assurances made by choosing option “A” or “B” or the selection of option “C” for all patent claims necessary to implement any area of any Specification pursuant to section IV and V above shall remain unchanged in relation to any such patent claims whose title such Member acquired from or was otherwise transferred by another Member.

If Member acquires title to or otherwise gains control in any patent claims necessary to implement any area of any Specification from a third party other than a Member, such Member must make an assurance by choosing option “A” or “B” or select option “C” for such patent claims necessary to implement any area of any Specifications pursuant to sections IV and V above within 60 days of transfer of title to such Member of such patent claims necessary to implement any area of any Specification. If Member fails to provide assurances described in option “A” or “B”, or in relation to all patent claims necessary to implement any area of any Specifica-

tion that have not been individually specified as requested under option “C” within the time required, Member is deemed to have elected option “B” above.

XI. Disposal of Intellectual Property: The rights and obligations of this IP Policy, including the obligations of Section III of this IP Policy and any elections by Member under Section IV, V and X of this IP Policy shall be binding in any of the following events: (1) on any entity that acquires, succeeds, or merges with Member; and/or (2) on any entity or person to whom Member assigns, sells or otherwise transfers its intellectual property rights, in whole or in part. Member agrees that any assignment, sale or transfer of its intellectual property rights will be subject to the elections and obligations of Sections III, IV, V and X of this IP Policy.

XII. Affiliates: Member’s rights and obligations under this IP Policy shall extend to Member’s affiliates. Affiliates shall include any other legal entity (i) directly or indirectly owning or controlling Member, (ii) under the same direct or indirect ownership or control as Member, or (iii) directly or indirectly owned or controlled by Member.

Ownership or control shall exist through the direct or indirect (i) ownership of more than 50% of the nominal value of the issued equity share capital or of more than 50% of the shares entitling the holders to vote for the election of directors or persons performing similar functions, or (ii) right by any other means to elect or appoint directors, or persons who collectively can exercise such control.

Members who are owned or controlled by financial investors which do not own directly or indirectly any intellectual property rights used by Member to carry-on its business may opt out from the affiliates clause of the IP Policy at any time with the prior approval by the Advisory Board in writing, such approval not to be unreasonably withheld.

XIII. Notices: Notices from CIP4 to Members under this IP Policy pursuant to sections IV and V shall be made by facsimile with confirmation by email to the official address provided by the Member. For convenience, Members may designate additional email addresses to which notices under this IP Policy shall be copied. Unless otherwise specified herein, notices from Members to CIP4 made under this IP Policy shall be sent via email to Secretariat@cip4.org. All notices from any Member to CIP4 shall be made by authorized officers on behalf of such Member and CIP4 shall, for purposes of this IP Policy, be entitled to rely on the authorization of any officer acting on behalf of Member.

XIV. Trademarks and Trade Names: In regard to CIP4 trademarks, Member shall abide by all current CIP4 “Guidelines for CIP4 and JDF Logo Use”.

XV. Disputes in Connection with Option “B” of Sections IV and V: Any dispute between Members arising out of or in connection with option “B” of sections IV and V, including the failure to agree on reasonable terms of the license agreement within 120 days from the first request in writing for a license by the applicant, shall first be referred to a management board consisting of a senior member of the board of directors of each Member concerned and the CIP4 CTO. Should the management board not be able to resolve the dispute within 60 days, the applicant shall be entitled to submit the dispute to Mediation in accordance with the WIPO Mediation Rules. The request for Mediation shall be filed within 30 days from the expiration of the 120 day negotiation period and subsequent 60 day management board consultation period, i.e. not later than 210 days from the first request in writing for a license. The place of Mediation shall be London (U.K.) unless otherwise agreed by the parties. The language to be used in the Mediation

shall be English. Unless otherwise agreed by the Parties, face to face Mediation meetings shall be limited to two meetings not exceeding 5 days in the aggregate.

If, and to the extent that, any such dispute has not been settled pursuant to the Mediation within 90 days of the commencement of the Mediation, it shall, upon the filing of a request for Arbitration by either party, be referred to and finally determined by Arbitration in accordance with the WIPO Arbitration Rules. Alternatively, if, before the expiration of said period of 90 days, either party fails to participate or to continue to participate in the Mediation, the dispute shall, upon the filing of a request for Arbitration by the other party, be referred to and finally determined by Arbitration in accordance with the WIPO Arbitration Rules. The Arbitral Tribunal shall consist of 3 Arbitrators. The place of Arbitration shall be London (U.K.) unless otherwise agreed by the parties. The language to be used in the arbitral proceedings shall be English. The dispute, controversy or claim referred to Arbitration shall be decided in accordance with the laws of England.

Members are entitled to opt out of mandatory Arbitration in accordance with this section by written declaration to the CIP4 secretariat within 60 days from the effective date of this IP Policy (or, in relation to New Members, within 60 days from the effective date of their membership). Members opting out of mandatory Arbitration remain bound to submit the dispute to the management board and subsequent WIPO Mediation. In the event that no settlement can be reached in Mediation involving a Member who opted out of Arbitration, the parties to the dispute are free to file suit with any competent court in any applicable jurisdiction. The names of the parties who have opted out of mandatory Arbitration will be published by CIP4.

XVI. Jurisdiction: If a Member initiates legal action against CIP4, the exclusive place of jurisdiction shall be at the domicile of CIP4 in Switzerland and Swiss laws shall apply.