

Frequently Asked Questions and Answers

1. What is the effective date of the new patent policy?

The effective date of the new patent policy set forth in the IEEE-SA Bylaws, Operations Manual and form Letter of Assurance is 30 April 2007.

2. Will the new policy apply to existing standards development projects currently underway as well as new standards development projects?

As has long been the practice for all IEEE-SA Bylaws and Operations Manual changes, changes to policy will go into effect for all Working Groups at the same time. This is usually 1 January of each year but the IEEE-SA Board of Governors set the effective date of these changes to be 30 April 2007. Of course, any Letters of Assurance for a Standard/Project Number received before 30 April 2007 are honored, i.e., there is no need for a Working Group Chair to request a Letter of Assurance on the new form from a holder of a potentially Essential Patent Claim if the holder has already submitted an accepted Letter of Assurance.

3. Can a participant provide a not-to-exceed license fee or rate commitment after 30 April 2007 for a Letter of Assurance that was submitted to the IEEE-SA prior to 30 April 2007?

Letters of Assurance are irrevocable once submitted and accepted. However, after 30 April 2007, a holder that has already submitted an accepted Letter of Assurance may submit a subsequent letter on the new Letter of Assurance form if it wants to update the information on the previously submitted Letter of Assurance. In such a case, a potential licensee would have the right to invoke the terms of either Letter of Assurance. See also answer to question #40.

4. What is a Letter of Assurance?

In general, a letter of assurance is a document stating a Submitter's intention with respect to ownership, enforcement or licensing of an Essential Patent Claim that may be incorporated into a specifically referenced IEEE Standard. The specific requirements for an IEEE Letter of Assurance are defined in clause 6.1 of the IEEE-SA Standards Board Bylaws available at <http://standards.ieee.org/guides/bylaws/sect6-7.html#6>.

5. What is an Essential Patent Claim?

The IEEE patent policy addresses use of Essential Patent Claims. 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 create a compliant implementation of either mandatory or optional portions of the normative clauses of the [Proposed] IEEE Standard when, at the time of the [Proposed] IEEE Standard's approval, there was no commercially and technically feasible non-infringing alternative. 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 available at
<http://standards.ieee.org/guides/bylaws/sect6-7.html#6>.

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

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

7. *How often should a Working Group Chair issue a call for potentially Essential Patent Claims?*

A Working Group Chair or his or her designee shall issue the call at every Working Group meeting. If the Working Group does not meet face to face or telephonically, the Working Group should be issued a call via e-mail or letter on a regular basis. It is strongly recommended that the IEEE Patent Committee-developed slide set be used. These slides are available from <http://standards.ieee.org/board/pat/pat-slideset.ppt>. Note a call for patents has to be made at every standards developing meeting. This includes, but is not limited to, working group, task force and study group meetings

8. *Who should submit a Letter of Assurance?*

The IEEE will request licensing assurance on the IEEE Standards Board approved Letter of Assurance form from any person upon being notified that a [Proposed] IEEE Standard may require the use of a potential Essential Patent Claim. Although the IEEE encourages any person receiving a request for assurance to submit the Letter of Assurance, the IEEE may not use any coercion in requesting the assurance. This means the IEEE cannot require that a person submit a Letter of Assurance or provide a particular assurance with respect to ownership, enforcement or licensing of an Essential Patent Claim in order to participate in an IEEE standards development activity.

Additionally, a submitter of a Letter of Assurance is required to submit a Letter of Assurance if, after providing a Letter of Assurance to the IEEE, the submitter of the Letter of Assurance becomes aware of additional Patent Claim(s) not already covered by an existing Letter of Assurance as further described in the answer to question #14. Anyone who believes that he, she, or it holds a potentially Essential Patent Claim is encouraged to submit a Letter of Assurance, even if not specifically requested to do so.

