

# Understanding Patent Issues During IEEE Standards Development

## Patented Technology in IEEE standards

This guide offers information concerning the IEEE Standards Association and its patent policies but does not state the IEEE-SA Patent Policy. The word "shall" is used in these FAQs when it refers to corresponding language in the IEEE-SA Standards Board Bylaws, the IEEE-SA Standards Board Operations Manual, or the Letter of Assurance form.

Definitive statements of the IEEE Standard Association's policies and procedures concerning patents can be found in the *IEEE-SA Standards Board Bylaws* and the *IEEE-SA Standards Board Operations Manual*, which control in the event of a conflict between them and this guide.

A complete package of patent-related materials is available at <http://standards.ieee.org/about/sasb/patcom/materials.html>. This package includes all the documentation you need to comply with the IEEE Standards Association Patent Policy concerning essential patents. A flowchart with additional guidance on the methodologies used by the [IEEE-SA Standards Board Patent Committee](#) is part of this package. If you include patented technology in your standard, then you may have incorporated an essential patent.

## Essential Patent Claims

### 1. *What is an Essential Patent Claim?*

An Essential Patent Claim means any Patent Claim [including claims in issued patent(s) or pending patent application(s)] the use of which was necessary to implement either a mandatory or optional portion of a normative clause of the IEEE Standard when, at the time of the IEEE Standard's approval, there was no commercially and technically feasible non-infringing alternative implementation method for such mandatory or optional portion of the normative clause. An Essential Patent Claim does not include any Patent Claim that was essential only for Enabling Technology or any claim other than that set forth above even if contained in the same patent as the Essential Patent Claim. See clause 6.1 of the IEEE-SA Standards Board Bylaws at <http://standards.ieee.org/develop/policies/bylaws/sect6-7.html#6.1>.

### 2. *Does the IEEE determine whether a patent is essential when requesting a Letter of Assurance?*

No. When it requests a Letter of Assurance, the IEEE has made no determination of any Patent Claim's essentiality.

41 **Call for Essential Patents Claims at IEEE Standards Developing Meetings**

42  
43 3. *What is a call for patents?*

44  
45 A call for patents is a reminder made by the chair, or the chair's designee, at an IEEE  
46 standards development meeting. The chair or the chair's designee informs the  
47 participants that if any individual believes that Patent Claims might be Essential Patent  
48 Claims, that fact should be made known to the entire working group and duly recorded  
49 in the minutes of the working group meeting.

50  
51 4. *How often should a Working Group chair issue a call for potential Essential Patent*  
52 *Claims?*

53  
54 A Working Group chair or his or her designee shall issue the call at every Working  
55 Group meeting. If the Working Group does not meet face-to-face or telephonically, the  
56 Working Group chair should issue a call to the Working Group via written  
57 communications (electronic or otherwise) on a regular basis. It is strongly  
58 recommended that the IEEE-SA Standards Board Patent Committee-developed slide  
59 set be used. Note that a call for patents shall be made at every standards development  
60 meeting. This includes, but is not limited to, working group and task force meetings.

61 [For information about groups that meet for several days during a single week, see also](#)  
62 [FAQ 6.](#)

63  
64 5. *Should a Call for Patents be issued at a Study Group or other meetings that occur*  
65 *before approval of a Project Authorization Request (PAR)?*

66  
67 No. However, it is recommended that the *Patent Slides for pre-PAR Meetings* be used  
68 in these meetings.

69  
70 6. *Our group gathers for several days during a single week. Does the chair have to*  
71 *announce the IEEE-SA Patent Policy every day?*

72  
73 The Working Group chair or his or her designee shall issue the call at every standards-  
74 developing meeting. If a group is meeting for consecutive days and the attendance is  
75 substantially the same for each day of the gathering, the policy only needs to be read  
76 once. If the chair plans not to read or display the policy each day, then in order to  
77 satisfy the requirement to issue a patent call, the chair may either (a) ensure that the  
78 policy or a URL for it has been sent out to all attendees prior to the meeting (and is  
79 available in the registration packet for any on-site registrants), or (b) announce each  
80 day that the meeting is subject to the IEEE-SA Patent Policy as read or displayed on  
81 the first day. Note, though, that this rule applies separately to each group that is  
82 meeting during the week. For example, if a working group holds a meeting during the

83 same week as its task group and/or task force, the chair of each of those groups shall  
84 read or display the policy at that group's meeting.

- 85  
86 7. *How does the chair determine that the participation in a group that is meeting for*  
87 *consecutive days is substantially the same?*

88  
89 The chair has to use his/her judgment to determine this. It could, for example, be  
90 done based on the attendance numbers each day. The default action is to read the  
91 IEEE-SA Patent Policy slides.

- 92  
93 8. *What if a group meets telephonically?*

94 If the Working Group meets telephonically, you can send the slides in an email to the  
95 participants in advance of the call, or include a link in the meeting announcement. In  
96 order to satisfy the requirement to issue a patent call, the chair may then ask at the  
97 start of the call whether there is anybody participating that has not read the policy. If  
98 someone says they have not, then the chair needs to either (a) read the IEEE-SA  
99 Patent Policy slides aloud, or (b) send the policy or URL electronically and pause the  
100 call until all participants have read the policy.

- 101 9. *What if the group does not meet either in person or by telephone – for example, the*  
102 *group meets only through email or other interactive electronic means?*

103  
104 If the group does not meet face-to-face or telephonically, the chair of the group should  
105 issue the call for patents via written communications (electronic or otherwise) on a  
106 regular basis.

107  
108 **Letter of Assurance**

- 109  
110 10. *What is a Letter of Assurance?*

111  
112 *Letter of Assurance* is the term that IEEE-SA uses to describe a document stating a  
113 Submitter's position with respect to ownership, enforcement, or licensing of an  
114 Essential Patent Claim that may be incorporated into a specifically referenced IEEE  
115 Standard. The specific requirements for a Letter of Assurance are defined in clause 6.1  
116 of the *IEEE-SA Standards Board Bylaws* at  
117 <http://standards.ieee.org/develop/policies/bylaws/sect6-7.html#6.1>.

- 118  
119 11. *When does the IEEE send out a request for a Letter of Assurance?*

120  
121 The Working Group chair or, where appropriate, the Sponsor chair will send out a  
122 request for a Letter of Assurance whenever the chair is notified, at any time and by  
123 any means, that the [Proposed] IEEE Standard may require the use of a potential  
124 Essential Patent Claim.

