

AWS INTELLECTUAL PROPERTY POLICY**1. Preface**

Ownership and use of AWS's Intellectual Property 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, staff, members, and others who participate in the creation of AWS IP, as well as authorized resellers/distributors of AWS IP, to protect these valuable assets and ensure that they are used in accordance with this Policy.

2. Purpose

This document defines the AWS Intellectual Property Policy approved by the AWS Board of Directors. This policy specifies the means by which AWS's intellectual property will be protected and intellectual property not owned by the AWS will be respected. Intellectual property includes copyrights, trademarks, patents, and trade secrets.

3. Definitions**a. Copyrights**

A copyright is a property right which grants certain exclusive rights to creators (“authors”) of original works of authorship which are fixed in any tangible medium of expression, such as books, manuscripts, magazines, journals, standards, satellite broadcasts, movies, and other audiovisual works, paintings, sound recordings, photographs, computer programs/software, electronic files and publications, internet/website files and publications, CD-ROMs, DVDs, music, architectural works, pictorial, graphic, and sculptural works, . The exclusive rights include protection against unauthorized printing, reprinting, publishing, copying, selling, translating, conversion, arrangement, adaptation, delivery or performance of the copyrighted work.

b. Trademarks, including logos, emblems and graphical representations

Trademarks consist of trademarks, service marks, certification marks, and collective marks. A trademark is any word, phrase, name, symbol, design or device, or any combination of these, adopted and used by a manufacturer or seller to identify and distinguish its goods and services from those manufactured or sold by others.

A service mark is a mark used in the sale or advertising of services (as opposed to a product) to identify the services of one person and

distinguish them from the services of others, and includes the marks, names, symbols, titles, designations, slogans, and character names or other advertising used in commerce.

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. Patents

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, or 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.

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.

4. General Policy Statements

- a. AWS’s intellectual property must 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, including papers, videos, courses, and standards.

c. AWS's Policy

1. 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.

2. 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.

3. 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).

d. Electronic Networks

1. Copyright laws of the world protect original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

2. As sophisticated scanning, editing, manipulation and transfer of data on high-speed networks become available, it is increasingly difficult to determine and enforce ownership. Therefore, 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.

5. Specific Procedures

a. AWS name and emblem

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. Technical Services Division

1. The Technical Services Division establishes policies and procedures on the protection of the Society's intellectual property rights for its standards and other publications as well as those of other organizations contained in AWS publications.
2. If in developing a standard or other document, a committee proposes to incorporate material from the copyrighted publication of another organization, the committee requests AWS staff to obtain written permission from the publisher to reprint the material in accordance with AWS TSD 1.1, *Specification for the Preparation of American Welding Society Standards*. Reference to a patented item should be avoided; The AWS Patent Policy shall be consulted if patented items are to be referenced in a standard.
3. AWS standards currently include copyrighted material reproduced under agreement with others. Similarly, the Society may grant permission to others to reprint its material, in accordance with AWS TSD 1.1, *Specification for the Preparation of American Welding Society Standards*. This may be based on agreements with or without royalties and requires permission from a designated representative(s) in the Technical Services Division who is familiar with the material requested for reproduction.
4. The provision stated in Clause 5.b.4 (above) applies to products in any form, including, for example, both hard copy publications and electronic products.
5. The Society registers its accreditation and certification marks in the United States and in countries around the world. As a condition for accreditation or certification, the applicant agrees that the marks are the property of the Society at all times and will be returned or removed upon request by the Society. The Society provides due process procedures, as appropriate, to address allegations of standards violation and misuse of registered marks.
6. Guidance to technical committees on protection of AWS's intellectual property rights and avoidance of infringement of the

rights of others is provided by the AWS staff assigned to the committees.

c. Publications Services Division and *Welding Journal*

1. The Publication Services Division establishes policies and procedures on the protection of the Society's intellectual property rights for its publications such as the Welding Handbook and *Welding Journal* as well as those of other organizations contained in AWS publications.
2. Reproduction of AWS copyrighted material, whether contained in a paper or in collected articles, bound volumes, magazines or journals consisting primarily of AWS-generated papers, requires permission from a designated representative(s) in the Publication Services Division who is familiar with the material requested for reproduction.
3. Technical Papers
 - a. Publication Service's Transfer or Copyright form, must accompany all papers submitted to the Society for presentation or publication, and requires permission from the lead author or a designated corresponding author.
 - b. The author must also indicate one of the following two cases:
 - 1) The author grants and assigns exclusively to AWS any and all rights protected by the Copyright Laws of the United States and all other countries; or
 - 2) That the work was performed in the course of the author's employment by the U.S. Government, and hence the work is in the public domain.

d. Education and Certification Service Divisions

1. The Education and Certification Service Divisions establish policies and procedures on the protection of the Society's intellectual property rights for its educational, training and certification course materials and products as well as those of other organizations contained in AWS publications.
2. Publications and related training and course materials developed by AWS committees under the Education and Certification Service Divisions are copyrighted by the Society. When an individual accepts appointment to a committee, the individual acknowledges in writing that copyright and all rights to all materials produced by

AWS Certification or Education committees are owned by AWS and that AWS may register copyright in its own name.

3. Reproduction of AWS copyrighted material contained in publications and related training and course materials, requires permission from a designated representative(s) in the Education and/or Certification Service Divisions who is familiar with the material requested for reproduction.

e. Works for hire

1. When an individual or organization is engaged to prepare a work for hire, the individual or organization shall acknowledge in writing that copyright and all rights to all materials produced are owned and copyrightable by AWS.
2. AWS recognizes different ways to assign intellectual property rights:
 - a. When the preparation of a course, course material or product originates with an individual for use by AWS, without subsidy from AWS, the ownership of the material remains with the author, with a perpetual license granted to AWS by the author.
 - b. When the preparation of the course, course material or product is subsidized by AWS, a “work for hire” or assignment agreement must be signed by the author. In this case, the copyright is assigned to AWS. The author may enter into a royalty agreement with AWS.
 - c. When the course, course material or product is developed by a committee of the Society at its expense, AWS shall claim and register the copyright under the name of AWS. Such committees may include, amongst others, Technical Committees, Education Committees, Certification Committees, Safety and Health Committees, and Product Development Committee.
 - d. When AWS publishes the course material or product and offers to members and third parties, the Society may do so in whatever manner it decides. AWS, however, may grant to the author a license to use the intellectual material in a manner that does not conflict with the interests of AWS.
 - e. AWS may enter into an agreement with any other author/instructor on the same or substantially similar topic, provided the material is prepared by the other

author/instructor and does not otherwise infringe on the rights of the original developer.

AWS Committee Membership Intellectual Property Acknowledgment

I agree, by my participation in an AWS committee, to have transferred and assigned any and all interest I possess or may possess, including copyright, in the development or creation of AWS standards or AWS Intellectual Property to AWS.

Name _____ Date _____

Signature _____