9. *Who should sign a Letter of Assurance?*

The Letter of Assurance should be signed by a person who has the authority to bind the Submitter and all Affiliates (other than those Affiliates excluded on the letter) to the representations and commitments provided in the Letter of Assurance. Unless the Letter of Assurance is received from an individual who has clear authority for intellectual property and legal matters, the IEEE Patent Committee administrator will send a certified letter, return receipt requested, to the General Counsel or other appropriate representative of the Submitter

1 to confirm receipt of the Letter of Assurance and to ensure that the Letter of Assurance was
2 submitted by an appropriate individual.

3 10. *When does the IEEE send out a request for a Letter of Assurance?*

4
5 The Working Group Chair or, where appropriate, the Sponsor Chair will send out a request
6 for a Letter of Assurance whenever the Chair is notified, at any time and by any means, that
7 the [Proposed] IEEE Standard may require the use of a potentially Essential Patent Claim.

8 11. *What obligation do participants have to notify the IEEE if they own or their employer owns*
9 *potentially Essential Patent Claims incorporated by a [Proposed] IEEE Standard? What if*
10 *they are uncertain whether a Patent Claim they own or their employer owns is essential?*

11
12 Participants and any other recipients of a call for patents are required to notify the IEEE of
13 the identity of a holder of any potentially Essential Patent Claims (but not the identity of the
14 Essential Patent Claim) where (1) the participant or other recipient is personally aware that
15 the holder may have a potentially Essential Patent Claim; and (2) the holder is the participant
16 or an entity the participant is from, employed by or otherwise represents. If such a
17 participant is uncertain whether the patent is essential, the participant still must notify the
18 IEEE (or cause the IEEE to be notified) of the possibility because they are personally aware
19 of a claim that is a *potentially* Essential Patent Claim.

20 12. *How does a participant notify the IEEE (or cause the IEEE to be notified) of the identity of a*
21 *holder of a potentially Essential Patent Claim incorporated by a [Proposed] IEEE Standard?*
22 *Does the participant need to identify the Essential Patent Claim specifically?*

23 A participant can tell the Working Group Chair that his or her employer is the holder of a
24 potentially Essential Patent Claim. Alternatively, the participant can request that his or her
25 employer submit a Letter of Assurance or otherwise notify the IEEE that it is the holder of a
26 potentially Essential Patent Claim. In that case, the participant fulfills his or her duty to the
27 IEEE only if his or her employer submits a Letter of Assurance or otherwise notifies the
28 IEEE that it is the holder of a potentially Essential Patent Claim. If the employer declines to
29 submit a Letter of Assurance or otherwise notify the IEEE, the participant will have to tell
30 the Working Group Chair that his or her employer is the holder of a potentially Essential
31 Patent Claim. In all cases the duty on the participant is only to inform the IEEE of the
32 identity of the holder of a potentially Essential Patent Claim and not the identity of the claim
33 itself.

34 13. *What obligation do participants have to notify the IEEE if they believe that a third party*
35 *owns potentially Essential Patent Claims covered by a [Proposed] IEEE standard? For*
36 *these purposes, “third party” means a person other than the participant or an entity the*
37 *participant is from, employed by, or otherwise represents.*

38
39 Participants and any other recipients of a call for patents should notify the IEEE that they are
40 aware of a potentially Essential Patent Claim held by a third party. The IEEE strongly
41 encourages participants to provide such notice and expects that they will normally do so.

14. *What duty does a Submitter have to provide an additional assurance if it becomes aware of additional Essential Patent Claims not already covered by an existing Letter of Assurance?*

As further described in Section 6.2 of the Bylaws, the Submitter of a Letter of Assurance is required to submit a Letter of Assurance if, after providing a Letter of Assurance to the IEEE, the Submitter of the Letter of Assurance becomes aware of additional Patent Claim(s) not already covered by an existing Letter of Assurance that are owned, controlled, or licensable by the Submitter that may be or may become Essential Patent Claim(s) for the same IEEE Standard but are not the subject of an existing Letter of Assurance. The Submitter is deemed to be “aware” if any of the following individuals who are from, employed by, or otherwise represent the Submitter have personal knowledge of additional potential Essential Patent Claims owned or controlled by the Submitter, related to a [Proposed] IEEE Standard and not already the subject of a previously submitted Letter of Assurance: (a) past or present participants in the development of the [Proposed] IEEE Standard; or (b) the individual executing the previously submitted Letter of Assurance.

