

## MODULE C - LEGAL

### SUBMODULES

*C1. Conflict Of Interest/Code Of Ethics*

*C2. Antitrust*

*C3. Torts*

 *C4. Intellectual Property*

*C5. Speaking For The Society*



## REVISIONS

DATE	SLIDE	CHANGE
7/7/08		All quizzes deleted, remainder of slides renumbered.
	9	All Notes deleted.
	11	Last bulleted item revised.
	31	First item revised.
		All bulleted items revised.

## ***C4. Intellectual Property***



## OBJECTIVES

### **This submodule will**

- Describe ASME's policies for the protection and use of intellectual property including
  - Copyrighted material
  - Trademarks
  - Referencing of patented items and trademarks in codes and standards

## AGENDA

- I. Protection of ASME Copyrights
- II. Protection of ASME Trademarks
- III. Referencing of Patented Items and Trademarks

ASME C&S Training Module C4



4

## I. PROTECTION OF ASME COPYRIGHTS

ASME C&S Training Module C4



5

## COPYRIGHT

- **Definition**

- A property right which grants certain exclusive rights to creators ("authors") of original works
- Exclusive rights include protection against unauthorized printing, reprinting, publishing, copying, selling, translating, conversion, arrangement, adaptation, delivery or performance of the copyrighted work
- Registration not required, but grants important legal privileges

## PROTECTING ASME'S INTELLECTUAL PROPERTY

- **Policy**

- All codes and standards publications must be registered with the U.S. Copyright Office upon publication.
  - Protects the Society and its members from unauthorized copying and distribution of codes and standards
  - Protects against use of C&S extracts out of context (a safety hazard)



ASME C&S Training Module C4

7



## PROTECTING ASME'S INTELLECTUAL PROPERTY

- **Policy (cont'd)**
  - All C&S committee members must acknowledge in writing:
    - Copyright and all rights to all materials produced by ASME Codes and Standards committees are owned by ASME.
    - ASME may register copyright in its own name.
    - The only permitted reproduction of ASME copyrighted material is for Committee business.

Reference: Society Policy P-12.15, CSP-11

ASME C&S Training Module C4



8

## COPYING FROM ASME DOCUMENTS

- **Obtaining permission**
  - Request must be submitted in writing.
  - Must include:
    - List of material to be copied
    - Number of copies to be made
    - Brief description of intended use
  - Must be submitted as follows:
    - Both for hard copy and electronic copy, to C&S Systems Administrator

## COPYING FROM ASME DOCUMENTS

- Royalty charges

<u>Percent of Original Copied</u>	<u>Royalty Charge</u>
<b>10% (max. 25 pages)</b>	No charge
<b>&lt; 25%</b>	5% of List Price x # copies
<b>&lt; 50%</b>	10% of List Price x # copies
<b>&lt; 75%</b>	25% of List Price x # copies
<b>75% and over</b>	70% of List Price x # copies

## TRANSLATING ASME DOCUMENTS

- **Obtaining permission**
  - Submit requests to C&S Systems Administrator
  - Must agree to:
    - Include a statement in each document, in both English and translation language, stating that English version is official version
    - Acknowledge that permission to translate and reproduce was granted by ASME
    - Provide ASME with one copy of the translated version

## TRANSLATING ASME DOCUMENTS

- Royalty charges

### Number of Copies

#### to be Printed

**1-500**

**> 500**

#### Royalty Charge

**15% of List Price x # copies**

**First 500:**

**15% of List Price x 500 copies**

**Copies over 500:**

**10% of List Price x # copies**

## RESPECTING THE INTELLECTUAL PROPERTY RIGHTS OF OTHERS

- **ASME policies**

- Copyright and other intellectual property rights of third parties must be respected.
- An individual submitting copyrighted material for use by ASME is responsible for notifying ASME staff so they can obtain permission.
- Identify copyrighted material early; ASME staff will seek permission to use.

## RESPECTING THE INTELLECTUAL PROPERTY RIGHTS OF OTHERS

- **Identifying the copyright owner**

- Notice of copyright generally located at front of document
- Notice of copyright includes
  - Name of copyright owner
  - Year in which published

**CAUTION:** Lack of a Notice of Copyright is no guarantee that the document is not protected by copyright.

## II. PROTECTION OF ASME TRADEMARKS

ASME C&S Training Module C4





## TRADEMARKS

- **Definition**

- A word, phrase, symbol or design... which identifies and distinguishes the source of goods or services of one party from those of others

- **Types of marks**

- Trademarks
- Service marks
- Certification marks
- Collective trademarks and membership marks

## TRADEMARKS, COPYRIGHTS & PATENTS

- **Trademarks are different from copyrights and patents**
  - A copyright protects an original artistic or literary work.
  - A patent protects an invention.

