Assumptions:

- This analysis is U.S. Centric.
- Very general—specific answers depend on desired objectives.

Questions that need to be answered:

1. What *goals* does the IETF have for its intellectual property?

2. What intellectual property vehicles best reach these goals?

3. What intellectual property options are infeasible, given financial, personnel and policy constraints?

4. What *ownership issues* affect our analysis?

Goals

- Identify creations of the IETF as such.
- Aggressively prevent vendors from exclusively appropriating community creations of the IETF.
- Create more incentives for vendors to follow RFCs and other standards.

Type of protection available (in theory):

- Patent
- Trade Secret
- Copyright
- Trademark

Patent Law:

- Gives absolute dominion over all implementations of a given mechanism or process for 17 years.

- Expensive to obtain.

- Practically difficult to obtain due to incremental nature of work done by IETF—contravenes novelty requirement.

- Politically unlikely that employers of IETF members would allow IETF to patent work of employees without a fight.

Trade Secret:

- Early reports suggest that it is difficult to keep widely published documents secret.

Copyright:

- Exists from the moment pen is put to paper (or fingers put to keyboard). "Copyright subsists in all creative works fixed in a tangible medium of expression."

- Applicable in any country that has signed the Berne convention (i.e., most).

- Protects *expression*, but not *ideas*.

- If applicable, fulfills the objectives of identifying creations of the IETF as such and assists in preventing vendors from exclusively appropriating community technologies.

Ownership Questions in Copyright

- Carl Coder, who works for Friscwelleon, writes an RFC about routers. Who owns the copyright on that RFC? Carl? The IETF? Friscwelleon? All of the above?

- Generally, the author of an expressive work owns the copyright.

- Exception to the above rule is if work is a "work made for hire."

Trademark:

- Protects what you call a thing, not the thing itself.

- Generally only protects *fanciful* names, or names which, through usage, have gained a *secondary meaning*.

- Although it might seem funny, developing trademarks would give the IETF more leverage over vendors, in the sense that vendors would need to have IETF approval before a product could be labeled as, for example, **UltraHyperTCP(tm) Compliant.”** Vendors do seek to create the appearance of compliance; try and find a networking product that *doesn’t* claim to support SNMP.

- Disadvantages to trademark protection include the expense needed to file for trademark protection, and the need to think up "cute" names for more than just the working groups.