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

As noted in the answer to question #11, a participant only needs to notify the IEEE of a potential Essential Patent Claim if such member is “personally aware” that his or her employer has a potential Essential Patent Claim. However, the IEEE encourages each participant to ask his or her employer whether it has a potential Essential Patent Claim.

16. *How much due diligence does a participant’s employer need to do to determine whether it has any potentially Essential Patent Claims when it receives a request from the IEEE for a letter of assurance? Specifically,*

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

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

(b) *Does the employer need to talk to every person participating in the Working Group?*

If the employer receives a request for a Letter of Assurance and wants to indicate that it is not aware of any Patent Claims that the employer may own, control, or have the ability to license that might be or become Essential Patent Claims, the employer must first do a Reasonable and Good Faith Inquiry to determine the existence of any such Patent Claims. As described in clause 6.1 of the Bylaws, a “Reasonable and Good Faith Inquiry” includes, but is not limited to, the employer using reasonable efforts to identify and contact those individuals who are from, employed by or otherwise represent the employer and who are known to the employer to be current or past participants in the development process of the [Proposed] IEEE Standard identified in the Letter of Assurance, including, but not limited to, participation in a Sponsor Ballot or Working Group. If the Submitter did not or does not have any participants, then a “Reasonable and Good Faith Inquiry” may include, but is not

limited to, the Submitter using reasonable efforts to contact individuals who are from, employed by, or represent the Submitter and who the Submitter believes are most likely to have knowledge about the technology covered by the [Proposed] IEEE Standard. As an aside, an employer only needs to engage in a Reasonable and Good Faith Inquiry if wants to indicate that it is not aware of any Patent Claims that the employer may own, control, or have the ability to license that might be or become Essential Patent Claims. IEEE-SA Standards Board Bylaws available at <http://standards.ieee.org/guides/bylaws/sect6-7.html#6>.

17. *Does the IEEE determine whether a patent is essential when seeking an assurance?*

No.

18. *Does the IEEE patent policy require participants or their employers to make an assurance or submit a Letter of Assurance?*

No. Submission of a Letter of Assurance is not a precondition to participation. Participants do have duties, however, to inform the IEEE of the identity of a holder of potential Essential Patent Claims as further described in the answers to questions #11 and #13.

19. *Is the IEEE's patent policy a "disclosure" policy?*

No. The IEEE's patent policy is a policy of assurance, not disclosure as further described in these frequently asked questions.

20. *How do I find out if a particular company has submitted a Letter of Assurance?*

Accepted Letter of Assurances are listed on the IEEE-SA's web site at <http://standards.ieee.org/board/pat/pat-material.html>. Letters of Assurance accepted after 1 January 2007 will be posted on the website as they are received and Letters of Assurance received prior to that date will be posted over time.

21. *Can an individual participate in standards development activities if his or her employer is unwilling to submit a Letter of Assurance once requested or provide the assurance indicated in the patent policy in a Letter of Assurance?*

Yes. As long as the participant complies with the requirement that he or she notify the IEEE that his or her employer is the holder of a potentially Essential Patent Claim if the participant is personally aware that his or her employer is such a holder, the individual can continue to participate in standards development activities. As noted to the answer to question #12, in the alternative, the participant can request that his or her employer submit a Letter of Assurance or otherwise notify the IEEE. However, if the employer declines to submit a Letter of Assurance or otherwise notify the IEEE, the participant is required to tell the Working Group Chair that his or her employer is the holder of a potentially Essential Patent Claim.

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

If the IEEE is aware of a potentially Essential Patent Claim and no corresponding Letter of Assurance has been received, the matter will be referred to the IEEE Patent Committee.