125

126 12. *How will a participant know if the IEEE has accepted a Letter of Assurance?*

127

128 Accepted Letters of Assurance can be found on the IEEE-SA's web site at

129 <http://standards.ieee.org/about/sasb/patcom/patents.html>.

130

131 13. *What happens if the IEEE has not received assurances regarding all potential Essential*  
132 *Patent Claims incorporated in a [Proposed] IEEE Standard?*

133

134 If the IEEE is aware of an asserted potential Essential Patent Claim and no  
135 corresponding Letter of Assurance has been received, the matter will be referred to the  
136 IEEE-SA Standards Board Patent Committee through the PatCom Administrator. The  
137 IEEE-SA Standards Board Patent Committee will review the circumstances and make a  
138 recommendation to the IEEE-SA Standards Board.

139

140 14. *How should Working Groups handle existing Letters of Assurance provided to IEEE*  
141 *when developing an amendment, corrigendum, edition, or revision of the particular*  
142 *standard referenced in the Letter of Assurance?*

143

144 As stated in clause 6.3.5 of the IEEE-SA Standards Board Operations Manual:

145

146 An Accepted Letter of Assurance referencing an existing standard, amendment,  
147 corrigendum, edition, or revision will remain in force for the application of the  
148 Essential Patent Claim(s) to the technology specified in another amendment,  
149 corrigendum, edition, or revision of the same IEEE Standard but only if (a) the  
150 application of the technology required by the amendment, corrigendum, edition,  
151 or revision of the same IEEE Standard has not changed from its previous usage  
152 and (b) the same Essential Patent Claims covered by the prior Accepted Letter of  
153 Assurance remain Essential Patent Claims in the same IEEE Standard or revision  
154 thereof.

155

156 The Working Group chair shall initiate a request for a new Letter of Assurance  
157 from a known Submitter when re-using portions of, or technologies specified in,  
158 an existing IEEE Standard, amendment, corrigendum, edition, or revision  
159 referenced in an Accepted Letter of Assurance in a different IEEE Standard.

160

161 15. *How should Working Groups handle Letters of Assurance when re-using portions of a*  
162 *non-IEEE standard in an IEEE Standard?*

163

164 The Working Group chair shall initiate a request for a Letter of Assurance from holders  
165 of potential Essential Patent Claims when re-using portions of a non-IEEE standard in  
166 an IEEE Standard. The Working Group chair should not assume that any patent letters  
167 of assurance (or patent declarations) given to the developer of the non-IEEE standard  
168 will also apply to the IEEE Standard. In addition, there are specific requirements that

169 must be incorporated into an IEEE Letter of Assurance in order for it to have the  
170 possibility of becoming an Accepted Letter of Assurance.

171  
172 **Participants and Notification to IEEE of Essential Patent Claims**

- 173  
174 16. *Do individual participants have to notify the IEEE if they own, or their employer owns,*  
175 *potential Essential Patent Claims incorporated in an IEEE Standard? What if they are*  
176 *uncertain whether a Patent Claim they own, or their employer owns, is essential?*

177  
178 Individuals participating in the IEEE standards development process are required to  
179 notify the IEEE of the identity of a holder of any potential Essential Patent Claims (but  
180 not the identity of the Essential Patent Claim) where (1) the individual participant is  
181 personally aware that the holder may have a potential Essential Patent Claim; (2) the  
182 holder is the participant or an entity the participant is from, employed by, or otherwise  
183 represents; and (3) the potential Essential Patent Claim is not already the subject of  
184 an Accepted Letter of Assurance. If such a participant is uncertain whether the patent  
185 is essential, the participant still shall notify the IEEE (or cause the IEEE to be notified)  
186 of the possibility because the participant is personally aware of a claim that is a  
187 *potential* Essential Patent Claim.

- 188  
189 17. *When is a potential Essential Patent Claim considered to be the subject of an Accepted*  
190 *Letter of Assurance?*

191  
192 A potential Essential Patent Claim is the subject of an Accepted Letter of Assurance for  
193 a particular standard (a) if there is an Accepted Letter of Assurance for the potential  
194 Essential Patent Claim or related potential Essential Patent, (b) if there is an Accepted  
195 Blanket Letter of Assurance from the holder of the potential Essential Patent Claim, or  
196 (c) an Accepted Letter of Assurance for the potential Essential Patent Claim exists  
197 under the conditions defined in IEEE-SA Standards Board Operations Manual subclause  
198 6.3.5 *Applicability of Letters of Assurance to Amendments, Corrigenda, Editions, or*  
199 *Revisions* (see question 14).

- 200  
201 18. *How do I find out if a particular company has submitted an Accepted Letter of*  
202 *Assurance?*

203  
204 Accepted Letters of Assurance are listed on the IEEE-SA's web site at  
205 <http://standards.ieee.org/about/sasb/patcom/patents.html>. Letters of Assurance  
206 accepted after 31 December 2006 will be posted on the web site as they are accepted  
207 and Letters of Assurance accepted prior to that date will be posted over time.

- 208 19. *What are examples of the means by which an individual participant can notify the IEEE*  
209 *(or cause the IEEE to be notified) that his or her employer is the holder of a potential*  
210 *Essential Patent Claim incorporated in a [Proposed] IEEE Standard? Does the individual*  
211 *participant need to identify the Essential Patent Claim specifically?*

212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253

An individual participant could fulfill his or her duty to the IEEE by telling the Working Group chair that his or her employer is the holder of a potential Essential Patent Claim. Alternatively, the participant could request that his or her employer submit a Letter of Assurance or otherwise notify the IEEE that it is the holder of a potential Essential Patent Claim. In the latter case, the participant fulfills his or her duty to the IEEE only if his or her employer submits a Letter of Assurance or otherwise notifies the IEEE that it is the holder of a potential Essential Patent Claim. If the employer declines to submit a Letter of Assurance or otherwise notify the IEEE, and if the participant continues to believe the employer may hold a potential Essential Patent Claim, then the participant has not fulfilled his or her duty. The participant, therefore, shall inform the IEEE of the holder of that potential Essential Patent Claim. In all cases, the duty on the participant is only to inform the IEEE of the identity of the holder of a potential Essential Patent Claim and not the patent, application, or particular claim itself. A participant does not need to respond to a call for patents if the relevant potential Essential Patent Claim is already covered by an Accepted Letter of Assurance or request for a Letter of Assurance.

