

AWS INTELLECTUAL PROPERTY POLICY**I. Introduction.**

Intellectual property is any product of the human intellect that the law protects from unauthorized use by others. The ownership of intellectual property inherently creates a limited monopoly in the protected property. Intellectual property is traditionally comprised of four categories: copyright, trademark, patent, and trade secrets.

American Welding Society's (AWS's) intellectual property includes (but is not limited to):

- Standards including draft Standards
- Certification Programs and related materials
- Technical Papers
- Research Reports
- Manuals
- Software
- Training Course Materials
- Logos
- Trademarks e.g. Certified Welding Inspector

Ownership and use of AWS's intellectual property, collectively referred to as "AWS IP", are vital to the ability of AWS to fulfill its mission. AWS owns and maintains the rights to its intellectual property; it is the responsibility of AWS's Board of Directors ("Board"), staff, members, and others who participate in the creation of AWS IP (collectively "Participants"), as well as authorized resellers/distributors and agents of AWS IP, to protect these valuable assets and ensure that they are used in accordance with this Policy.

II. Purpose.

The policy specifies the means by which AWS's intellectual property shall be protected, and the intellectual property of others will be respected and to protect the interests of AWS. All AWS staff, members, and volunteers shall comply with this policy.

III. Scope.

- A. This AWS Intellectual Property Policy (the "Policy") applies to all AWS employees, members, officers, directors, participants, resellers/distributors, content authors, agents and others involved with the development, adoption, publication, use and/or distribution of AWS IP. For purposes of this Policy, committee or technical committee includes AWS Committees, subcommittees and task groups.

IV. Types of Intellectual Property.

A. Copyright.

A copyright is a property right granted to the creators (“Authors”) of original works of authorship which are fixed in any tangible medium of expression. The exclusive rights provided by a copyright include protection against unauthorized printing, reprinting, publishing, copying, selling, translating, distributing, and/or performing of the copyrighted work. Copyrighted materials include not only traditional written works but also such entities as computer software, electronic files and publications, internet/website files and content and publications, multimedia, CD-ROMs, DVDs, videotapes, audiotapes, and training programs. This policy does not infringe on first-sale doctrine rights where applicable.

B. Trademark

A trademark is a word, phrase, name, symbol (e.g. service marks, certification marks, and collective marks), design, device, or combination of words, phrases, symbols or designs which identifies and distinguishes the source of goods or services from one party from those of others.

A service mark is the same as a trademark except it distinguishes the source of a service (as opposed to a product).

A certification mark is a mark used upon, or in connection with, the products or services of one or more persons, other than the owner of the mark, to certify region or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of the goods or services or to certify that the work or labor on the goods or services was performed by members of a union or other organization. Examples include “accreditations” and “certifications” conferred on facilities and personnel by AWS.

A collective mark is a mark used by the members of a cooperative, an association, or other collective group or organization (such as AWS) which includes marks used to indicate membership in the association or other organization. A collective mark is used to indicate membership or membership status, as on letterheads, whereas trademarks or service marks are applied to goods and services that are sold or performed.

C. Patent

A patent is a property right granted by the government to an inventor as a reward for his/her contribution to “science and the useful arts” in making his/her invention and disclosing it to the public. Patents may be granted on any new and useful process, machine, manufactured article, composition of matter, or any new and useful improvements thereof. The right conferred by a patent is the right to exclude others from making, using or selling the invention for a limited period.

D. Trade Secrets

A trade secret is any information that can be used in the operation of a business or other enterprise and that is sufficiently valuable and secret to afford an actual or potential economic advantage over others. It may be an unpatented or unpatentable invention, a formula, pattern, machine, process, customer list, blueprint, table of data, manufacturing technique, design, plan, or other information, such as costs, pricing, and marketing plans or other financial or commercial information. If it is decided to protect a discovery as a trade secret, it is important to have appropriate practices put in place to maintain its secrecy.

V. Policy.

A. AWS's IP shall be protected, regulated and maintained, no matter how widely information is distributed, in print, electronically, or otherwise.