23. *At what point should the Letter of Assurance be submitted?*

The IEEE encourages the submission of a Letter of Assurance as soon as reasonably feasible in the standards development process.

24. *Who can enforce the Letter of Assurance?*

Users and implementers may seek to enforce the terms of any accepted Letter of Assurance. In certain circumstances and at its sole discretion, the IEEE may also seek to enforce its terms.

25. *Can the Letter of Assurance form be modified?*

No. Use of the standard-form Letter of Assurance is now mandatory. Completing the form is not considered a modification.

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

Accepted Letters of Assurance can be found on the IEEE-SA's web site at <http://standards.ieee.org/board/pat/pat-material.html>.

27. *Who is an Affiliate?*

An Affiliate is an entity that directly or indirectly, through one or more intermediaries controls the Submitter, is controlled by the Submitter, or is under common control with the Submitter. For the purposes of this definition, the term "control" and its derivatives, with respect to for-profit entities, means the legal, beneficial or equitable ownership, directly or indirectly, or more than fifty percent (50%) of the capital stock (or other ownership interest, if not a corporation) of an entity ordinarily having voting rights. "Control" and its derivatives, with respect to nonprofit entities, means the power to elect or appoint more than fifty percent (50%) of the Board of Directors of an entity. See clause 6.1 of the IEEE-SA Standards Board Bylaws available at <http://standards.ieee.org/guides/bylaws/sect6-7.html#6>. For example, the parent corporation of a Submitter, any brother or sister corporation of the Submitter and any Submitter subsidiary in which the Submitter owns more than 50% are considered Affiliates.

28. *Does the Letter of Assurance bind Affiliates?*

Yes, other than those Affiliates explicitly excluded in a Letter of Assurance.

29. *What does the Submitter of a Letter of Assurance have to do if the Submitter transfers one or more Essential Patent Claims covered by the Letter of Assurance to a third party?*

The Submitter of a Letter of Assurance is required to provide notice of the Letter of Assurance to any assignee or transferee of any Essential Patent Claims covered by the Letter of Assurance. That notice can be provided by notifying the assignee or transferee that the Essential Patent Claims are subject to an accepted Letter of Assurance or by a general statement in the transfer or assignment agreement that the Essential Patent Claims being transferred or assigned are subject to any encumbrances that may exist as of the effective date or such agreement. For example, a Submitter could include a provision like the following in its purchase agreement:

“One or more of the assets being transferred are subject to encumbrances that may exist as of the Effective Date of the Purchase Agreement.”

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

Hypothetical. Company A submits a Letter of Assurance for an Essential Patent Claim for IEEE Standard X which is accepted by the IEEE-SA. Two years after submitting the Letter of Assurance, Company A sells all of its assets to Company B, including the Essential Patent Claim. Three years later, Company B sells the Essential Patent Claim to Company C. Subsequently, Company C sells the Essential Patent Claim to Company D but does not provide the required notice to Company D.

(a) Company A’s Obligations

Company A can fulfill its obligations to the IEEE-SA one of two ways:

- ✓ Company A can notify Company B that the Essential Patent Claim is subject to an accepted Letter of Assurance; or
- ✓ Company A can provide a statement in its purchase agreement with Company B that one or more of the assets being transferred may be subject to any encumbrances that may exist as of the effective date of such agreement.

Regardless of which path it takes, Company A also must require that Company B agree to provide the same notice to its assignees or transferees and to bind those assignees or transferees to provide the same notice.

(b) Company B’s Obligations

Company B can fulfill its obligations to the IEEE-SA one of two ways:

- ✓ Company B can notify Company C that the Essential Patent Claim is subject to an accepted Letter of Assurance; or

- 1 ✓ Company B can provide a statement in its purchase agreement with Company C that one
2 or more of the assets being transferred may be subject to any encumbrances that may
3 exist as of the effective date of such agreement.

4 Regardless of which path it takes, Company B also must require that Company C agree to
5 provide the same notice to its assignees or transferees and to bind those assignees or
6 transferees to provide the same notice.

