



*Attorneys at Law*

# Consortium Standards Bulletin

A [ConsortiumInfo.org](http://ConsortiumInfo.org) publication

October 2003

Vol II, No. 10

## OCTOBER NEWS CLUSTER:

### ISO: "ROYALTIES? DID WE SAY ROYALTIES?"

#### - A Tale Told in Twelve Days of News -

Andrew Updegrove

Early this summer, this writer first heard of some surprising planning going on inside ISO, the global standard setting body that manages over 13,000 standards. The word was that ISO'S Commercial Policies Steering Group was considering levying use charges for the pervasive and simple language, currency and two letter country codes that it maintains. These codes are not only used in print, but are employed behind the scenes in software programs and web pages as well.

When word later reached a wider audience, the reaction was immediate and hostile, with both consortia and accredited standards organizations protesting the concept of use fees for copyrighted standards data. Press reaction and piling on by bloggers predictably followed. Finally, on September 30, 2003, ISO issued a clarification that addressed the central concern, but which left some observers still wondering where all will settle out in a practical, commercial sense. At the end of this article, we have aggregated some of the press releases, open letters, press accounts and blog entries that appeared during the twelve-day period in question.

But first, one unfamiliar with the fracas might ask, what's the big deal about, anyway?

The reasons for the breadth and depth of industry reaction were several: First, the trend toward free implementation of standards has been picking up steam of late, with many of the most influential consortia (e.g., W3C and OpenGIS) adopting policies strongly in support of royalty-free standards. Second, the marketplace is still absorbing the (to many) shocking series of victories that Rambus has racked up in court in its effort to collect royalties from the implementers of certain JEDEC chip standards. Add to that SCO's efforts to sack the Linux marketplace for alleged infringement of the Unix OS, and anyone concerned with standards could be excused for being a bit touchy these days, if not downright grouchy.

It also didn't help that ISO is the 900 pound gorilla of standard setting, with hundreds of affiliated standards organizations around the world, or that the country codes seem so innocuous. The fact is, though, that the revenue model of the official standards development organizations of the world (SDOs) has been absorbing a one-two punch from the rise Internet and the proliferation of consortia. That's because, unlike most consortia, SDOs are cheap to join, and therefore able to accommodate the views of everyone. In order to do so, they underwrite a major part of their expenses by selling paper copies of the standards that they approve and maintain. Consortia, on the other hand, are usually expensive to join, but almost always give their standards away, since the goal of their members is to secure widespread adoption of the standards that these self-selected groups of members wish to promote.

It's a real problem for SDOs, involving a century-old standards infrastructure that evolved to set standards for a bricks and mortar world. And for that world, it still serves pretty well. But in the rapidly evolving IT and telecommunications industry, major stakeholders want to move more quickly, and to remove as many barriers to adoption of the standards that they create as possible. That means making their standards just one fee-free, click-wrap license press of the mouse button away for anyone, members and non-members

alike. Since many companies make bet-the-company decisions to launch products based on these standards, they are willing to pay dues of \$10,000, or \$50,000 -- or more -- per company to a single consortium to get a new standard done fast and pervasively adopted.

Meanwhile, the low membership-fee SDOs still need to pay the bills. So it's neither surprising nor "wrong" for them to be creative in thinking about how to get their still-necessary job done in changing times. But it looks like this time at bat, they've hit a foul ball.

Another reason why much of the standards world is in arms is because the implementation of standards has historically presented royalty issues only where patents have been involved. With the ISO country codes, it is the copyrights in codes that ISO would be asserting. But instead of charging just once for the original copy of the codes, the fear was that a fee would be collected every time there was a sale of a product with embedded codes (or a substantial up-front fee would be levied for unlimited use rights). Think of it as having to put another quarter in the coin slot of the phone booth (remember phone booths?) if you wanted to use the phone book as well as the phone.

The thought of charging for incorporation of country codes also touched another hot button: many specifications (including key Internet infrastructural standards) "reference," or incorporate, ISO and other SDO standards. If these organizations were to begin charging for repeat use of standards generally, the domino effect would cascade throughout the global IT infrastructure.

Finally, the concept of charging for something as simplistic as a compilation of two letter codes invoked a legal objection as well. The issue here is that there is a well developed (albeit recent) line of cases that has held that mere compilations of data, absent a creative element, are not eligible to receive copyright protection (think again about a phone book).