B. The Society reserves the right to copyright any of its print, electronic products, databases, audio/visual products and other copyrightable subject matter. This is intended to protect the Society and its members from unauthorized copying and distribution of AWS materials.

C. It is AWS's policy that the copyright and other intellectual property rights of third parties be respected and not infringed by AWS or any of its committees or any employee, member or other person acting on behalf of AWS or any of its committees.

D. It is the responsibility of each individual who submits technical papers or other materials for use by AWS or any of its committees to assure that all legally required permissions of third parties have been received.

E. All publications developed by AWS committees are copyrighted by the Society. When an individual accepts appointment to an AWS committee, the individual acknowledges in writing that copyright and all rights to all materials produced by AWS committees are owned by AWS and that AWS may register copyright in its own name (Attachment A – Acknowledgement Form).

F. Inputting, uploading, reproducing or transmitting of any AWS work without AWS's permission is prohibited, provided that this prohibition is not intended to limit the applicability of the "fair use" doctrine developed under the United States Copyright Act or any analogous concept under the laws of other countries.

VI. Procedure.

A. Use of the Society's name and emblem is covered by Article XI, Section 2 of the Constitution and Bylaws of the American Welding Society and the American Welding Society Board of Directors Policy Manual.

B. When reproducing information owned or copyrighted by another individual or entity, an AWS representative from the department requesting permission to

reprint shall fill out the American Welding Society (AWS) Intellectual Property License Agreement (Attachment A).

C. When, in the development of work for AWS, an individual, committee, or organization proposes to incorporate material from the copyrighted publication of another organization, AWS staff shall obtain written permission from the publisher to reprint the material.

D. Requests to reprint research papers published in AWS periodicals shall be handled in accordance with American Welding Society (AWS) Intellectual Property License Agreement for Research Papers and Feature Articles (Attachment B).

Attachment A

American Welding Society (AWS) Intellectual Property License Agreement

This LICENSE AGREEMENT (this “Agreement”) is made and entered into effective as of this _____ day of _____ (the “Effective Date”), by and between _____ (the “Licensor”), and The American Welding Society, (the “Licensee”).

1. Grant of License

(A) Licensor hereby grants to Licensee, in accordance with the terms and conditions of this Agreement, a non-exclusive, irrevocable global license to use the Work (“Work” is defined in Paragraph 7) in the course of its business (for the creation or maintenance of American Welding Society (“AWS”) products, events, and services) and to otherwise copy, reproduce, modify, use, create derivative works from, and sell the Work.

(B) Licensee acknowledges and agrees that the license granted herein is non-exclusive and that Licensor may license others to use the Work.

2. Ownership of Works

(A) Licensee acknowledges that Licensor is the sole and exclusive owner of the Work and of all associated federal registrations and pending registrations, and Licensee shall do nothing inconsistent with such ownership. Licensee agrees that nothing in this Agreement shall give Licensee any right, title, or interest in the Work other than the right to use the same in accordance with this Agreement.

(B) In the case of Works made for hire (Work prepared by an employee within the scope of his or her employment), the employer and not the employee is considered the author and Licensor.

3. Term and Termination

This Agreement shall commence as of the Effective Date and shall continue in perpetuity.

4. Liability

Licensor shall fully indemnify, defend, and hold harmless Licensee from and against any and all claims, losses, damages, expenses and liability, including claims of copyright infringement, arising from Licensee’s authorized use of the Work.

5. Validity of the Work

Licensor represents that: (a) Licensor is the sole owner of the Work; (b) either Licensor is the original author of the Work or Licensor acquired all rights to the Work; (c) Licensor has the authority to grant the rights being granted under License Agreement; and (d) the Work does not contain any materials owned by any other person.

6. Arbitration

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules [including the Optional Rules for Emergency Measures of Protection]. The arbitration hearing shall take place in Miami, FL before a single arbitrator. Judgment on the award rendered by the arbitrator will be considered binding and may be entered in any court having jurisdiction thereof.