7 (c) Company C's Obligations

8 Company C must agree to provide the same notice to its assignees or transferees and to bind
9 those assignees or transferees to provide the same notice as described in (a) and (b) above. In
10 this case, Company C did not provide the required notice to Company D in breach of its
11 agreement with Company B. However, as long as Company B required that Company C
12 provide the required notice to Company D, Company B has fulfilled its commitment under
13 the Letter of Assurance. Although Company B may decide not seek to enforce its agreement
14 with Company C, users and implementers could seek enforcement of the terms of the Letter
15 of Assurance.

16 30. *If a Submitter transfers one or more Essential Patent Claims that may be covered by a Letter*
17 *of Assurance, what commitment does it need to get from the transferee regarding the Letter*
18 *of Assurance?*

19 See answer to question #29.

20 31. *Does the Submitter have any responsibility to ensure that its assignees and transferees*
21 *provide notice of the Letter of Assurance to subsequent transferees?*

22 No. As long as the Submitter provides the required notice to its assignees and transferee and
23 requires that its assignees and transferees provide the required notice and bind its assignees
24 and transferees to the same, the Submitter is not responsible for the actions of any
25 downstream assignees and transferees.

26 32. *Under the new policy, a Submitter of a Letter of Assurance is permitted to provide a not-to-*
27 *exceed license fee or rate commitment. What is the purpose of permitting a Submitter to*
28 *provide a not-to-exceed license fee or rate commitment?*

29 The purpose of the policy is to facilitate the development of standards that will serve the
30 interests of industry, the government, and the public. Relative costs of implementation for
31 different proposed technical approaches in comparison with the relative technical
32 performance increases or decreases of those proposals is a legitimate topic for discussion and
33 a legitimate basis for decision-making in the standards development process. The new policy
34 permits participants to have greater certainty and precision in their understanding of relative
35 costs.

36 33. *Is a Submitter of a Letter of Assurance required to provide a not-to-exceed license fee or rate*
37 *commitment?*

No. Disclosure of not-to-exceed royalty rates or other terms is optional.

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

No. The IEEE is not responsible for identifying Essential Patent Claims for which a license may be required, for conducting inquiries into the legal validity or scope of those Essential Patent Claims, or for determining whether any licensing terms or conditions are reasonable or non-discriminatory. Acceptance of a Letter of Assurance does not imply that the IEEE has made any determination of the reasonableness of the foregoing.

35. *What is the meaning of "reasonable rates" and "reasonable terms and conditions"?*

As noted in the answer to question #34, the IEEE-SA takes no position on, and has no responsibility for determining, the reasonableness of disclosed royalty rates or other licensing terms and conditions. The IEEE-SA's Acceptance of a Letter of Assurance does not imply any finding that the disclosed not-to-exceed terms are or are not reasonable. The IEEE-SA's approval of a standard does not imply any finding (in the case of a standard for which not-to-exceed terms have been disclosed) that such terms are or are not reasonable or any finding (in the case of a standard for which not-to-exceed terms were not disclosed) that reasonable terms would be greater or lesser than the disclosed maximum terms (if any) for any other technology.

36. *The new policy says that "copies of an Accepted Letter of Assurance may be provided to the Working Group, but shall not be discussed, at any standards Working Group meeting".*

a) *Can copies of accepted Letter of Assurances be handed out at a standards development meeting?*

Yes. Handing out paper copies of an accepted Letter of Assurance or a datafile with an image of the Accepted Letter of Assurance as it resides on the IEEE website is permissible.

b) *Can the link to the IEEE website for an accepted Letter of Assurance be provided?*

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

c) *Can the actual accepted Letter of Assurance be displayed on a screen?*

Given that the Letter of Assurance consists of three pages of often very small type, it is not recommended that the image of an accepted Letter of Assurance be displayed. The problem is that the display is not going to be useful except in the smallest of rooms. However, displaying it is not a violation of the patent policy; the problem is that it might not be fully legible, and that lack of legibility may lead to impermissible questions or discussion.