Following the outraged responses of multiple standards organizations, including the World Wide Web Consortium (W3C), INCITS and the Unicode Consortium, ISO issued a statement saying that the various codes themselves would remain free, while a new "optional software services package" relating to country codes might be deployed for a fee. Whether or not the former will be commercially valuable without the latter will remain to be seen. Some have responded that the updating service, as a practical matter, would be needed. And there is where things stand for now.

Following are the representative links to primary sources comprising this month's News Cluster.

*Comments? [updegrove@consortiuminfo.org](mailto:updegrove@consortiuminfo.org)*

Copyright 2003 Andrew Updegrove



## ***I. EXAMPLES OF PROTEST LETTERS AND PRESS RELEASES FROM STANDARDS ORGANIZATIONS:***

### **Letter from World Wide Web Consortium to Oliver Smoot, President of ISO (September 19, 2003)**

From Tim Berners-Lee, on behalf of the W3C:

To: Dr. Oliver Smoot, President, International Organization for Standardization Dear Dr. Smoot, The World Wide Web Consortium (W3C) wishes to express its deep concerns over a recent proposal by the ISO Commercial Policies Steering Group (CPSG) to charge fees for the commercial use of ISO codes such as ISO 639 (language codes), ISO 3166 (country codes), and ISO 4127 (currency codes).... Any charges for the use of these standards are going to lead to fragmentation, delay in deployment, and in

effect a lack of standardization. In particular, those users who depend upon multi-lingual or non-English language services will suffer.

For the full letter, see: <http://lists.w3.org/Archives/Public/www-international/2003JulSep/0213.html>

## **UNICODE TECHNICAL COMMITTEE PUBLIC POSITIONS**

**UTC Website, August 26, 2003:** With reference to the proposal by ISO CPSG to charge fees for the commercial use of ISO codes: ISO infrastructure standards such as ISO 3166 (country codes), ISO 4217 (currency codes), and ISO 639 (language codes) must be royalty-free. The negative consequences of charging royalties would be severe, including strong incentives for companies and other organizations to:

1. avoid future contributions to ISO standards development
2. avoid using or referencing ISO standards
3. develop and use alternative, royalty-free, standards.

Moreover, many of these ISO standards are themselves based on contributions from other sources or duplicate pre-existing data, and charging royalties for the use of this data may expose ISO itself to debates over intellectual property rights and financial liability. Even the discussion of this issue casts a cloud of uncertainty over future use of ISO standards in the IT environment. *UTC Resolution 96-M4*

Full the full statement, see: <http://www.unicode.org/consortium/utc-positions.html>



## **IPTC says ISO code fees are a threat to free exchange of news**

**WINDSOR, UK, Oct. 2 /CNW/** - The International Press Telecommunications Council has strongly protested against proposed royalties to be charged by the International Organization for Standardization (known as ISO) for the commercial use of its widely used codes. Licensing fees for ISO codes that represent languages, countries and currencies are a threat to the free exchange of news, the IPTC said.

For the full press release: <http://www.newswire.ca/releases/October2003/02/c7353.html>



## **II. PRESS REACTION:**

### **New ISO Fees on the Horizon? By Evan Hansen**

**CNET News.com, September 19, 2003** -- Information technology standards groups are raising warning flags over a proposal that could raise fees for commonly used industry codes, including two-letter country abbreviations, used in many commercial software products. At stake is a tentative proposal from the International Organization for Standardization (ISO) to add usage royalties for several code standards, a move that opponents say could weaken standards adherence by forcing software providers to pay a fee for each ISO-compliant product they sell. The standards -- ISO 3166, ISO 4217, ISO 639 -- cover country, currency and language codes, respectively. The proposal is still in the early stages, and may yet be significantly altered or shelved.... [in the words of Martin Duerst, W3C Internationalization Activity Lead] "It's not so much a legal question as a question of standards policy....If you start asking for money for the usage, people will stop using the standard. Then...there will be chaos."

