



# Addressing legal issues in the standards development process

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*Legal Manager*



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≈ 400 Technical Committees  
320 CEN - 60 CENELEC – 20 CEN-CENELEC  
≈ 1800 Working Groups

#### Fields of work

- > Accessibility
- > Air and space
- > Chemical
- > Construction
- > Consumer products
- > Defense, security and privacy
- > Energy
- > Environment
- > Food and feed
- > Health and safety
- > Healthcare
- > ICT
- > Innovation Management
- > Machinery
- > Materials
- > Nanotechnology
- > Pressure equipment
- > Services
- > Smart living
- > Transport

Research & innovation

- Electric Vehicles
- Electromagnetic Compatibility
- Fibre optic Communications
- Fuel Cells
- Household appliances
- ICT
- Interoperability
- Medical Equipment
- Railways
- Smart grids
- SmartHouse
- Smart metering

# What is an IPR?



“I’m here to persuade you to stop your pirating ways.”



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# What is an IPR?



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# Patents

- Invention that is **novel**, **inventive**, have **industrial applicability** and is **lawful**
- Exclusive right, limited in time
- Protection for 20 years from the filing date
- Patents vs Trade Secrets?



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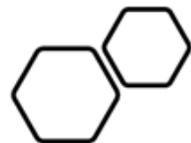
STANDARDS



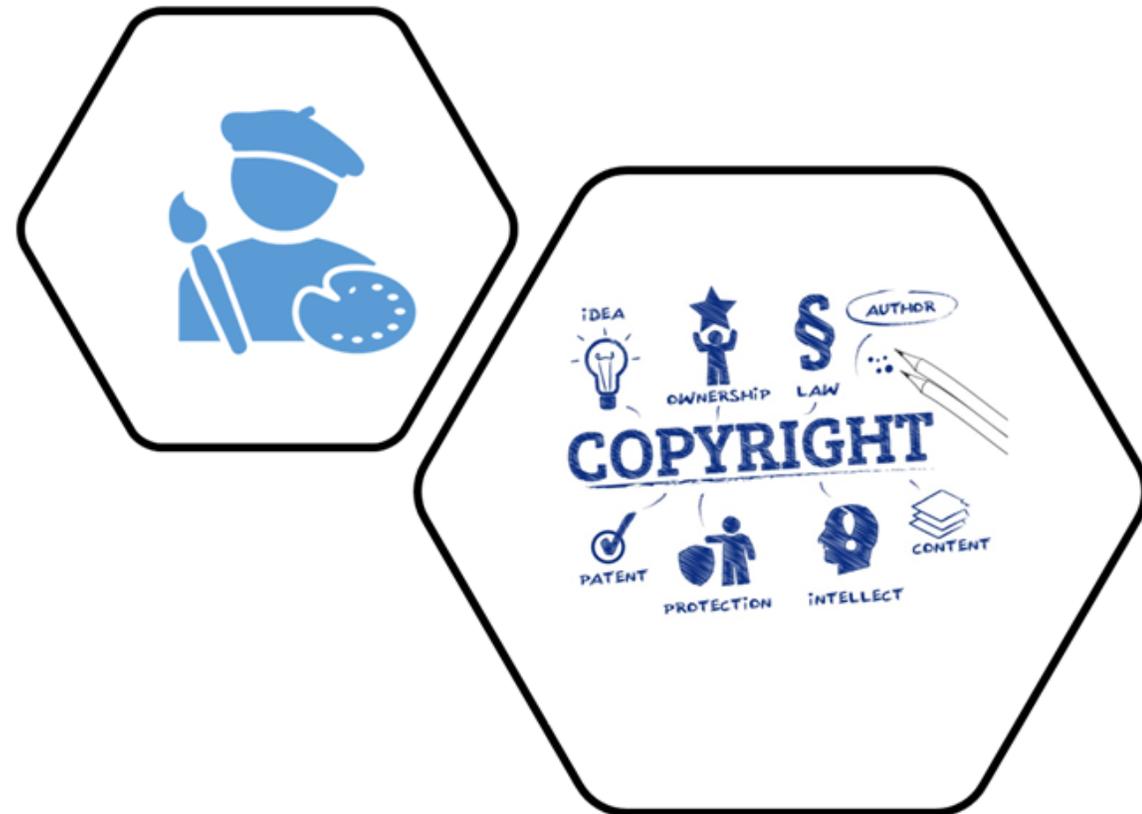
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# Copyright

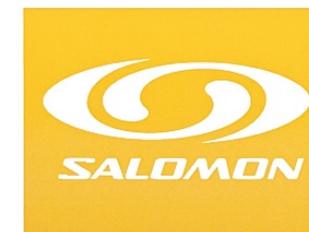


- Protects **original** and **tangible** artistic, dramatic, literary, musical work, etc.
- No registration required
- Lasts for the lifetime of the author + 70 years after his death



# Trademarks

- Identifies and distinguishes the **source of origin**
- Monopoly right, exclusive right
- Can be registered for a period of 10 years, and renewed indefinitely



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# IPRs in standardization world

- Who enjoys the **copyright** in European standards?
- What to do when **patents** become relevant?
- Is **competition** law important at technical level?
- How is **GDPR** implemented in CEN and CENELEC?
- Who protects the **trademarks** of CEN and CENELEC?