20. *Can a response to the call for patents be made via email in advance or subsequent to a meeting?*

The duty on the participant is to inform the IEEE of the identity of the holder of a potential Essential Patent Claim. The chair can be notified at any time (in advance or subsequent to a meeting is acceptable). The declaration must be made in a recordable manner such as email.

21. *Do participants have to notify IEEE of third party patent holders? For these purposes, third party means a person other than the participant or an entity the participant is from, employed by, or otherwise represents.*

Participants are not required to notify the IEEE that they are aware of any potential Essential Patent Claims held by a third party. Participants may make such disclosure at their own discretion. Although there is no obligation to notify the IEEE of third party patent holders, the IEEE encourages participants to do so. This encouragement is particularly strong because the third party may not be a participant in the standards development process.

22. *What duty does an individual participant have to the IEEE if a participant's employer owns a potential Essential Patent Claim but the individual participant doesn't have personal knowledge of such claim?*

As noted in the answer to question 16, a participant only needs to notify the IEEE of the holder of a potential Essential Patent Claim if such participant is personally aware that his or her employer has a potential Essential Patent Claim. There is no duty for

254 that employee (or anyone else in his or her organization) to conduct a patent search,  
255 but the IEEE does expect that participants will conduct themselves in good faith. This  
256 expectation arises both from the IEEE Code of Ethics and from the background legal  
257 rules. The IEEE Code of Ethics makes clear, for example, that participants “accept  
258 responsibility in making decisions consistent with the safety, health and welfare of the  
259 public.” Similarly, the U.S. Supreme Court stated in the Allied Tube case that SDOs  
260 operate based on “the merits of objective expert judgments” using “procedures that  
261 prevent the standard-setting process from being biased by members with economic  
262 interests in stifling product competition.” Consequently, while the policy does not  
263 require a patent search, the IEEE does encourage each participant to make sufficient  
264 inquiry to satisfy him or herself that s/he is not being deliberately shielded from  
265 relevant knowledge and that the employer does not have any potential Essential Patent  
266 Claims.

267  
268 23. *Can an individual participate in standards development activities if his or her employer*  
269 *is unwilling to submit a Letter of Assurance once requested or to provide the assurance*  
270 *indicated in the IEEE-SA Patent Policy in a Letter of Assurance?*

271  
272 Yes. As long as the participant complies with the requirement that he or she notify the  
273 IEEE that his or her employer is the holder of a potential Essential Patent Claim if the  
274 participant is personally aware that his or her employer is such a holder, the individual  
275 can continue to participate in standards development activities. See also question 19.

276  
277 24. *Does the IEEE-SA Patent Policy require participants or their employers to make an*  
278 *assurance or submit a Letter of Assurance?*

279 No. Submission of a Letter of Assurance is not a precondition to participation.  
280 Participants do have a duty to inform the IEEE if they or an entity they are from,  
281 employed by, or otherwise represents holds potential Essential Patent Claims. See  
282 questions 16, 21, and 23 for more information.

283 ~~25. *Is the IEEE-SA's Patent Policy a disclosure policy?*~~

284  
285 ~~The IEEE-SA's Patent Policy describes participants' obligations to identify holders of~~  
286 ~~potentially Essential Patent Claims and the procedures for the IEEE to request Letters~~  
287 ~~of Assurance.~~

288  
289 26. *What does a participant's employer need to do to determine whether it has any*  
290 *potential Essential Patent Claims when it receives a request from the IEEE for a Letter*  
291 *of Assurance? Specifically,*

292  
293 (a) *Does the employer need to do a patent search?*  
294

295 No. The policy expressly states that there is no duty to conduct a patent search; but  
296 the employer may do so if it wishes.

297  
298 (b) *Does the employer need to talk to every person they have sent to the Working*  
299 *Group?*

300  
301 When the employer receives the request for a Letter of Assurance, the employer can  
302 state its licensing position with respect to any Patent Claims that might be or become  
303 Essential Patent Claims relating to the particular standard referenced in the Letter of  
304 Assurance. In the alternative, the employer can indicate that it is not aware of any  
305 Patent Claims that the employer may own, control, or have the ability to license that  
306 might be or become Essential Patent Claims, but **only if** the employer does a  
307 Reasonable and Good Faith Inquiry to determine the existence of any such Patent  
308 Claims. As described in clause 6.1 of the IEEE-SA Standards Board Bylaws, a  
309 "Reasonable and Good Faith Inquiry" includes, but is not limited to, the employer using  
310 reasonable efforts to identify and contact those individuals who are from, employed by,  
311 or otherwise represent the employer and who are known to the employer to be current  
312 or past participants in the development process of the [Proposed] IEEE Standard  
313 identified in the Letter of Assurance, including, but not limited to, participation in a  
314 Sponsor Ballot or Working Group. If the Submitter did not or does not have any  
315 participants, then a "Reasonable and Good Faith Inquiry" may include, but is not  
316 limited to, the Submitter using reasonable efforts to contact individuals who are from,  
317 employed by, or represent the Submitter **and** who the Submitter believes are most  
318 likely to have knowledge about the technology covered by the [Proposed] IEEE  
319 Standard. As described above, the employer only needs to engage in a Reasonable and  
320 Good Faith Inquiry if it wants to avoid providing an assurance based on its assertion  
321 that it is not aware of any Patent Claims that the employer may own, control, or have  
322 the ability to license that might be or become Essential Patent Claims.

323  
324 **Submitting a Letter of Assurance**

325  
326 27. *Do the terms "potential Essential Patent Claims" and "Patent Claims that the Submitter*  
327 *may own, control, or have the ability to license . . ." include claims described in patent*  
328 *applications?*

329  
330 Yes. The definition of Patent Claims includes pending patent applications.

331  
332 28. *At what point should a Letter of Assurance be submitted?*

333 The IEEE encourages the submission of a Letter of Assurance as soon as reasonably  
334 feasible in the standards development process once the PAR has been approved by the  
335 IEEE-SA Standards Board.

336 29. *Who should submit a Letter of Assurance?*



337  
338 Any person or entity that believes that it holds a potential Essential Patent Claim ~~is~~  
339 ~~encouraged to~~ may submit a Letter of Assurance.

