X12 Intellectual Property

DISCLAIMER

→ This presentation is for informational purposes only

→ The content is point-in-time information, subject to revision

TOPICS

1. Introduction

2. Putting It in Context

3. Requesting Permission

4. Wrap Up

Introduction

INTELLECTUAL PROPERTY

- *Intellectual property (IP) is any product of the human intellect that the law protects from unauthorized use by other*

- *According to the Cornell Law School's Legal Information Institute:*
  U.S. law on intellectual property provides an incentive for authors and inventors to produce works for the benefit of the public by regulating the public's use of such works in order to ensure that authors and inventors are compensated for their efforts

- *Intellectual property is protected under four distinct categories: patent, copyright, trademark, and trade secrets*

X12 INTELLECTUAL PROPERTY

- *X12's intellectual property includes electronic data interchange (EDI) standards in various syntaxes, technical reports, machine-readable metadata, code sets, implementation tools, and related products*

COPYRIGHT

- *The U.S. Copyright Act, (17 U.S.C. §§ 101 – 810) (the Act), is the federal legislation which protects the writings of authors and inventors*

- *§ 106 of the Act establishes that the owner of a copyright has the exclusive right to reproduce, distribute, perform, display, and license the copyrighted work*

- *The Act defines "writings" as a tangible medium of expression, including not only formal writings but also architectural design, software, graphic arts, motion pictures, sound recordings, and more*

- *A tangible medium of expression can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device*

COPYRIGHT

- *More simply put, according to the Cornell Law School's Legal Information Institute:*

  Copyright is the exclusive right to reproduce, publish, sell, or distribute the matter and form of an original work

DERIVATIVE WORKS

- *The U.S. Copyright Act (§ 106) establishes that the owner of a copyright has the exclusive right to prepare derivative works based on the copyrighted work*

- *Under the Act (§ 101) a derivative work is defined as a work based upon one or more pre-existing copyrighted works that recasts, transforms, or adapts the copyrighted work(s).*

- *Derivative works include editorial revisions, annotations, elaborations, or other modifications to the original work(s)*

FAIR WORKS

- *The U.S. Copyright Act (§ 107) specifies that the exclusive rights of the copyright owner are subject to limitation by the doctrine of "fair use"*

- *Fair use permits the use of a **limited or small** portion of a copyrighted work for purposes such as criticism, comment, news reporting, teaching, scholarship, or research is not copyright infringement*

ARTIFACT

→ X12 defines an artifact as:

- *A work developed outside of X12 that is based on, uses, or cites X12 copyrighted work(s) and is intended for distribution outside of the developing organization*

- *Examples of artifacts include printed documents, spreadsheets, word documents, PDFs, web presentations, databases, and help files*

X12 POLICY

→ X12's IP policies are based on U.S. copyright law

→ Bylaws (CAP01)

- *Section 18.5 sets forth X12's primary policies related to intellectual property*

→ X12 Intellectual Property (CAP05)

- *Supplements the X12 Bylaws*

- *Establishes detailed intellectual property policies related to the protection and fair use of X12 IP, copyrighted and non-copyrighted*

Putting it in Context

X12 PRODUCTS

→ X12's IP includes

- *The EDI Standard which is comprised of hundreds of transactions and internal code lists*

- *Technical reports, including implementation guides, describing various uses of the EDI Standard*

- *External code lists, aka terminology or vocabulary resources*

- *Schemas based on the EDI Standard and implementation guides*

- *Other offerings designed to assist implementers including metadata, implementation tools, and related products*

X12 BYLAWS (CAP01)

- *The corporation will own and copyright all products created under the auspices of the corporation, including those defined within X12 committees and derivative works generated by X12 staff*

- *To encourage use of the products, the corporation will permit and/or license use of copyrighted materials per the corporation's copyright, licensing, and fair use policies*

- *The corporation will monitor the use of copyrighted materials to assure appropriate dissemination and accurate reproduction and interpretation of those materials*
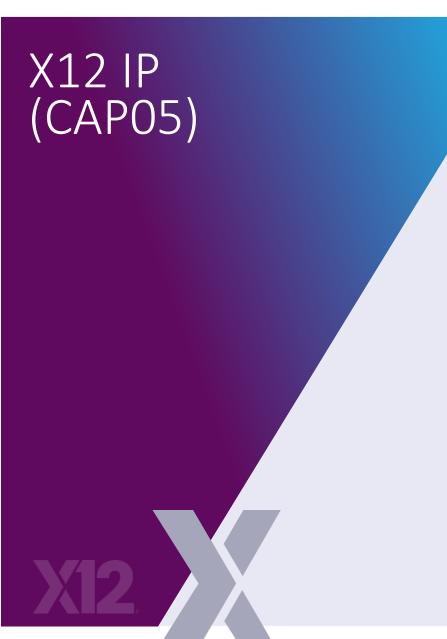
X12 IP (CAP05)

→ Copyright and Ownership

- *X12 shall own all products developed and approved by X12 committees, all draft work under development by X12 committees, any product developed as a work for hire by X12 staff or contractors, and any product developed by another organization based on an agreement with X12*