## TRADEMARKS

- **Trademark rights established by:**
  - Actual use of mark
  - Registering mark with PTO (not required)
- **Use of “TM”, “SM”, and ®**
  - “TM” and “SM” may be used by anyone
  - ® may be used only with registered symbols

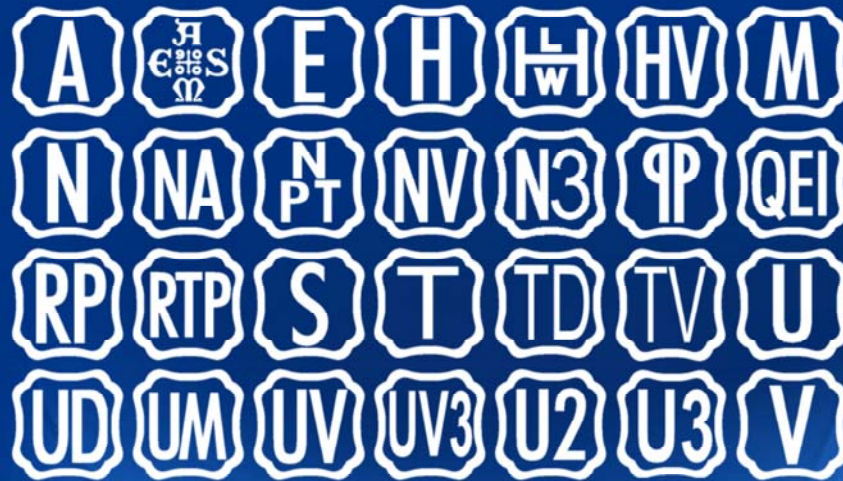
## CERTIFICATION MARKS

- **Definition:** A word, symbol, device, or combination thereof...
  - Used by parties other than the mark's owner
  - Indicates inspection or checking by someone other than the mark user
  - Right to use obtained by applying to mark owner
- **Uses (Types)**
  - To certify the source geographic region
  - To certify the quality, materials, or mode of manufacture of goods or services
  - To certify the manufacturer

## CERTIFICATION MARKS

- **Certification mark (vs. Trademark)**
  - Certification mark may not be used by mark owner.
  - Certification mark owner does not control nature and quality of marked products.
  - Owner controls use of certification mark by others.
  - Certification mark does not indicate source of product.
  - Goods or services have been inspected or in some way checked by someone other than producer.

## REGISTERED ASME CERTIFICATION MARKS



ASME C&S Training Module C4



21

## USE OF ASME MARKS

- **Use on items**
  - May only be used on items with full code compliance
    - no exceptions
  - May only be used by holder of Certificate of Authorization
  - Must be removed if improperly used

## USE OF ASME MARKS

- **Use in advertising**
  - May be used to show that clearly specified items will carry symbol
  - ASME logo may never be used



ASME C&S Training Module C4

23



## USE OF ASME MARKS

- **ASME 9000 symbol**
  - May not be used on products
  - May be used in advertising or company letterhead if meaning properly represented

## CSP-53 PROTECTION OF ASME MARKS

- **Policies**

- All programs with marks must provide for designated oversight.
- Designated oversight measures must comply with ASME-developed criteria.
  - Provide reasonable assurance that activities comply with ASME code or standard
  - Provide for notification of noncompliance
  - ASME must qualify organizations or individuals

## CSP-53 PROTECTION OF ASME MARKS

- **Authorized types of designated oversight**
  - **Authorized Inspection Agency (AIA)**
    - ASME accredited insurance company or enforcement authority
    - Uses Authorized Inspectors (AI)
  - **Qualified Inspection Organization (QIO)**
    - ASME qualified organization (but not an AIA)
    - May not be an entity authorized to use ASME marks
    - Uses Qualified Inspectors (QI)

## CSP-53 PROTECTION OF ASME MARKS

- **Authorized types of designated oversight (cont'd)**
  - **Certified Individual (CI)**
    - Employee of an entity authorized to use ASME marks
    - Qualified and certified by the entity
    - Subject to evaluation by ASME during entity's accreditation review

## CSP-53 PROTECTION OF ASME MARKS

- **Required documentation for use of mark**
  - Data reports or certificates of conformance
  - Signed by person responsible for oversight
- **Record retention**
  - Reports/certificates must be traceable to Certificate Holder
  - Standard establishes retention period

### III. REFERENCING OF PATENTED ITEMS AND TRADEMARKS

ASME C&S Training Module C4



## REFERENCING PATENTED ITEMS (CSP-59)

- **Guidelines**

- Patented Items should not be referenced explicitly in standards
- Requirements should be written in performance language
  - Patented item is *one* means of satisfying
- If performance language not practical, patented item may be referenced
- If use of patented item is necessary to meet standard, follow ANSI's patent policy

## ANSI PATENT POLICY

- **If standard requires or draft standard proposes use of a patented item:**
  - Patent holder must supply ANSI with:
    - General disclaimer that they do not hold or intend to hold patent OR
    - Written assurance of reasonable licensing terms
  - Early disclosure of patents enhances efficiency of process
  - Licensing terms are not subject to committee deliberation



## REFERENCING TRADEMARKED ITEMS (CSP-59)

- **Guidelines**

- Trademarked Items should not be referenced explicitly in standards.
- Requirements should be written in performance language.
  - Trademarked item is *one* means of satisfying
- If performance language not practical, trademarked item may be referenced.
- If reference to trademarked item is necessary, words “or the equivalent” shall follow the reference.

## SUMMARY

- I. Protection of ASME Copyrights
- II. Protection of ASME Trademarks
- III. Referencing of Patented Items and Trademarks

## REFERENCES

- **Codes & Standards Policies\***
  - CSP-53, Protection of ASME Marks
  - CSP-59, Referencing Patented Items and Trademarks in Codes and Standards

\*Available on C&S Web site at:

<http://cstools.asme.org/csconnect/CommitteePages.cfm?Committee=A01000000&Action=7609>