340  
341 The IEEE will request licensing assurance on the IEEE-SA Standards Board approved  
342 Letter of Assurance form from any person upon being notified that an IEEE Standard  
343 may require the use of a potential Essential Patent Claim. Although the IEEE  
344 encourages any person receiving a request for assurance to submit the Letter of  
345 Assurance, the IEEE may not use any coercion in requesting the assurance. This  
346 means the IEEE cannot require that a person submit a Letter of Assurance or provide a  
347 particular assurance with respect to ownership, enforcement, or licensing of an  
348 Essential Patent Claim in order to participate in an IEEE standards development  
349 activity.

350  
351 A Submitter of a Letter of Assurance is required to submit a Letter of Assurance if,  
352 after providing a Letter of Assurance to the IEEE, the Submitter becomes aware of  
353 additional Patent Claim(s) not already covered by an Accepted Letter of Assurance as  
354 further described in the answer to question 31.

355  
356 30. *Who should sign a Letter of Assurance?*

357  
358 Only a person who is authorized to sign and bind the Submitter (including its Affiliates  
359 unless specifically and permissibly excluded) to the assurance shall sign the Letter of  
360 Assurance. Unless the Letter of Assurance is received from an individual whose title  
361 suggests authority for intellectual property and legal matters, the IEEE-SA Standards  
362 Board Patent Committee Administrator will take follow-up action.

363  
364 31. *Does a Submitter have to provide an additional assurance if it becomes aware of*  
365 *Essential Patent Claims not already covered by an Accepted Letter of Assurance?*

366  
367 If a Submitter becomes aware of additional Patent Claim(s) that are not already  
368 covered by an Accepted Letter of Assurance, that are owned, controlled, or licensable  
369 by the Submitter, and that may be or become Essential Patent Claim(s) for the same  
370 IEEE Standard, then such Submitter shall submit a Letter of Assurance stating its  
371 position regarding enforcement or licensing of such Patent Claims. For the purposes of  
372 this commitment, the Submitter is deemed to be aware if any of the following  
373 individuals who are from, employed by, or otherwise represent the Submitter have  
374 personal knowledge of additional potential Essential Patent Claims, owned or controlled  
375 by the Submitter, related to a [Proposed] IEEE Standard and not already the subject of  
376 a previously Accepted Letter of Assurance: (a) past or present participants in the  
377 development of the [Proposed] IEEE Standard; or (b) the individual executing the  
378 previously Accepted Letter of Assurance. See also question 29.

380 32. *Can the Letter of Assurance form be modified?*

381 No. In submitting a Letter of Assurance, use of the *LOA* form is mandatory.  
382 (Completing the form is not considered a modification.)

383 33. *What happens when a Letter of Assurance is not accepted?*

384  
385 The Submitter will be informed by the PatCom Administrator that the Letter of  
386 Assurance was not accepted and why it was not accepted.

387  
388 34. *Do attachments submitted with a Letter of Assurance become a part of the Accepted*  
389 *Letter of Assurance?*

390  
391 Yes. See also questions 51 and 52.

392  
393 35. *Who can enforce an Accepted Letter of Assurance?*

394  
395 Users and implementers may seek to enforce the terms of any Accepted Letter of  
396 Assurance. In certain circumstances and at its sole discretion, the IEEE may also seek  
397 to enforce the terms of an Accepted Letter of Assurance.

398  
399 **Affiliates**

400  
401 36. *Who is an Affiliate?*

402  
403 An Affiliate is an entity that directly or indirectly, through one or more intermediaries,  
404 controls the Submitter or Applicant, is controlled by the Submitter or Applicant, or is  
405 under common control with the Submitter or Applicant. For the purposes of this  
406 definition, the term "control" and its derivatives, with respect to for-profit entities,  
407 means the legal, beneficial, or equitable ownership, directly or indirectly, or more than  
408 fifty percent (50%) of the capital stock (or other ownership interest, if not a  
409 corporation) of an entity ordinarily having voting rights. "Control" and its derivatives,  
410 with respect to nonprofit entities, means the power to elect or appoint more than fifty  
411 percent (50%) of the Board of Directors of an entity. See clause 6.1 of the *IEEE-SA*  
412 *Standards Board Bylaws* available at  
413 <http://standards.ieee.org/develop/policies/bylaws/sect6-7.html#6.1>. For example, the  
414 parent corporation of a Submitter, any brother or sister corporation of the Submitter,  
415 and any Submitter subsidiary in which the Submitter owns more than 50% are  
416 considered Affiliates.

417  
418 37. *Does the Letter of Assurance bind the Submitter's Affiliates?*

419

420 Yes, other than those Affiliates specifically and permissibly excluded in a Letter of  
421 Assurance. Note that a Submitter cannot exclude Affiliates if the Submitter has  
422 indicated Reciprocal Licensing on an Accepted Letter of Assurance.

423

424 **Application of LOA to Successors of Essential Patent Claims Covered by LOA**

425

426 38. *What does the Submitter of an Accepted Letter of Assurance have to do if the*  
427 *Submitter transfers one or more Essential Patent Claims covered by the Letter of*  
428 *Assurance to a third party?*

429

430 The Submitter is required to provide notice of an Accepted Letter of Assurance to any  
431 assignee or transferee of any Essential Patent Claims covered by the Letter of  
432 Assurance. That notice can be provided by notifying the assignee or transferee that the  
433 Essential Patent Claims are subject to an Accepted Letter of Assurance or by a general  
434 statement in the transfer or assignment agreement that the Essential Patent Claims  
435 being transferred or assigned are subject to any encumbrances that may exist as of  
436 the effective date of such agreement.

437

438 In addition, the Submitter shall require that the assignee or transferee agree to  
439 provide the same notice to any subsequent assignees or transferees and require its  
440 subsequent assignees or transferees to do the same.

441

442 39. *Does the Submitter have any responsibility to ensure that its assignees and*  
443 *transferees provide notice of an Accepted Letter of Assurance to subsequent*  
444 *transferees?*

445

446 No. As long as the Submitter provides the required notice to its assignees and  
447 transferees and requires that its assignees and transferees agree to provide the  
448 required notice and bind its assignees and transferees to the same, the Submitter is  
449 not responsible for the actions of any downstream assignees and transferees.

450

451 **Compliant Implementation**

452

453 40. *Why does the definition of Compliant Implementation include the phrase “component,*  
454 *sub-assembly, or end-product”?*

455

456 Compliant Implementation is defined as “...any product (e.g., component, sub-  
457 assembly, or end-product) or service that conforms to any mandatory or optional  
458 portion of a normative clause of an IEEE Standard” to reflect how IEEE standards are  
459 written and how they are implemented in the marketplace. The examples of any  
460 product (“component, sub-assembly, or end-product”) are included for clarity.