For the full story, see: [http://news.com.com/2100-1032\\_3-5079256.html](http://news.com.com/2100-1032_3-5079256.html)

## **In a Down Economy, Is the IT Industry Eating Its Own Young?** **By James Turner**

**LinuxWorld.com, September 20, 2003** -- Summary: SCO's shenanigans, Verisign's redirection of mistyped domain names, and now ISO itself talking about possibly making ISO country and language codes (like en-US) a royalty-generating item. What do all these have in common? According to LinuxWorld senior editor James Turner, they're all attempts to turn a quick profit at the expense of the overall health of the IT community and economy.

For the full story, see: <http://www.linuxworld.com/story/34185.htm>



### **III. MEANWHILE, BLOGGERS (OF COURSE) WERE NOT AMUSED:**

#### **When good institutions go bad** **By Simon St. Laurent**

**O'Reilly Developer Weblogs, September 23, 2003** -- The last few weeks have seen a dismaying upturn in the number of semi-public institutions which seem to [be] out to make a buck rather than a contribution, risking the contributions they've already made. ISO has the potential to cause the largest trainwreck, with plans to require licensing fees from those who use their language codes (ISO 639), country codes (ISO 3166), and currency codes (ISO 4127)....

For the full story, see : <http://www.openp2p.com/pub/wlg/3791>



### **IV. ISO RESPONDS:**

#### **ISO reaffirms free-of-charge use of its country, currency and language codes** September 30, 2003 (ISO Website)

[The following press release has been reproduced verbatim – *editor* ]

*ISO issues the following statement in response to recently publicized misunderstandings of its current practice and intentions regarding its widely used country, currency and language codes.*

- ISO is to continue with its established practice of allowing free-of-charge use of its country, currency and language codes from, respectively, the ISO 3166, ISO 4217 and ISO 639 standards, in commercial and other applications.
- There is no proposal currently being considered by ISO to impose charges for use of these codes, including on the World Wide Web and in software applications.

Based on international consensus reached within the ISO standards development system, these codes reduce the confusion that could be created if there were multiple, conflicting codes in common use. The development of the Web and of electronic commerce has been facilitated by the existence of the ISO standardized codes and their use has become pervasive.

ISO encourages such developments by making the two-letter country codes contained in ISO 3166 available free of charge on [ISO's Web site](#), along with a great deal of regularly updated information related to the codes and their use. The ISO Web site also has hyperlinks to the sites of the British Standards Institution (BSI) and the US Library of Congress - where the [currency](#) and [language](#) codes are, respectively, publicly available.

The full ISO 3166, ISO 4217 and ISO 639 standards from which these codes are drawn are available from ISO and its members on a sales basis, as a contribution to supporting the standards development process. However, ISO and its members do not charge for the use made of the codes contained in these standards, subject to this being consistent with ISO's copyright. For example, ISO does not charge organizations for the inclusion of the country codes in their Internet domain names, and ISO does not charge banks for using the currency codes in their electronic financial transactions.

If a user of the codes, such as a software developer, wishes to claim that its product incorporates the codes in conformity with the ISO standards (which could be perceived by the market as an added value), then it would have an interest in buying the standards to make sure that this is indeed the case. But this is a "one-off" transaction for purchase of the standards; ISO does not subsequently charge a fee for use of the codes in the software product and has no plans for doing so.

Like many organizations, ISO continually reviews its practices and products in order to provide added value to its customers. With regard to ISO 3166, ISO is considering a proposal to develop an optional software service package that would facilitate incorporation and maintenance of the country codes in IT products. The service package being considered would include regular updating of the codes, which would add value to products because they would be conforming to the International Standard ISO 3166. The service package being considered would be a charged option. However, no decision has yet been made to go ahead and even if this option were developed, ISO will continue to allow use of its country, currency and language codes free of charge.

As found at: <http://www.iso.ch/iso/en/commcentre/pressreleases/2003/Ref871.html>



## **V. AS DOES THE PRESS**

**Country codes 'will stay free'**  
**By Paul Festa**

**CNET News.com, October 1, 2003** -- A key standards organisation distanced itself from a controversial proposal to charge for commonly used country, language and currency codes, following an uproar over the potential fees.... In a press release, ISO said the controversy had mischaracterised its plans and practices, but it did not say how. A representative for the organisation was not available for comment...

For the full story, see: <http://news.zdnet.co.uk/internet/0,39020369,39116797,00.htm>