1 *d) Can a participant make a presentation or answer questions about the not-to-exceed*
2 *license fee or rate, material licensing terms, sample license agreement?*

3 No, except that using one or more not-to-exceed rates as components in a presentation
4 comparing relative costs is acceptable. Further information can be found in "What You Need
5 to Know About The IEEE Standards Association's Antitrust and Competition Policy".

6 *e) What can standards development groups discuss about Letters of Assurance or submitted*
7 *license terms? Doesn't it make sense to discuss license terms as part of an overall evaluation*
8 *of a proposed technology?*

9 Nothing, except their existence. In addition, using one or more not-to-exceed rates as
10 components in a presentation comparing relative costs is acceptable.

11 IEEE-SA standards development meetings consist primarily of engineers who are there
12 primarily to discuss the technical merits of competing solutions. Some knowledge of relative
13 cost is entirely appropriate, and the new policy provides for exactly that. But licensing issues
14 can be complex and involve not just technical issues but legal and business issues as well,
15 and those discussions can require a different set of people than are present for the technical
16 meetings. As you know, engineers and lawyers are the twin legacy of the Roman Empire,
17 and although we like lawyers a lot, think very highly of their contributions to society, and
18 consider them a witty and articulate lot, that doesn't mean we want them descending in
19 droves on our meetings.

20 *f) What do I do if the standards development group launches into a discussion of patent*
21 *licensing terms?*

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

24 *g) What should the chair do if a participant wants to modify the terms of an Accepted Letter*
25 *of Assurance during the meeting?*

26 An Accepted Letter of Assurance cannot be modified, either in the meeting or elsewhere.
27 Anyone who wishes to submit an additional Letter of Assurance may do so (although the
28 terms in Accepted Letters of Assurance will continue to be available). The chair should
29 instruct the individual to submit a new Letter of Assurance as provided in the IEEE-SA
30 Standards Board Operations Manual.

31 *h) What about conversations in the hallway? Can participants discuss the particulars of*
32 *license terms there?*

33 The IEEE-SA regulates what goes on in forums that the IEEE-SA provides, such as meeting
34 rooms and email reflectors. The IEEE-SA has no ability to regulate purely private conduct of
35 its participants. There are some topics that participants should not discuss regardless of
36 where they are (such as prices that each of them as competitors will charge for compliant
37 products). There are other topics that participants shall not discuss in IEEE-SA forums and

1 should not discuss in immediately adjacent spaces that might lead outside observers to
2 believe it is just a continuation of the formal meeting. Further information can be found in
3 "What You Need to Know About The IEEE Standards Association's Antitrust and
4 Competition Policy".

5 *i) If an Letter of Assurance is submitted without the Submitter's having exercised the option*
6 *of providing a not-to-exceed license fee or rate commitment or other license terms, is it O.K.*
7 *for a Working Group member to request or encourage the Submitter to file an amended*
8 *Letter of Assurance to provide that information?*

9 The policy makes clear that submission of not-to-exceed terms is entirely voluntary and no
10 Submitter shall be coerced into disclosing not-to-exceed terms. Consequently, although a
11 relative costs comparison can certainly note the absence of cost information (albeit without
12 singling out any particular Submitter or Letter of Assurance), the IEEE-SA does not permit
13 participants to request such terms during meetings through other IEEE-SA forums (such as
14 email reflectors).

15 *j) What can be discussed about patents in a standards development group meeting or in an*
16 *IEEE-SA email reflector?*

17 You can discuss the technical merits of using the technology included even if it is included
18 within a potentially Essential Patent Claim. You can discuss and compare the relative costs
19 of technology claimed in potentially Essential Patent Claims. You must not discuss subjects
20 such as how a patent should be licensed, or essentiality, validity, or interpretation of a patent
21 claim. These are not appropriate topics for discussion in a standards developing committee.
22 Further information can be found in "What You Need to Know About IEEE Standards and
23 the Law".