461

462 41. *Can a Submitter offer a license to an Essential Patent Claim for use only to conform to*  
463 *the IEEE Standard?*

464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508

Yes. A Submitter’s commitment is to make available licenses “to make, have made, use, sell, offer to sell, or import any Compliant Implementation that implements the Essential Patent Claims for use in conforming with the IEEE Standard.” Therefore, a Submitter may limit its license to cover only implementations that are created for use in conforming with the IEEE Standard. The Submitter is free to offer a license that is broader than what the policy requires but must make available at least the license required under the policy.

42. *Who determines whether a product is a Compliant Implementation?*

Determination of whether a product is a Compliant Implementation is left to implementers, their customers, Submitters, and, if necessary, courts.

**Reasonable Rates**

43. *In discussing Reasonable Rates, what is an example of the value that is excluded in the statement: “...excluding the value, if any, resulting from the inclusion of that Essential Patent Claim’s technology in the IEEE Standard”?*

The IEEE-SA Patent Policy states that a “Reasonable Rate shall mean appropriate compensation to the patent holder for the practice of an Essential Patent Claim excluding the value, if any, resulting from the inclusion of that Essential Patent Claim’s technology in the IEEE Standard.” A Reasonable Rate does not include value arising from the cost or inability of implementers to switch from the Essential Patent Claim’s technology included in the standard.

~~For~~ As a hypothetical example, during the development of a standard, a working group considers alternatives and makes a decision based on many factors. Suppose two and only two alternative technologies are available, both patented and both offering the same performance, implementation cost, and all other qualities. Therefore, the value of the two options is exactly the same, although only one will be selected. Any additional value imputed to the selected option because of its inclusion in the standard is excluded.

The policy does not mean that an Essential Patent Claim covering an invention created solely to enhance an IEEE standard can never have value.

44. *In discussing Reasonable Rates, what is an example of the “value of the relevant functionality of the smallest saleable Compliant Implementation”?*

The smallest saleable Compliant Implementation (e.g., a component, sub-assembly or end-product) that practices an Essential Patent Claim may have multiple functions. For example, if a smallest saleable Compliant Implementation implements IEEE Standard 1284™, RS-232 and USB but the Essential Patent Claim relates only to the

509 circuit's IEEE 1284 parallel port function, then the "relevant functionality" is only that  
510 IEEE 1284 functionality. The parties should consider the value contributed by the  
511 Essential Patent Claim's claimed invention to that relevant functionality.  
512

- 513 45. *In discussing Reasonable Rates, what is an example of a "smallest saleable Compliant*  
514 *Implementation that practices the Essential Patent Claim"?*  
515

516 Determining the smallest saleable Compliant Implementation that practices the  
517 Essential Patent Claim is a function both of the claims in the patent and of the product  
518 or products that implement a standard. For example, assume a component is a  
519 Compliant Implementation of IEEE 802.11™ and practices the Essential Patent Claim.  
520 That component is then used in an entertainment system that is then installed into an  
521 airplane. In this example, the component is the smallest saleable Compliant  
522 Implementation of IEEE 802.11.  
523

- 524 46. *In discussing Reasonable Rates, what is an example of considering "...in light of the*  
525 *value contributed by all Essential Patent Claims for the same IEEE Standard practiced*  
526 *in that Compliant Implementation"?*  
527

528 Many IEEE Standards require the use of multiple Essential Patent Claims to create a  
529 Compliant Implementation. If the value of any given Essential Patent Claim is viewed  
530 in isolation from other Essential Patent Claims, then the resulting determination of  
531 value for that single patent may be inappropriate. For example, suppose a standard  
532 requires implementation of 100 Essential Patent Claims of equal value held by 100  
533 Submitters. If each Submitter were to be entitled to a royalty of 2% of the  
534 implementation's selling price, then the implementation would never be produced  
535 because the total royalties (200% of the implementation's selling price) would exceed  
536 any possible selling price. Therefore, when a Submitter and an implementer are  
537 considering whether a rate would be a Reasonable Rate, the value of all the Essential  
538 Patent Claims should be considered. In practice, the number and value of the  
539 Essential Patent Claims and the structure of requested royalties won't be as simple as  
540 in the example. The values of the various Essential Patent Claims may vary; some, for  
541 example, may have higher value because they cover important functionality, while  
542 others may have a lower value because they address less important functionality.  
543 Moreover, it may not be feasible for the parties or a court to identify literally "all"  
544 Essential Patent Claims. However, at some point, the parties in a negotiation (or a  
545 court in a dispute) can decide that they have sufficient information to make a  
546 determination.  
547

- 548 47. *In discussing Reasonable Rates, what are some examples of an "explicit or implicit*  
549 *threat of a Prohibitive Order"?*  
550

551 A patent holder's request that a court issue a Prohibitive Order against an  
552 implementer, who does not have a license, would be an example of an explicit threat.  
553 A patent holder's reminder to an implementer that a Prohibitive Order might be

554 available if the implementer does not agree to the requested rate would be an example  
555 of an implicit threat.

556  
557 48. *In discussing Reasonable Rates, are other considerations allowable in addition to those*  
558 *listed?*

559  
560 Yes. While the IEEE-SA Patent Policy recommends considerations for use in determining a  
561 Reasonable Rate, the policy does not prevent parties, courts, or other adjudicators from  
562 using additional considerations. For example, the policy recommends consideration of  
563 license agreements obtained without explicit or implicit threat of a Prohibitive Order (and  
564 where the circumstances and resulting license are otherwise sufficiently comparable), but  
565 the policy does not prevent consideration of any other licensing agreements.

566  
567  
568 **Licensing Terms Provided with Letters of Assurance**

569  
570 49. *A Submitter of a Letter of Assurance is permitted to provide a not-to-exceed license*  
571 *fee or rate commitment. What is the purpose of permitting a Submitter to provide a*  
572 *not-to-exceed license fee or rate commitment?*

573  
574 The purpose of the policy is to facilitate the development of standards that will serve  
575 the interests of industry, government, and the public. Relative costs of implementation  
576 for different proposed technical approaches in comparison with the relative technical  
577 performance increases or decreases of those proposals is a legitimate topic for  
578 discussion and a legitimate basis for decision-making in the standards development  
579 process. The policy attempts to inform participants of this option as a possible way to  
580 increase certainty and precision in their understanding of relative costs. See also the  
581 answer to question 52 below.

