

## Intellectual Property Policy

### 1. Introduction

This document sets out buildingSMART International's (bSI) Intellectual Property policy in respect of:

- intellectual property created by bSI employees, members, contributors and by any third party working on behalf of bSI;
- the protection of intellectual property owned by bSI;
- the utilization of bSI intellectual property; and
- the implementation of this Policy.

### 2. Definition of Intellectual Property

- 2.1 Intellectual property (IP) is the term used to describe the output(s) of any creative endeavour – artistic, technical or scientific – that can be protected under legislation. It may be regarded as “knowledge and its creative application” and, in practical terms, all material generated by bSI should be regarded as potentially protected by IP.
- 2.2 In the context of this policy, IP thus refers to all matter capable of being protected by patents, copyright, designs, database rights, topography rights, trade marks, know-how and all other intellectual or industrial property rights, in each case whether registered or unregistered and including applications or rights to apply for them together with all extensions, divisionals, continuations, continuations in part and renewals of them, and in each and every case all rights or forms of protection having equivalent or similar effect anywhere in the world. It also refers, however, to other intellectual assets such as inventions and discoveries and any other product or process generated by intellectual or academic activity (whether or not formal property rights subsist or are capable of subsisting therein) such as (but without limitation) know-how, knowledge and expertise, skills, techniques, and the results of experiments, tests, or calculations, which may all be protected as a form of confidential information.

### 3. Principles of the Policy

- 3.1 This Policy is set in the context of bSI as the lead organisation of the broad buildingSMART worldwide community. It responds to the buildingSMART Mission “to enable the full benefits of open digital way of working for the built asset industry”. It acknowledges the community's intent to create and sustain open, interoperable, reliable, and flexible data formats on a collaborative basis.
- 3.2 bSI is a not-for-profit organisation with the majority of its resources and its activities funded by membership. bSI therefore has a duty to ensure that those resources are accounted for and used appropriately.

- 3.3 To this end the general principles underlying this policy are:
- 3.3.1 the work done collectively and under the [bSI Process](#) is committed on the understanding that outputs are to be open and for the collective benefit of the community;
  - 3.3.2 bSI is the means by which this is to be effected and the IP created and arising from the work conducted and managed under the bSI Process and any associated working groups and/or projects is owned by, or widely licensed to, bSI; and
  - 3.3.3 bSI shall manage the publication and use of this IP in line with its Mission and aims to create and sustain open, interoperable, reliable, and flexible digital ways of working. bSI shall seek to maximise the openness of its outputs while ensuring that system quality is not compromised and that Standards may be supported over time in a sustainable way.
- 3.4 In respect of IP which bSI owns but determines not to use or exploit, bSI shall not unreasonably refuse to license the IP to the creator(s), subject always to the foregoing principles.
- 3.5 bSI's Board shall oversee this Policy and its implementation.

#### **4. Ownership and Licences of IP**

- 4.1 bSI owns any and all IP created by bSI employees in the course of their employment, pursuant to the terms of bSI employment contracts and the position under English law.
- 4.2 bSI also receives a wide licence from Chapters and Members of bSI who wish to participate in bSI activities including but not limited to projects, working groups, Standards creation, technical reports and Room activities. The licence granted to bSI is a non-exclusive, royalty-free, perpetual, irrevocable, sub-licensable, transferrable and worldwide licence, which allows bSI to make full use of the Chapter and Member IP as required to implement the bSI Process. In certain circumstances, bSI may seek to claim ownership of such Chapter and Member IP, subject to agreement from the Chapter and/or Member (as applicable).
- 4.3 Furthermore, bSI claims and shall secure the assignment of ownership of IP from all third party contributors as a prerequisite to participation in its work with bSI, including joint venture partners, project participants and MOU signatories, where it is agreed arising IP will belong to bSI.
- 4.4 Similarly, bSI claims ownership of any and all IP developed by third parties arising from work developed in the course of research, development or other activities:
  - 4.4.1 managed by bSI; and/or
  - 4.4.2 on behalf of bSI and sponsored by an external body, subject to any agreement with that external body.

4.5 bSI will acknowledge and respect any pre-existing IP parties may hold.

## **5. Working with Third Parties**

- 5.1 The position under English law is such that IP created by a third party (whether as a contractor, consultant, sole trader or in any other non-employee role) is owned by the relevant third party unless and until a written assignment is entered into, which legally transfers the developed IP to the commissioner of the works (bSI).
- 5.2 It is the responsibility of each individual who is subject to this Policy to ensure that IP arrangements with third parties drawn up in the course of, for example, collaborative activity, research or consultancy work with or for bSI, satisfy the English law requirements of a legal assignment of IP, and in doing so, do not conflict with their obligations to bSI (including bSI's rights of IP ownership under this Policy).
- 5.3 In agreements and sub-contracting arrangements with all third party individuals and organisations, it must be ensured that appropriate assignment wording is included, and that bSI's rights are appropriately protected (especially where there is a strong possibility that IP may be created during the course of the work).

## **6. The Protection of IP**

- 6.1 Employees and Members must disclose to bSI any IP that they create of which bSI is the owner or may be considered to be the owner.
- 6.2 Employees and Members must keep confidential and must not publish or disclose any such IP, except as expressly permitted by bSI under this Policy or otherwise in writing.
- 6.3 Under English law, some IP protection arises automatically, for example, copyright, database rights, rights in unregistered trademarks and unregistered design rights. Other forms of IP, for example, patents, registered trademarks and registered design rights, must be applied for. This may vary in other countries (for example, copyright is registrable in the US). It is the responsibility of bSI:
  - 6.3.1 to apply for and obtain in the sole name of bSI (unless otherwise agreed) a patent, trademark, registered design or other protection of any nature whatsoever, as appropriate to the IP, in any country throughout the world and, when so obtained or vested, to renew and maintain this protection;
  - 6.3.2 to resist any objection or opposition to obtaining, and any petitions or applications for revocation of, any such registered protection; and
  - 6.3.3 to prosecute and bring any proceedings for infringement of any such registered protection.
  - 6.3.4 to manage the use of bSI logos and trademarks the use of which by third parties is subject to bSI approval.

## **7. Utilization of IP**

- 7.1 Utilization of IP is taken to mean any publication, licensing, transfer or assignment of the IP and/or the supply, sale, transfer or licensing of products and/or services involving the use of the IP.
- 7.2 BSI classifies its IP assets into two categories; (1) Marketing and Brand IP Assets (2) Technology and Solution IP Assets.
- 7.3 BSI shall register and protect key Marketing and Brand IP Assets. An Intellectual Property Legal Notice shall be maintained and posted on the bSI website relating to these IP Assets.
- 7.4 bSI shall establish and maintain a licensing strategy for the Technology and Solutions IP assets which will take into account the different nature of individual assets and be designed to maximize the prospects of achieving the bSI Mission by optimising openness, system quality and financial sustainability over the medium term. The Technology and Solutions IP licensing strategy shall be published as an annex to this policy.
- 7.5 bSI may also develop professional services based on certain elements of its IP and may retain any revenues to support such services which shall be fully accounted for by bSI.

## **8. Implementation of this Policy**

The responsibility for the implementation and monitoring of this Policy shall lie with the bSI Operations Director who may delegate that responsibility to another person.

[end of IP Policy]