7. Work

The “Work” is defined as content Licensed to AWS by the Licensor through the means of this Agreement. A description of specific content is provided below (by the Licensor):

Figures:
Tables:
Images:
Other:

8. Source Line

A source line, crediting the Licensor, will be included in all printed materials. The Licensor may suggest wording for the source line below:

Example: Image provided by John Doe Corporation.

Figures:
Tables:
Images:
Other:

LICENSOR:

Name (Print):

Signature:

LICENSEE:

Name (Print):

Signature:

Attachment B

American Welding Society (AWS) Intellectual Property License Agreement for Research Papers and Feature Articles

This LICENSE AGREEMENT (this “Agreement”) is made and entered into effective as of this _____ day of _____ (the “Effective Date”), by and between _____ (the “Licensor”), and The American Welding Society, (the “Licensee”).

1. Grant of License

(A) Licensor hereby grants to Licensee, in accordance with the terms and conditions of this Agreement, an exclusive, irrevocable global license to use the Work (“Work” is defined in Paragraph 7) in the course of its business (for the creation or maintenance of American Welding Society (“AWS”) products, events, and services) and to otherwise copy, reproduce, modify, use, create derivative works from, and sell the Work.

(B) Licensor hereby transfers to the Licensee the copyright in the manuscript identified below and any tables, illustrations or other material submitted for publication as part of the Work. This transfer of rights grants to the Licensee the exclusive right to publish and reproduce the Work, or any part of the Work, in print, electronic and all other media (whether now known or later developed), in any form, in all languages, globally, for the full term of copyright, and the right to license others to do the same, effective when the Work is accepted for publication. This includes the right to enforce the rights granted hereunder against third parties.

2. Ownership of Works

(A) Licensee acknowledges that Licensor is the sole and exclusive owner of the Work and of all associated federal registrations and pending registrations, and Licensee shall do nothing inconsistent with such ownership. Licensee agrees that nothing in this Agreement shall give Licensee any right, title, or interest in the Work other than the right to use the same in accordance with this Agreement.

(B) In the case of Works made for hire (Work prepared by an employee within the scope of his or her employment), the employer and not the employee is considered the author and Licensor.

(C) The Licensor is hereby granted (without the need to obtain further permission) the Author Rights (see description below and definitions), and that no rights in patents, trademarks or other intellectual property rights are transferred to the Licensee. The Licensee shall obtain written consent from the Copyright Owner for use of any material from other copyrighted or unpublished works and will deliver same to the American Welding Society prior to the entry into production of my (our) paper.

3. Term and Termination

This Agreement shall commence as of the Effective Date and shall continue in perpetuity.

4. Liability

Licensor shall fully indemnify, defend, and hold harmless Licensee from and against any and all claims, losses, damages, expenses and liability, including claims of copyright infringement, arising from Licensee’s authorized use of the Work.

5. Validity of the Work

Licensor represents that: (a) Licensor is the sole owner of the Work; (b) either Licensor is the original author of the Work or Licensor acquired all rights to the Work; (c) Licensor has the authority to grant the rights being granted under License Agreement; and (d) the Work does not contain any materials owned by any other person.

6. Arbitration

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Manuscript or Article:
Supplemental Materials ^a :
Research Data ^b :
Figures:
Tables:
Images:
Other:

a. Supplemental Materials are defined as materials published as a supplemental part of the Work, including but not limited to graphical, illustrative, video and audio material. With respect to any Supplemental Materials submitted by the Licensor, the Licensee shall have a perpetual worldwide non-exclusive right and license to publish, extract, reformat, adapt, build upon, index, redistribute, link to and otherwise use all or any part of the Supplemental Materials in all forms and media (whether now known or later developed), and to permit others to do so.

b. Research Data are defined as the result of observations or experimentation that validate research findings and that are published separate to the Work, which can include but are not limited to raw data, processed data, software, algorithms, protocols, and methods. With respect to any Research Data submitted by the Licensor, the Licensee shall have a perpetual worldwide non-exclusive right and license to publish, extract, reformat, adapt, build upon, index, redistribute, link to and otherwise use all or any part of the Supplemental Materials in all forms and media (whether now known or later developed), and to permit others to do so.

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LICENSEE:

Name (Print):

Signature: