

5.3.8 Compliance with laws

All Standards meetings shall be conducted in compliance with all applicable laws. In the course of IEEE standards development, discussions that relate to the following shall be avoided:

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- The validity, terms, or cost of specific patent use
- Ongoing litigation
- Pricing or other issues that would violate antitrust laws.

6.3 Patents

The patent policy is set forth in [clause 6](#) of the IEEE-SA Standards Board Bylaws and is incorporated herein by reference.

Letters of Assurance are to be e-mailed (preferred), faxed, or mailed to the IEEE Standards Association (to the attention of the PatCom Administrator). The PatCom Administrator shall record both the date on which the IEEE receives and the date the IEEE accepts the Letter of Assurance. Completed Letters of Assurance are accepted by the PatCom Administrator or by PatCom upon referral from the PatCom Administrator. The IEEE may request a Letter of Assurance from Affiliates specifically excluded on another Letter of Assurance.

Deleted: Patent holders or patent applicants shall submit letters of assurance to the IEEE Standards Department (to the attention of the [PatCom Administrator](#)). The patent holder or applicant should provide this assurance as soon as reasonably feasible in the standards development process. This assurance shall be provided no later than the time of IEEE-SA Standards Board review of the standard for approval.¶

¶ In the event that a patent or patent application may apply to a standard and a letter of assurance cannot be obtained, the working group shall refer this matter to the [PatCom Administrator](#).¶

Unless the Letter of Assurance is received from an individual within the issuing organization who has clear authority for intellectual property and legal matters, the IEEE Standards Association (PatCom Administrator) shall send a certified letter, return receipt requested, to the General Counsel or other appropriate representatives of the issuing organization to confirm receipt of the Letter of Assurance and to ensure that the Letter of Assurance is factually correct and was submitted by an appropriate individual within the issuing organization. No response to this letter, other than the return receipt, is required.

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Upon request, the IEEE will make available copies of any Letter of Assurance and its attachments. Letters received after 31 December 2006 shall be posted on the IEEE-SA website.

6.3.1 Public notice

The following notice shall appear when the IEEE receives assurance from a known patent holder or patent applicant prior to the time of publication that a license will be made available to all applicants either without compensation or under reasonable rates, terms, and conditions that are demonstrably free of any unfair discrimination.

Attention is called to the possibility that implementation of this standard may require use of subject matter covered by patent rights. By publication of this standard, no position is taken with respect to the existence or validity of any patent rights in connection therewith. The IEEE shall not be responsible for identifying Essential Patent Claims for which a license may be required to create a compliant implementation of an IEEE

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standard or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention. A patent holder or patent applicant has filed a statement of assurance that it will grant licenses under these rights without compensation or under reasonable rates, ~~with~~ reasonable terms and conditions ~~that are demonstrably free of any unfair discrimination~~ to applicants desiring to obtain such licenses. The IEEE makes no representation as to the reasonableness of rates, terms, and conditions of the license agreements offered by patent holders or patent applicants. Further information may be obtained from the IEEE Standards ~~Association~~.

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If the IEEE has not received ~~Letters of Assurance~~ prior to the time of publication, the following notice shall appear:

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Attention is called to the possibility that implementation of this standard may require use of subject matter covered by patent rights. By publication of this standard, no position is taken with respect to the existence or validity of any patent rights in connection therewith. The IEEE shall not be responsible for identifying ~~Essential Patent Claims~~ for which a license may be required to ~~create a compliant implementation of~~ an IEEE standard or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention.

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6.3.2 Call for patents

The chair ~~or the chair's delegate~~ of an IEEE standards-developing working group or the chair of an IEEE standards sponsor shall be responsible for informing the members of the working group that if any individual believes that ~~Patent Claims~~ might be ~~Essential Patent Claims~~, that fact should be made known to the entire working group ~~and duly recorded in the minutes of the working group meeting~~. This ~~request~~ shall occur at every standards-developing meeting.

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The chair or the chair's delegate shall ~~ask any patent holder or patent applicant for a Patent Claim that might become an Essential Patent Claim to complete and submit a Letter of Assurance in~~ accordance with ~~Clause 6~~ of the *IEEE-SA Standards Board Bylaws*, ~~Information about the draft standard will be made available upon request~~.

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6.3.3 Withdrawn standards

All active IEEE standards are subject to periodic review for reaffirmation, revision, stabilization, or withdrawal every five years. Thus, any standard that incorporates patented technology may at some point in time be withdrawn. ~~Clause 6~~ of the *IEEE-SA Standards Board Bylaws* contains policies concerning the period of validity for any ~~Letter of Assurance~~ received from a party ~~regarding an Essential Patent Claim~~.

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The IEEE is not responsible for identifying patents or patent applications for which a license may be required to implement an IEEE standard or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention.¶

6.3.4 Multiple Letters of Assurance and Blanket Letters of Assurance

~~A Submitter may provide the IEEE with a Blanket Letter of Assurance which covers all Essential Patent Claims the Submitter may currently or in the future hold or control. A Submitter may submit separate Letters of Assurance providing separate assurances for different Patent Claims that might become Essential Patent Claims.~~

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2 Over time, a Submitter may also provide multiple assurances for a given Patent Claim by
3 submitting multiple Letters of Assurance for such claim. For Essential Patent Claims, each such
4 Letter of Assurance shall be binding on the Submitter. Each potential licensee may choose to
5 invoke the terms of any applicable Letter of Assurance accepted by the IEEE, with one
6 exception: If a Submitter has signed and submitted a Letter of Assurance specifically identifying
7 a Patent Claim before or concurrently with signing and submitting a Blanket Letter of Assurance,
8 the Blanket Letter of Assurance cannot be invoked as to the specified Patent Claim. (The
9 Submitter, however, may submit a separate specific Letter of Assurance offering the Blanket
10 Letter of Assurance terms for the specified Patent Claim.) The intention of this paragraph is to
11 permit the Submitter to offer alternative assurances, and to permit the potential licensee to
12 choose from among the alternative assurances offered.

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14 If, after submitting a Blanket Letter of Assurance, a Submitter acquires a Patent Claim or an
15 entity that owns or controls a Patent Claim, the existing Submitter's Blanket Letter of Assurance
16 shall apply to such acquired Patent Claims unless the acquired entity or the holder of the
17 acquired Patent Claim has submitted a Letter of Assurance before the acquisition. Any Blanket
18 Letter of Assurance submitted by the acquired entity or the holder of the acquired Patent Claim
19 before the acquisition shall continue to apply to acquired Patent Claims covered by such letter
20 (but not to the acquirer's Patent Claims). Letters of Assurance covering specified Patent Claims
21 shall continue to apply to specified Patent Claims, whether acquired in the acquisition or held by
22 the acquirer before the acquisition, as provided in this Operations Manual. Nothing in this
23 paragraph shall prevent an acquiring party from asking a seller of an acquired Patent Claim or
24 acquired entity to submit additional Letters of Assurance before closing of the acquisition.

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26 **[Note to Drafting Committee: If this is not clear, please offer suggestions]**
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28 6.3.5 Applicability of Letters of Assurance to Amendments, Corrigenda, or 29 Revisions

30 A Letter of Assurance referencing an amendment, corrigenda, or revision will remain in force for
31 the application of the Essential Patent Claim(s) to the technology specified in the amendment or
32 corrigenda after being merged into the IEEE Standard and for subsequent revisions of the
33 Standard.

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35 Use of the same Essential Patent Claim(s) for new fundamental applications in a future
36 amendment, corrigenda or revision of the IEEE Standard will require a new Letter of Assurance.
37 For example, the re-use of collision detection in the IEEE Standard 802.3 does not require a new
38 Letter of Assurance because its re-use by various amendments to IEEE Standard 802.3 is not a
39 new fundamental application. In contrast, the re-use of an IEEE Standard 802.3 physical layer
40 device for IEEE Standard 1394 would require a new Letter of Assurance because its re-use is a
41 new fundamental application.

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43 **[Note to Drafting Committee: Seeking better examples; suggestions welcome]**
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