

LES Standards Committee Charter Document

Patent Brokerage Committee

Draft Version 2.4

August 22, 2016

Scope

The Patent Brokerage Standards Committee is focused on the requisite documents, procedures and best practices that define the use of an intermediary for either the sale or purchase of patents (a “Broker”). Essentially there are two roles for Brokers:

1. The Broker, who is retained by the seller to market, negotiate and sell patent assets to prospective buyers.
2. The Broker, who is retained by the buyer either: (a) to acquire patent assets identified by the buyer and owned by third parties and, in doing so, to negotiate prices and terms, and complete transactions; or (b) to identify patent assets to acquire, then pursue acquiring them from their current owners, negotiate prices and terms, and complete transactions.

The boundaries of this committee are defined by the requisite documents, procedures and best practices. This intermediary role requires trusted relationships between client and Broker and between prospects and Broker. The objective of the standards process for brokers is to identify requisite documents and to provide base level procedures and transactional best practices that will encourage and reinforce the trust of intermediaries in the market for buying and selling patent assets. The Committee’s exclusive focus is to be the business role of the Broker, not the owner/seller or purchaser of patents.

Work Products

The Committee envisions developing three primary components to implement the Patent standards program:

3. **Standards Document** detailing the specific requirements a broker will need to meet in order to be “certified”. It is envisioned that the standards will consist of:
 - A. Specific steps and best practices, including an itemization of required documentation to be satisfied in connection with 4 stages of brokered patent transaction: (i) Stage 1 – the Broker Engagement – for both a purchase or sale context; (ii) Stage 2 – The Preparation of Marketing and Sales Materials & Broker Marketing Efforts – for both a purchase or sale, including the processes, procedures and manner of solicitation of third parties in connection with a Broker engagement; (iii) Stage 3 – Due Diligence – and, in particular, the facilitation of the conduct of due-diligence by third parties relating to brokered engagements in connection with both a patent purchase or sale transaction; and (iv) Stage 4 – Negotiation and Consummation of Patent Transactions – including the

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requisite steps, best practices and required documents regarding the consummation of a patent purchase or sale transaction, including the receipt and delivery of funds to the relevant parties relating thereto.

4. "Certification" or "Verification" Program detailing the criteria to be used for conducting of audits or evaluations.
5. Guidance Document – this will be targeted to two audiences:
 - A. Brokers seeking certification/verification – practical information on developing the systems needed to meet the standards and best practices, as well as background on the best practices standards;
 - B. Auditors/assessors – guidance on how to audit to the Patent Brokerage Standards compliance.

Type of Standards

The type of standards developed will be a pass/fail certification, as opposed to a maturity verification model. The features of each methodology are set out below:

Feature	Pass / Fail Certification	Maturity Verification
Overview	Auditor determines if the applicant organization passes the audit and is issued a certificate or fails and is not	Auditor determines the maturity level of the applicant's IP protection management system (example: scale of 1 – 5)
Typical information provided to the applicant	Audit report showing major non-conformances that may have prevented certification and/or minor non-conformances that need to be addressed	Verified score with observations that support the maturity score and recommended actions for improving IP protection maturity
Pros	<ul style="list-style-type: none"> • Certified organizations all meet the same standards 	<ul style="list-style-type: none"> • Can promote transparency and encourage improvement by applicants • Creates a defined path to improvement
Cons	<ul style="list-style-type: none"> • Organizations can be discouraged from pursuing certification if they think they will not pass • Can promote deceptive practices to pass the audit and obtain certification 	<ul style="list-style-type: none"> • Organizations can be discouraged from sharing low maturity scores

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LES Standards will be “accredited” by the American National Standards Institute (“ANSI”) as an ANSI “accredited” ANSI standards development organization (“SDO”). LES Standards will develop criteria for how it will assess “conformance” by Brokers with the requirements of the LES/ANSI standard. These Brokers will subject themselves to a “certification process” to assess whether or not they are in “conformance” with the LES standard. LES Standards will, itself, use a set of guidelines for the conduct of this “certification process.” If LES Standards does not, itself, have the requisite staff to perform the “conformance assessment” through a defined “certification process,” LES will authorize a third party or third parties to conduct the “conformance assessment” in its stead, using the LES defined “certification process.”

Commented [JT1]: Per Joe’s comment in email, if we define a broker, this could just be “Brokers”

The certification model will also serve as guidance for Brokers to develop optimal patent brokerage practices that identify risk factors for brokered patent engagements and for establishing defined criteria for best practices. The certification requirements will aid Brokers in improving patent brokerage processes and in satisfying customer requirements for patent brokerage.

Timeline

This section will be updated periodically.

Steps	Date
Charter draft completed	Update: August 16 2016 for Submittal to ANSI as part of LES Accreditation Application Initial: February 20 2015
Committee recruitment finalized	Initiated October 2015, on-going
Publication of PINS in ANSI Standards Action	
First draft of the standard published to the committee for review	
Initial comments from the committee submitted to committee or subcommittee leadership for review	
Second draft of the standard published to the committee for review	
Final comments from the committee submitted to the committee or subcommittee leadership for review	
Committee voting on the draft standard	
Submission date to the LES USA & Canada board for review	
Approval by the LES USA & Canada board to submit the draft standard to ANSI for public review	

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Publication of draft document announced in ANSI Standards Action for public review	
Draft document balloted to consensus body members for vote	
Submission of comments to the draft standard by the public review complete	
Voting complete	
Resolution of and response to public review comments completed by the committee	
Publication of public review comments and the publication of the committee's response	
Submission of final draft standard to the LES USA & Canada board for review prior to recirculation for consensus body member vote	
Recirculation to consensus body members to respond, reaffirm, or change their vote	
Voting complete	
Appeals process concluded	
Submission of the final draft standard and associated documentation to ANSI for approval as an ANS	
Publication as a new ANSI Standard	

It is envisioned that the standards will provide detailed, auditable requirements for certification.

Structure of the Committee

The committee will have a chair, vice-chair, and secretary, which will be voted on and approved by the larger committee.

Committee Recruitment

The committee believes that it will be critical to have a diverse group of participants including strong representation from emerging market companies. Their input will be critical to developing standards that are considered beneficial and pragmatic, thus leading to wider adoption.

Committee Leadership

Jeff Whittle, LES Board, Committee Sponsor, jeffrey.whittle@hoganlovells.com

Paul V. Greco, SVP, ICAP Patent Brokerage LLC, Committee Chair, paul@icapip.com

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Kent Richardson, Partner, Richardson Oliver Law Group LLP, Committee Vice-Chair/Secretary,
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Committee Members

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