24 37. *Can a working group member submit a different Letter of Assurance for different Essential*
25 *Patent Claims within the same standard?*

26 Yes. A Submitter may submit separate Letters of Assurance providing different licensing
27 positions for different potential Essential Patent Claims.

28 38. *If a person submits a Letter of Assurance but doesn't identify a specific Essential Patent*
29 *Claim covered by the Letter of Assurance, are the assurances binding on all of the Essential*
30 *Patent Claims owned by the Submitter's company?*

31 Yes.

32 39. *What is a "blanket Letter of Assurance"?*
33

34 A Blanket Letter of Assurance is a Letter of Assurance that applies to all Essential Patent
35 Claims for which a Submitter may currently or in the future (except as otherwise provided
36 for in these Bylaws and in the IEEE-SA Standards Board Operations Manual) have the
37 ability to license. This is defined in clause 6.1 of the IEEE-SA Standards Board Bylaws
38 available at <http://standards.ieee.org/guides/bylaws/sect6-7.html#6>.

1 40. *Can a Submitter change the terms of the assurance it has given after it has been accepted by*
2 *the IEEE? For example, what if the Submitter decided to lower the not to exceed price it*
3 *would offer a license for an Essential Patent Claim?*

4 A Letter of Assurance is irrevocable once submitted and accepted and shall apply, at a
5 minimum, from the date of the standard's approval to the date of the standard's withdrawal.
6 Thus, a Submitter cannot change the terms of the Letter of Assurance for a particular
7 Essential Patent Claim once it is accepted. However, over time, a Submitter may provide
8 multiple assurances for a given Patent Claim by submitting multiple Letters of Assurance for
9 such claim, each of which shall be binding on the Submitter. Each potential licensee may
10 choose to invoke the terms of any applicable Letter of Assurance accepted by the IEEE.
11 Thus, the Submitter desiring to lower the not to exceed price the Submitter would offer a
12 license for an Essential Patent Claim can submit an additional Letter of Assurance with the
13 revised not to exceed price and each potential licensee may choose to invoke the terms of
14 either Letter of Assurance.

15 41. *What happens if the Submitter submits a Blanket Letter of Assurance after previously*
16 *offering a specific Letter of Assurance?*

17 If a Submitter has signed and submitted a Letter of Assurance specifically identifying an
18 Essential Patent Claim before or concurrently with signing and submitting a Blanket Letter of
19 Assurance, the Blanket Letter of Assurance cannot be invoked as to the specified Patent
20 Claim.
21

22 42. *Does a Blanket Letter of Assurance apply to Essential Patent Claims that my company*
23 *acquires after submitting the Letter of Assurance?*

24 Yes, unless the acquired entity or the prior holder of the acquired Essential Patent Claim has
25 submitted a Letter of Assurance before the acquisition. Any Blanket Letter of Assurance
26 submitted by the acquired entity or the prior holder of the acquired Essential Patent Claim
27 before the acquisition shall continue to apply to acquired Essential Patent Claims covered by
28 such assurance (but not to the acquirer's Essential Patent Claims). An acquiring party can ask
29 a seller of an acquired Essential Patent Claim or an acquired entity to submit additional
30 Letters of Assurance before closing of the acquisition.
31

32 43. *Are Letter of Assurances binding on Essential Patent Claims that are in an amendment,*
33 *corrigendum, edition or revision?*

34 An Accepted Letter of Assurance referencing an existing standard, amendment, corrigendum,
35 edition, or revision will remain in force for the application of the Essential Patent Claim(s) to the
36 technology specified in another amendment, corrigendum, edition, or revision of the same IEEE
37 Standard but only if (a) the application of the technology required by the amendment,
38 corrigendum, edition, or revision of the same IEEE Standard has not changed from its previous
39 usage and (b) the same Essential Patent Claims covered by the prior Accepted Letter of
40 Assurance remain Essential Patent Claims in the same IEEE Standard or revision thereof.