582  
583 50. *Does the IEEE make a judgment about whether any not-to-exceed rates provided with*  
584 *the Letter of Assurance are reasonable or non-discriminatory?*

585  
586 No. The policy provides a definition of a Reasonable Rate and includes several  
587 recommended considerations. However, IEEE takes no position on, and has no  
588 responsibility for determining, the reasonableness of disclosed royalty rates.

589  
590 51. *Is a Submitter of a Letter of Assurance required to provide a not-to-exceed license fee*  
591 *or rate commitment?*

592  
593 No. The IEEE permits, but does not require, the Submitter to provide not-to-exceed  
594 royalty rates or other terms.

595  
596 52. *Does the IEEE make a judgment about whether any terms provided with the Letter of*  
597 *Assurance are reasonable or non-discriminatory?*

598

599 No. The IEEE is not responsible for determining whether any licensing terms or  
600 conditions provided in connection with submission of a Letter of Assurance, if any, or in  
601 any licensing agreements are reasonable or non-discriminatory. Acceptance of a Letter  
602 of Assurance does not imply that the IEEE has made any determination of the  
603 foregoing. As stated on the LOA form, to the extent there are inconsistencies between  
604 the Letter of Assurance form and any sample licenses, material licensing terms, or not  
605 to exceed rates provided with the LOA form, the terms of clause 6 of the IEEE-SA  
606 Standards Board Bylaws and the Letter of Assurance form shall control.  
607

608 53. *Can a Submitter demand, as a condition of granting a license to an Essential Patent*  
609 *Claim, a license to a prospective licensee's non-essential patent claims?*  
610

611 No. A Submitter cannot, as a condition of granting a license to an Essential Patent  
612 Claim, require a prospective licensee to grant licenses to patent claims that are not  
613 Essential Patent Claims for the referenced IEEE standard. The IEEE-SA Patent Policy,  
614 however, does not prevent parties from mutually and voluntarily agreeing to a cross-  
615 license covering any patents (e.g., a portfolio license).  
616

617 54. *Can a Submitter demand a prospective licensee take a license for the Submitter's non-*  
618 *essential patent claims?*  
619

620 No. A Submitter cannot, as a condition to granting a license to an Essential Patent  
621 Claim, require a prospective licensee to take licenses to patent claims that are not  
622 Essential Patent Claims for the referenced IEEE standard. The IEEE-SA Patent Policy,  
623 however, does not prevent parties from mutually and voluntarily agreeing to a cross-  
624 license covering any patents (e.g., a portfolio license).  
625

## 626 **Prohibitive Orders**

627

628 55. *The definition of Prohibitive Order says that it includes an "adjudicative directive that*  
629 *limits..." Would that include an order from a court that determines the amount of a*  
630 *reasonable royalty?*  
631

632 No. An order that merely determines a past or future royalty is not a Prohibitive  
633 Order.  
634

635 56. *Does the IEEE-SA Patent Policy give a patent holder a right to seek a Prohibitive*  
636 *Order?*  
637

638 No. The policy does not create a right that does not already exist in a specific  
639 jurisdiction. Whether and to what extent a Submitter would have a right to seek a  
640 Prohibitive Order depends on the law of each specific jurisdiction. An Accepted Letter  
641 of Assurance defines the circumstances in which the Submitter has voluntarily agreed  
642 not to seek or seek to enforce a Prohibitive Order, even if otherwise permitted in a  
643 specific jurisdiction.

644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684

57. *Does the IEEE-SA Patent Policy prevent an implementer from raising issues of patent validity, patent infringement, or any other claims or defenses against the Submitter or change the requirements for that litigation?*

No. The policy does not prevent the parties from litigating those issues, and it does not change any jurisdiction's rules on allocating burdens of proof or production of evidence.

58. *Why does the IEEE-SA Patent Policy text on Prohibitive Orders use the phrase "... by one or more courts..."?*

In some jurisdictions, a single court does not have the authority to decide all issues. For example, a jurisdiction may empower one court to determine patent validity but another court to determine infringement or compensation. The policy was drafted so that it could apply in such a jurisdiction.

59. *What is a first-level appellate review?*

A first-level appellate review is a proceeding conducted by a court at the next-higher judicial level (e.g., a court of appeals or a court of second instance) to review the adjudication of the next-lower body (e.g., a trial court or a court of first instance).

60. *What are some examples that constitute a failure "to participate in, or to comply with the outcome of, an adjudication"?*

A failure to participate in an adjudication occurs, for example, when the prospective licensee is not subject to the jurisdiction of the court(s) with the power to determine and award reasonable compensation to the Patent Holder and does not voluntarily submit to such jurisdiction. Failing to comply occurs, for example, when the prospective licensee refuses to pay past or future royalties as determined in an adjudication as described in the policy.

61. *What should a Submitter do if it faces an unwilling licensee?*

Whether a party is willing or unwilling is a matter of perspective, and the IEEE does not make any determinations of "willing" or "unwilling". A Submitter who is dissatisfied with the progress of negotiations is not prevented, by its voluntary submission of a Letter of Assurance under the IEEE-SA patent policy, from commencing litigation.



**Working Groups and LOAs**

62. *Can copies of Accepted Letters of Assurance be handed out at a standards development meeting?*

Yes. A participant may provide an Accepted Letter of Assurance to other participants by handing out paper copies of an Accepted Letter of Assurance (including a copy of the sample license or material licensing terms, if provided as part of the Letter of Assurance) or a data file with an image of the Accepted Letter of Assurance as it resides on the IEEE web site.

63. *Can the link to the IEEE web site for an Accepted Letter of Assurance be provided?*

Providing or displaying the IEEE URL for an Accepted Letter of Assurance is also acceptable.

64. *Can the actual Accepted Letter of Assurance be displayed on a screen?*

Yes, but ~~displaying the LOA~~ is not recommended ~~because doing so.~~ ~~The Letter of Assurance consists of multiple pages of often very small type. Therefore, the display is not going to be legible except in the smallest of rooms. The lack of legibility~~ may lead to impermissible questions or discussion. Nevertheless, displaying the Accepted Letter of Assurance as it resides on the IEEE web site is not a violation of the IEEE-SA Patent Policy provided a participant does not read aloud, present, or answer questions about the displayed Letter of Assurance. [See also FAQ 69.](#)

65. *Can a Working Group chair provide participants with a list of requested LOAs?*

Yes. The Working Group chair should maintain a list of the requests that the chair (or his/her designee) has made and the date of each request. The chair may make this information available to participants in the working group and should make it available to participants upon request.