- *X12 shall actively enforce all copyrights and protect all copyrighted assets*
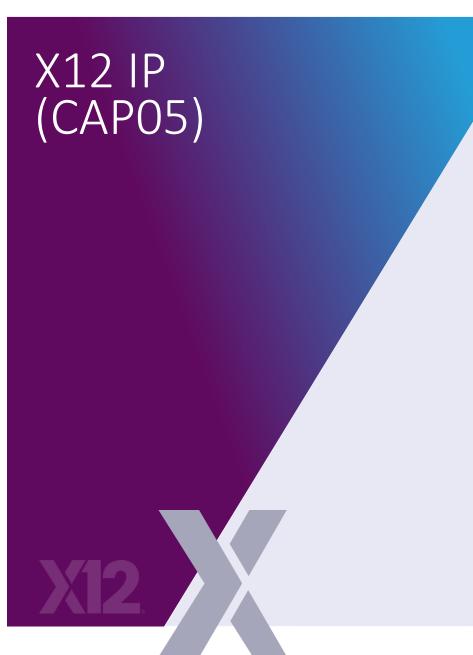
X12 IP (CAP05)

→ Fair Use

- *Fair use of X12's IP may be granted if the use is in accordance with X12's applicable policies and procedures*

- *Some fair use situations require an explicit written permission from X12 in advance of use; other use may be permissible without written permission from X12*

X12 IP (CAP05)

- *Fair Use is permissible as described below without written permission from X12*

- *Reproduction of small portions of properly cited X12 material for comment, news reporting, academic research, or academic instruction at an accredited school;*

- *Reproduction in an organization's internal implementation documentation (defined herein as documentation which is not made available outside the corporate structure of the authoring organization) when the organization has an appropriate license for use of the X12 materials AND the internal implementation document properly cites all referenced X12 materials*

X12 IP (CAP05)

- *Express written permission obtained in advance of publication or distribution is required for Fair Use of X12 IP as described below*

- *Reciprocal members shall have explicit written permission for each use*

- *Use in any derivative work that will be distributed or made available outside the corporate structure of the authoring organization*

- *Use within any commercial product*

- *Use of properly cited X12 material for a commercial offering, training, or professional instruction*

- *Reproduction of significant portions for any use*

X12 IP AND MOU PARTNERS

- *Each organization establishes an operational/formal liaison with authority to speak on behalf of their respective organization.*

- *Other individuals who are active and knowledgeable officers or participants in either organization may lend their expertise in collaborations but are not empowered to speak on behalf of the parties any time or on any matter, including but not limited to providing updates, technical information, expertise, positions, or opinions*

- *The organizations agree to respect one another's copyrights, fair use policies and all other aspects of recognized intellectual property*

X12 IP AND MOU PARTNERS

- *The organizations agree to protect the other's intellectual property, both in direct uses and, when possible, in by-product or second-party uses that arise from the organization's activities*

- *Ownership rights to products are not transferred or assigned as part of an MoU*

- *X12 expressly retains rights to any derivative work produced under an MoU when the derivative work is based on X12 metadata or products*

- *The organizations typically identify many opportunities to work cooperatively or collaboratively on projects, tasks, and activities that contribute to the objectives of both organizations*

X12
IP AND MOU PARTNERS

- *If a potential cooperative or collaborative activity is identified, the operational liaisons formally agree in writing on the details of the work associated with the activity*

- *The resulting work is subject to the IP review and approval processes of the IP owner*

- *The agreement is executed prior to the work commencing*

- *Any project, task, or activity undertaken by one organization that is based on, associated with, or relies on IP of the other organization shall be undertaken as cooperative or collaborative activity*

X12 IP AND MOU PARTNERS

→ Collaborative Activities

- *A collaborative activity is undertaken together, with significant contributions from both organizations*

- *The organizations work together on all aspects of the work including analysis, drafting, and preliminary work*

- *The organizations mutually agree on the content and publication of the resulting work or product*

- *In most cases, both organizations will endorse and promote the resulting work or product*

X12 IP AND MOU PARTNERS

→ Cooperative Activities

- *A cooperative activity is undertaken primary by one of the organizations with one or more liaison or subject matter experts from the other organization serving as advisor(s)*

- *One organization does the bulk of analysis, drafting, or other preliminary work but both organizations mutually agree to the content and publication of the resulting work*

- *In most cases, both organizations will endorse and promote the resulting work*

X12 IP AND MOU PARTNERS

→ Separate Work

- *Both organizations will undertake projects, tasks, and activities that are unrelated to the other organization's IP*

- *In such cases, the organization has no obligation to undertake the work under the terms of Cooperative or Collaborative work but may choose to do so in the spirit of partnership and cooperation, and based on the best interests of health care industry stakeholders*

Requesting Permission

REQUESTING PERMISSION

- *Any party wanting permission to reproduce or use X12's intellectual property must review X12's IP Use policies and follow the applicable request process*

- *More information about requesting permission is available at x12.org/products/ip-use*

- *Note that only X12 may grant permission for use of its IP, X12 does not delegate such authority to another organization, group, or individual*

- *The web page includes detailed information on Fair Use, Requesting Permission of Use, Guidance Related to Use of X12 technical reports, Guidance Related to Use of any other X12 product, Guidance for citations, and a FAQ list*

REQUESTING PERMISSION

→ At a high level, the process steps are:

1. *Review X12's IP policies*

2. *Submit the online **Request Permission** form (https://x12.org/products/ip-use) with a copy of the proposed artifact, if applicable*

3. *X12 reviews the request and proposed artifact (if applicable) to ensure the artifact is compliant with applicable X12 policies, generally accurate in the context presented, and that style requirements have been met*

4. *X12 determines whether permission will be granted and informs the requestor*

5. *If permission is not granted, the requestor may revise the proposed artifact and resubmit it*

Wrap Up

SUMMARY

→ U.S. Copyright law, the backbone of X12's IP policies, provides exclusive rights to authors and creators thereby promoting creativity and advancing technology

→ X12's IP policies are documented and available publicly

→ X12 understands the value of additional communication and feedback and will work with partners to ensure accurate and timely information is disseminated

FEEDBACK
IDEAS
QUESTIONS

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