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# standards: **copyright protected**

- Establishing the copyright claim
- Transferring copyright exploitation rights



# Copyright protection

## CEN and CENELEC copyright policies

- [CEN-CENELEC Guide 10](#) – common Copyright policy
- Copyright is owned by CEN and CENELEC
- NSBs and NCs enjoy the exclusive exploitation right on CEN and CENELEC publications in their countries
- CEN-CENELEC Joint Commercial Advisory Group (JCAG)



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# Copyright protection

## Experts' assignment of exploitation rights to CEN and/or CENELEC

- An expert contributing in a TC or WG must transfer to CEN and/or CENELEC the copyright on the contents she/he produces
- CEN and CENELEC: **"ASSIGNMENT OF RIGHTS STATEMENT"** signed at every meeting
- However, experts still enjoy moral rights to their personal identifiable contributions



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# Copyright protection

Experts' assignment of exploitation rights to CEN and/or CENELEC

**Make sure that everyone has signed the attendance list and statement at every meeting!**



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# Copyright protection

## Licencing of content from other individuals or organisations

- When the individual is not (permanent) participant in a TC - has not signed the Exploitation Rights Statement

OR

- TC wishes to use content owned by another individual or organisation



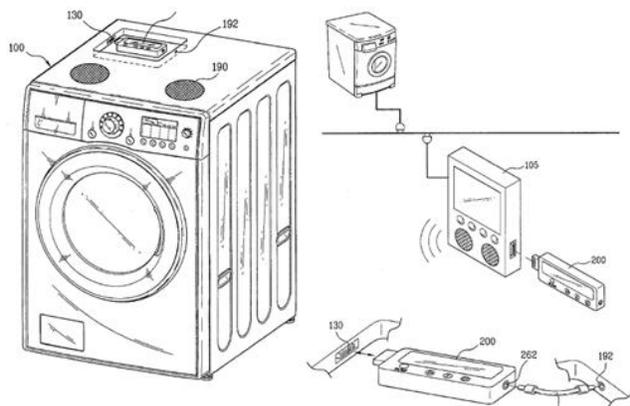
# Copyright protection

## Licensing of content from other individuals or organisations

- Ensure: **EXPLOITATION RIGHTS LICENSE AGREEMENT (ERLA)**
- How?
  1. Contact IPR owner to fill in the ERLA
  2. Verify with CCMC (PM responsible) to ensure ERLA is completed with the necessary information
  3. Request from IPR owner to sign and send (post and email) the ERLA to CCMC

## Patents

### IPR in standards



### CEN-CENELEC Guide 8

“Guidelines for implementation of the common IPR policy on Patents”



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# Standards and patent rights

## Patents and the technical work: what to do?

- Early disclosure is recommended
- Chairs/Convenors ask at every meeting – request is recorded in the minutes
- Anyone can flag possible Standard Essential Patents (SEPs)
- Technical group does not determine if essential, scope or validity of patent, but can discuss about its **relevance**
- If patent owner is not willing to licence – consider how to address technical conflict in the standard



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# Standards and patent rights

## Patents and the technical work: what to do?

- Ask patent owner to fill in the Declaration Form in Annex 2 to Guide 8
- Verify with CCMC (PM responsible) to ensure Declaration is completed well and contains all the necessary information
- Ensure that the patent owner has signed and sent (post and email) the Declaration to CCMC



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# Copyrights and Patents

## Useful information on BOSS

### ➤ Useful links (CEN)

[https://boss.cen.eu/formtemp/TC\\_meetings\\_attendance\\_list.doc](https://boss.cen.eu/formtemp/TC_meetings_attendance_list.doc)

<https://boss.cen.eu/formtemp/ERLA.doc>

[https://boss.cen.eu/formtemp/Declaration\\_Form.doc](https://boss.cen.eu/formtemp/Declaration_Form.doc)

### ➤ Useful links (CENELEC)

[https://boss.cenelec.eu/formtemp/IPR\\_ERAS\\_Attendance\\_List.doc](https://boss.cenelec.eu/formtemp/IPR_ERAS_Attendance_List.doc)

[https://boss.cenelec.eu/formtemp/IPR\\_ERLA\\_CLC.doc](https://boss.cenelec.eu/formtemp/IPR_ERLA_CLC.doc)