66. *How does a participant know if ~~IEEE has requested~~ a Letter of Assurance has been requested from a particular company?*

A participant may ask the Working Group chair ~~for this information~~ whether he or she has requested an LOA from that company. Accepted Letters of Assurance are available on the IEEE's web site.

67. *Can a working group discuss the absence of a requested Letter of Assurance?*

The working group should not discuss the reasons for the absence of an LOA. The chair

728 or a working group participant may state whether there is or is not an Accepted Letter  
729 of Assurance in response to the request.

730

731 68. *Can a participant make a presentation or answer questions about the not-to-exceed*  
732 *license fee or rate, material licensing terms, or sample license agreement?*

733

734 No, except that using one or more not-to-exceed rates as components in a  
735 presentation comparing relative costs is acceptable. Further information can be found  
736 in [Promoting Competition and Innovation: What You Need to Know about the IEEE](#)  
737 [Standards Association's Antitrust and Competition Policy](#).

738

739 69. *What can standards development groups discuss about Letters of Assurance or*  
740 *submitted license terms?*

741

742 | Nothing. Note, however, that -Accepted Letters of Assurance may be distributed as  
743 described in question 62. In addition, using one or more not-to-exceed rates as  
744 components in a presentation comparing relative costs is acceptable. Further  
745 information can be found in [Promoting Competition and Innovation: What You Need to](#)  
746 [Know about the IEEE Standards Association's Antitrust and Competition Policy](#).

747

748 70. *Doesn't it make sense to discuss license terms as part of an overall evaluation of a*  
749 *proposed technology?*

750

751 IEEE-SA standards development meetings consist primarily of engineers who are there  
752 primarily to discuss the technical merits of competing solutions. Some knowledge of  
753 relative cost is entirely appropriate, and the policy provides for exactly that. But  
754 licensing issues can be complex and involve not just technical issues but legal and  
755 business issues as well, and those discussions can require a different set of people  
756 than are present for the technical meetings.

757

758 71. *What do I do if the standards development group launches into a discussion of patent*  
759 *licensing terms?*

760

761 A participant should object to, and a Working Group chair shall close down, any  
762 discussion that is not permitted under IEEE-SA policies.

763

764 72. *What should the chair do if a participant wants to modify the terms of an Accepted*  
765 *Letter of Assurance during the meeting?*

766

767 An Accepted Letter of Assurance cannot be modified, either in the meeting or  
768 elsewhere. Anyone who wishes to submit an additional Letter of Assurance may do so  
769 (although any previous Accepted Letters of Assurance will continue to be available).  
770 The chair should instruct the individual to submit a new Letter of Assurance as  
771 provided in the [IEEE-SA Standards Board Operations Manual](#). See also response to  
772 question 78.

773

774 73. *What about conversations in the hallway? Can participants discuss the particulars of*  
775 *license terms there?*

776

777 The IEEE-SA regulates what goes on in forums that the IEEE-SA provides, such as  
778 meeting rooms and email reflectors. The IEEE-SA has no ability to regulate purely  
779 private conduct of its participants. There are some topics that participants should not  
780 discuss regardless of where they are (such as prices that each of them as competitors  
781 will charge for compliant products). There are other topics that participants shall not  
782 discuss in IEEE-SA forums and shall not discuss in immediately adjacent spaces that  
783 might reasonably lead outside observers to believe it is just a continuation of the  
784 formal meeting. Further information can be found in [Promoting Competition and](#)  
785 [Innovation: What You Need to Know about the IEEE Standards Association's Antitrust](#)  
786 [and Competition Policy](#). Please also see IEEE-SA Standards Board Operations Manual  
787 5.3.10.

788

789 74. *If a Letter of Assurance is submitted without the Submitter having exercised the option*  
790 *of providing a not-to-exceed license fee or rate commitment or other license terms, is*  
791 *it okay for a Working Group participant to request or encourage the Submitter to file*  
792 *an additional Letter of Assurance to provide that information?*

793

794 No. Although relative cost comparisons can certainly note the absence of cost  
795 information, participants shall not request license fees, terms, or conditions during  
796 technical standards-development meetings or in other IEEE-SA forums for technical  
797 discussions (such as email reflectors).

798

799 75. *What can be discussed about patents in a standards development group meeting or in*  
800 *an IEEE-SA email reflector?*

801

802 You can discuss the technical merits of using the technology included even if it is  
803 included within a potential Essential Patent Claim. You can discuss and compare the  
804 relative costs of technology claimed in potential Essential Patent Claims. You must not  
805 discuss subjects such as how a patent should be licensed, or essentiality, validity, or  
806 interpretation of a patent claim. These are not appropriate topics for discussion in a  
807 standards development committee. Further information can be found in [What You](#)  
808 [Need to Know About IEEE Standards and the Law](#). Please also see IEEE-SA Standards  
809 Board Operations Manual 5.3.10.

810

811 76. *Can someone submit a different Letter of Assurance for different Essential Patent*  
812 *Claims within the same standard?*

813

814 Yes. A Submitter may submit separate Letters of Assurance providing its licensing  
815 positions for different potential Essential Patent Claims.

