
**IEEE P802.11
Wireless LANs**

Patent related excerpts from IEEE Companion

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Author: Vic Hayes
AT&T WCND Utrecht
Zadelstede 1-10
3431 JZ Nieuwegein, the Netherlands
Phone: +31 3402 97528
Fax: +31 3402 97555
e-Mail: vic.hayes@utrecht.attgis.com

Abstract

The IEEE Standards Department is in the process of publishing a new guide for developing standards. I asked for, and received, the relevant parts on patents.

Proposal

1. In view of the schedule of our standards process, I propose to send the required letter to our mailing list with a request to forward the letter to their Corporate function for Intellectual Property, and to whoever our members advise me to send the letter to.
2. To request the various subgroups to collect the required argumentation to adopt patented material in the standard.

Excerpts from the IEEE Companion**Patents**

Patents can be a daunting subject, and caution is urged because of some of the legal situations that have arisen concerning them. For instance, standards developers have been held liable in cases where the balloting group was "packed" by certain manufacturers at the expense of others, or where a working group interpreted a standard in a manner that restricted a new company's ability to enter the field. You want to avoid this appearance at all costs.

You should pay attention to issues concerning patented material throughout your standard's development process. If you do choose to include patented material, it's essential that you create a document explaining the technical reasons for including the patented material, along with identifying alternative technologies that would achieve the same end, with their advantages and disadvantages. You should explain what the advantages are of the patented technology you've selected as well, if it satisfies a public need, and if it excludes any portion of your industry from meaningful competition. This document, which should show who the proponents of the patented technology are and what interest they may have in the standard adopting that technology, must be filed at the IEEE.

Within the working group, you should announce the patent policy periodically for any new members (for instance, every six months), and members should know that they need to disclose any patent issues that they know of. If the working group does discover patents involved with their standards project, the chair should contact the patent holder to determine if the patent holder will follow the IEEE Standards patent policy as outlined in the IEEE Standards Board Bylaws. If the patent holder is willing, the chair should obtain a letter stating this and place it on file with the IEEE Standards Department. The release letter does not need to include patent numbers, but it should cover patents pending as well as granted.

You aren't responsible for patent searches or determining the validity of the patent. Your working group also should not become involved in determining a reasonable fee for use of the patent or any other condition that the patent holder may impose. If you do find yourself involved in a patent issue, remember that your IEEE Standards Staff Liaison is available for assistance. The IEEE Standards Board Patent Committee can be used for guidance as well.

Patent request letter

(date)

To Whom It May Concern:

The IEEE (name of working group) working group is in the process of developing a standard, IEEE Pnnn (name of standard/recommended practice/guide), that utilizes (technology using the patent). As such, there is the possibility that this standard may be covered by patents or patents pending that (company) holds.

The IEEE patent policy requires a release letter such as the one attached. I would appreciate it very much if your patent department would provide such a letter.

Thank you for your assistance in this matter.

Sincerely,

Gary R. Chair, Chair

Attachments:

Patent permission letter

Patent response letter

(date)

Dear Gary R. Chair:

This letter is written in response to your letter of (date), which requested that (company) confirm to the IEEE that we will provide licenses under our US Patent # or US Patent Pending # with respect to the proposed IEEE Pnnn standard.

In that regard:

In the event the proposed standard is adopted and the standard cannot be practiced without the use of the patent referenced above, (company) agrees upon written request to grant a nonexclusive license under such patent on a nondiscriminatory basis and on reasonable terms and conditions including its then-current royalty rates.

This letter does not grant any right to the IEEE with respect to (company) copyrights or other intellectual property rights that relate to the proposed standard. Any party interested in the license described above may write to (name of contact person) at the address on the letterhead.

Sincerely,

Jane Q. Company
(company)