[https://boss.cenelec.eu/formtemp/declaration\\_patents.doc](https://boss.cenelec.eu/formtemp/declaration_patents.doc)



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# Trademarks CEN & CENELEC

-  Owned by CEN & CENELEC
-  Members are requested to watch the use of the trademarks in their respective territories and help CCMC prevent any misuse
-  Members have the right to use the trademarks in their territories
-  CEN-CENELEC Guide 24



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CENELEC®



EUROPEAN COMMITTEE  
FOR STANDARDIZATION

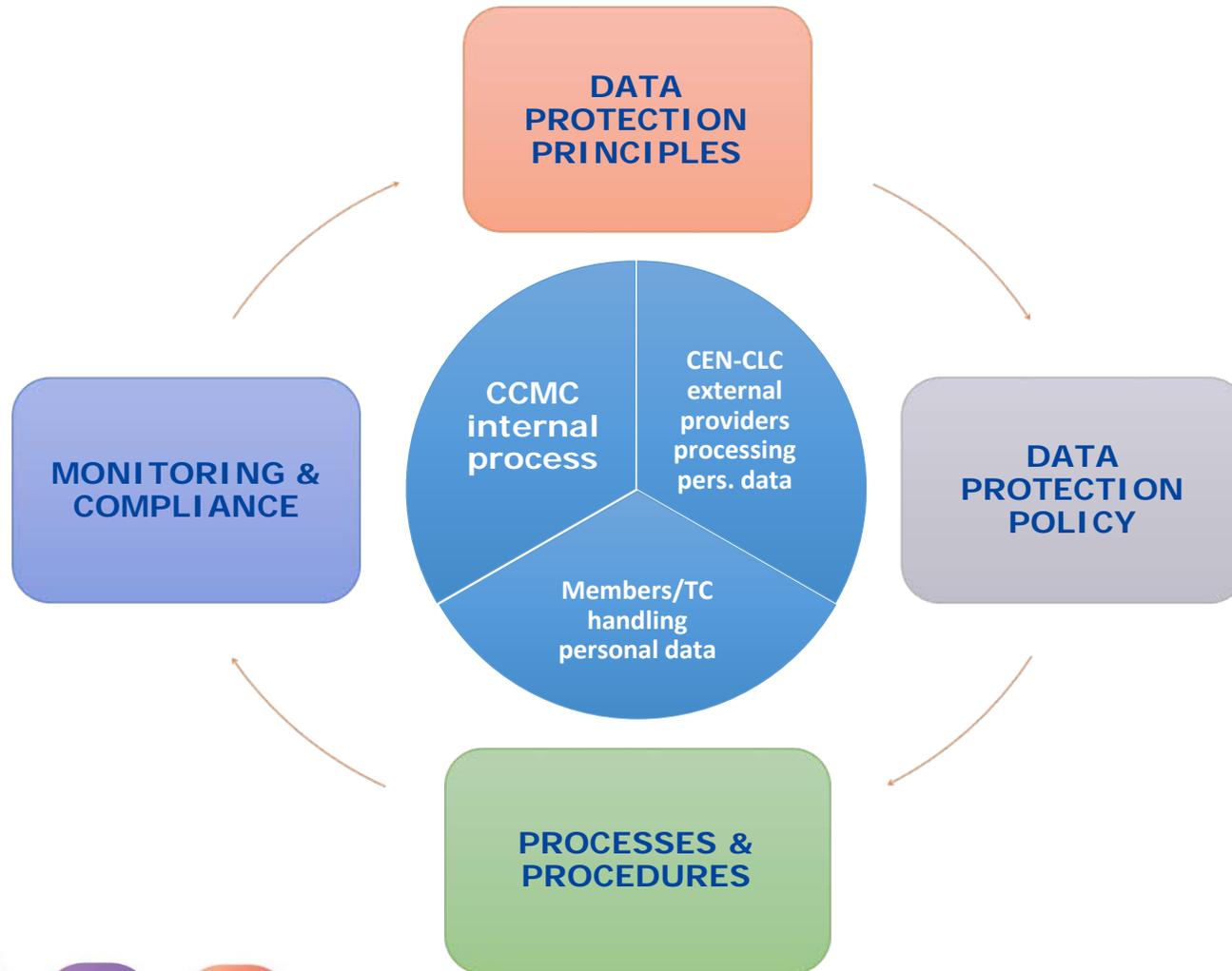


# Competition law principles in CEN-CENELEC technical work

- [CEN-CENELEC Guide 31](#): Competition law for participants in CEN-CENELEC activities
- Aim is to ensure neutrality and wide participation
- All forms of anti-competitive behaviour are prohibited by law, even when they are unintentional
- Follow the list of DOs and DONTs in Guide 31
- In case of doubt contact your legal advisor or CCMC