816

817 77. *If a person submits a Letter of Assurance but doesn't identify a specific Essential*  
818 *Patent Claim covered by the Letter of Assurance, are the assurances binding on all of*  
819 *the Essential Patent Claims on the same IEEE Standard owned by the Submitter?*  
820

821 Yes, except for any Essential Patent Claims identified in a previously or simultaneously  
822 submitted Accepted Letter of Assurance for the same IEEE Standard. See also  
823 question 83.  
824

825 78. *Can a Submitter change the terms of the assurance it has given after an LOA has been*  
826 *accepted by the IEEE? For example, what if the Submitter decided to lower the not-to-*  
827 *exceed price it would offer to license for an Essential Patent Claim?*  
828

829 A Letter of Assurance is irrevocable once submitted and accepted and shall apply, at a  
830 minimum, from the date of the standard's approval to the date of the standard's  
831 transfer to inactive status. Thus, a Submitter cannot change the terms of an Accepted  
832 Letter of Assurance for a particular Essential Patent Claim once it is accepted.  
833 However, over time, a Submitter may provide multiple assurances for a given Essential  
834 Patent Claim by submitting multiple Letters of Assurance for such claim, each of which  
835 shall be binding on the Submitter. Each potential licensee may choose to invoke the  
836 terms of any applicable Letter of Assurance accepted by the IEEE. Thus, the Submitter  
837 desiring to lower the not-to-exceed price that it would offer for licensing its Essential  
838 Patent Claim can submit an additional Letter of Assurance with the revised not-to-  
839 exceed price and each potential licensee may choose to invoke the terms of either  
840 Letter of Assurance.  
841

## 842 **Reciprocal Licensing**

843

844 79. *Many IEEE Standards have amendments and corrigenda and are revised every ten*  
845 *years. How does the selection of Reciprocal Licensing work in these situations?*  
846

847 Reciprocity is based on licensing Essential Patent Claims "for the referenced IEEE  
848 Standard, including any amendments, corrigenda, editions, and revisions." If a  
849 Submitter checks the box selecting Reciprocal Licensing, the scope of that Reciprocal  
850 Licensing for both the Submitter and the Applicant is the entire IEEE Standard. Please  
851 also note section 6.3.5 of the IEEE-SA Standards Board Operations Manual,  
852 *Applicability of Letters of Assurance to Amendments, Corrigenda, Editions, or*  
853 *Revisions*. See also questions 14 and 15.  
854

855 80. *Can a Submitter select Reciprocal Licensing while excluding specific Essential Patent*  
856 *Claims from its licensing commitment?*  
857

858 No. When a Submitter checks the Reciprocal Licensing box, neither the Submitter nor  
859 the Applicant can exclude from its licensing commitment to the other party any  
860 Essential Patent Claims for the referenced IEEE standard.  
861

862 81. *Why can't a Submitter exclude its Affiliates when demanding Reciprocal Licensing?*

863

864 In situations similar to those described in question 80 above, Essential Patent Claims  
865 might not be available for licensing if they are owned by an excluded Affiliate. Since  
866 the Applicant has no ability to exclude any Affiliate or any Essential Patent Claims held  
867 by such Affiliate, the same limitation must be applied to the Submitter.

868

869 **Blanket Letter of Assurance**

870

871 82. *What is a "Blanket Letter of Assurance"?*

872

873 A Blanket Letter of Assurance is a Letter of Assurance referencing a standard or project  
874 that applies to all Essential Patent Claims for which a Submitter may currently or in the  
875 future (except as otherwise provided for in the [IEEE-SA Standards Board Bylaws](#) and in  
876 the [IEEE-SA Standards Board Operations Manual](#)) have the ability to license. This is  
877 defined in clause 6.1 of the IEEE-SA Standards Board Bylaws available at  
878 <http://standards.ieee.org/develop/policies/bylaws/sect6-7.html#6.1>.

879

880 83. *What happens if the Submitter submits a Blanket Letter of Assurance after previously*  
881 *offering a specific Letter of Assurance?*

882

883 If a Submitter has signed and submitted a Letter of Assurance specifically identifying  
884 an Essential Patent Claim before or concurrently with signing and submitting a Blanket  
885 Letter of Assurance, the Blanket Letter of Assurance cannot be invoked as to the  
886 specified Patent Claim.

887

888 84. *Does a Blanket Letter of Assurance apply to Essential Patent Claims that my company*  
889 *acquires after submitting the Letter of Assurance?*

890

891 Yes, unless the acquired entity or the prior holder of the acquired Essential Patent  
892 Claim has submitted a Letter of Assurance before the acquisition. Any Blanket Letter of  
893 Assurance submitted by the acquired entity or the prior holder of the acquired  
894 Essential Patent Claim before the acquisition, shall continue to apply to acquired  
895 Essential Patent Claims covered by such assurance (but not to the acquirer's Essential  
896 Patent Claims). An acquiring party can ask a seller of an acquired Essential Patent  
897 Claim or an acquired entity to submit additional Letters of Assurance before closing of  
898 the acquisition. See IEEE-SA Standards Board Operations Manual clause 6.3.4.

899

900 **Implementation of updated IEEE-SA Patent Policy**

901

902 85. *What is the effective date of the updated IEEE-SA Patent Policy?*

903

904 The effective date of the updated IEEE-SA Patent Policy set forth in the [IEEE-SA](#)  
905 [Standards Board Bylaws](#) and [IEEE-SA Standards Board Operations Manual](#) is 1 January  
906 2015.

907

908 86. *Will the updated IEEE-SA Patent Policy apply to existing standards development*  
909 *projects currently underway as well as new standards development projects?*

910

911 The updated policy will apply to any LOAs (for any project or standard) submitted on  
912 or after the effective date. See also question 85.

913

### 914 **Essential Patent Claims during Ballot Resolution**

915

916 87. *During ballot resolution, what should be the response to a comment regarding the lack*  
917 *of an LOA?*

918

919 If an LOA has not been requested from the indicated holder of a potential Essential  
920 Patent Claim, the process for requesting an LOA should be followed (See [6.3.2 Call for](#)  
921 [patents](#) in the [IEEE-SA Standards Board Operations Manual](#)).

922

923 Furthermore, the IEEE is not responsible for the following, and the comment response  
924 should so state:

925

- 926 – Identifying Essential Patent Claims for which a license may be required
- 927 – Determining the validity, essentiality, or interpretation of Patent Claims;
- 928 – Determining whether any licensing terms or conditions provided in connection  
929 with submission of a Letter of Assurance, if any, or in any licensing agreements  
are reasonable or non-discriminatory;
- 930 – Determining whether an implementation is a Compliant Implementation.

931

932 (Taken from the subclause 6.2 *Policy* of the IEEE-SA Standards Board Bylaws)

933

934 and that no discussions or other communications regarding the

935

- 936 – Essentiality of patent claims
- 937 – Interpretation of patent claims
- 938 – Validity of patent claims

939

940 shall occur during IEEE-SA working group standards-development meetings or other  
941 duly authorized IEEE-SA standards-development technical activities.

942

943 (Note: This is not a complete list of the items for non-discussion. Adapted from  
944 [5.3.10.2 Discussion of litigation, patents, and licensing](#) of the IEEE-SA Standards Board  
945 Operations Manual).