# CEN-CENELEC Data Protection Compliance System



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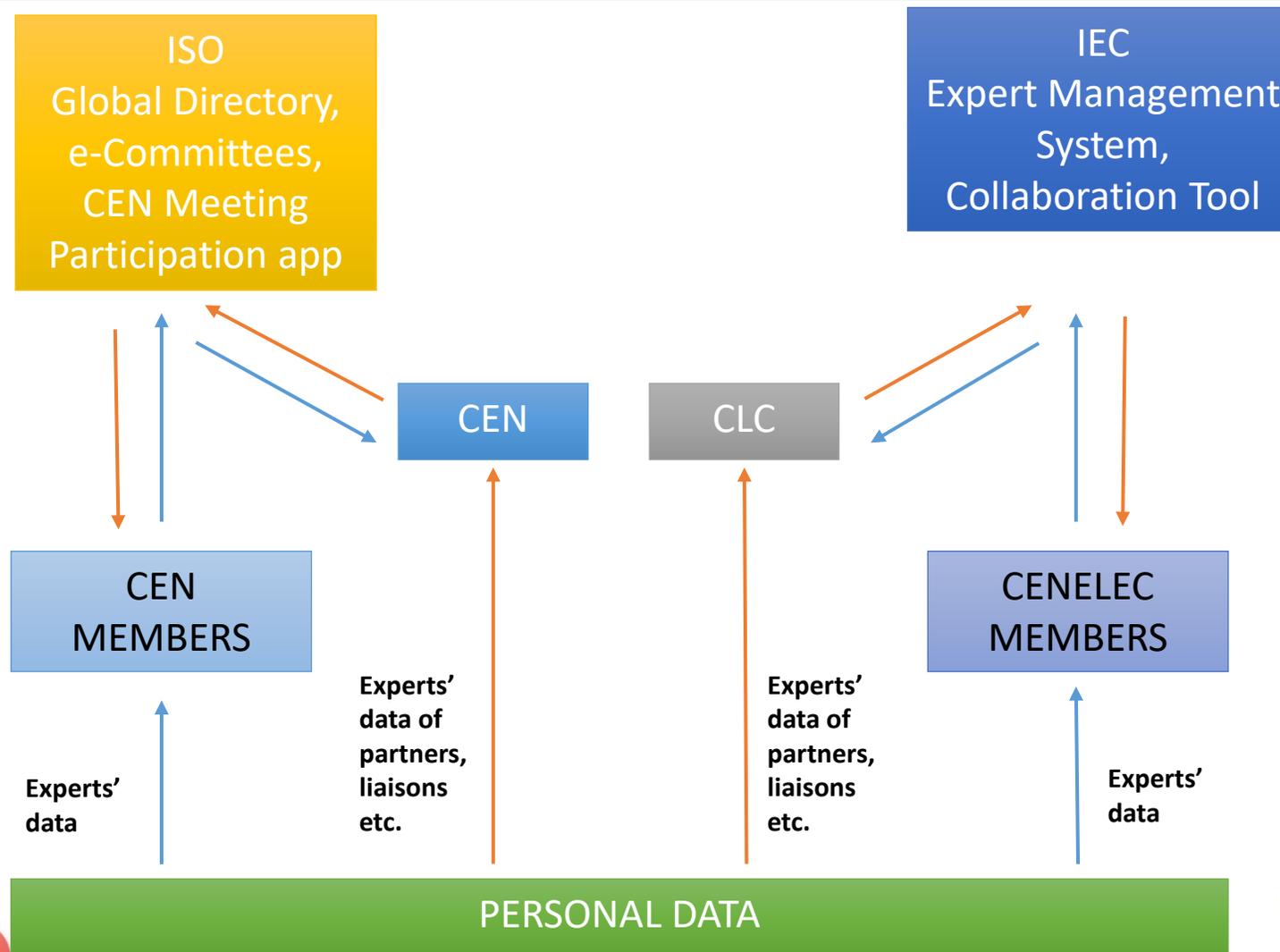
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# CEN-CENELEC Data Protection Compliance System



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# CEN-CENELEC Data Protection Compliance System

- ✓ Implementation measures already in place for databases online tools and website: Data Protection and Privacy Statement, consent box and cookies policy
- ✓ Draft CEN-CENELEC Guide 37 on common policy for data protection will be soon approved and published
- ✓ Standard Contractual Clauses signed with ISO and IEC – adjusted to controller/controller relationship to reflect flux of data and responsibilities
- ✓ Data processing contracts signed with service providers e.g. online meetings (for example ZOOM)
- ✓ Dedicated trainings will be offered
- ✓ Data Protection Contact Person



# Thank you!

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