

## **Standards Companion**

Note: The terms and definitions set forth in the IEEE Patent Policy, IEEE-Standards Board Bylaws and IEEE-SA Standards Board Operations Manual are incorporated herein.

### **Patents**

You can draft your standard to include use of a patented ~~material item~~ if technical reasons justify this and if a letter of assurance covering this material has been submitted and accepted prior to the approval of the standard. It's beneficial to your working group and to the IEEE to discover deal with any patent issues information and to obtain letters of assurance as early in your development process ~~as if at all~~ possible.

Within the working group, you are required to announce the IEEE Standards patent policy, as outlined in the IEEE-SA Standards Board Bylaws and Operations Manual, at every standards-developing meeting. The best way to do this is to use the slide set provided by the Patent Committee (PatCom). Other approaches may be acceptable but the same content has to be covered. ~~Individual pParticipantsMembers~~ are required to should identifydisclose (or cause the IEEE to be informed of the identity of) any holders of potential essential patent claimsissues that of which they are aware of that are owned or controlled by the participant, the entity the participant is from, employed, by or otherwise represents when called for at the meeting or at any other time they become aware. In contrast, individual participants should identify (or cause the IEEE to be informed of the identity of) any other holders of potential essential patent claims that are not already the subject of an existing letter of assurance.

If the working group ~~does find out~~ learns about potentially essential patent claims or patent application claims(s) relevant to involved with their standards project, the chair should contact an appropriate authority for the patent holder to ~~determine request that if~~ the patent holder will submit a letter of assurance to the PatCom Administrator as required by follow the IEEE Standards patent policy. ~~If the patent holder is willing, the chair should obtain such a letter of assurance and place it on file with the IEEE Standards Department.~~ The PatCom Administrator will inform you when a letter of assurance is received related to your working group and will post it to the IEEE-SA website. If you receive a copy of the letter of assurance, you should supply a copy of the letter of assurance to the PatCom Administrator if it appears that a copy has not already been sent to the PatCom Administrator. The letter of assurance should include patent numbers and claim numbers, if and when possible. For patent applications, appropriate identifying information should be provided as indicated on the letter of assurance form. :

A letter of assurance may should not contain information about specific rates, terms and conditions that a patent holder would offer to a potential licensee. If provided, these rates, terms conditions are binding. If a letter of assurance includes such terms and conditions, the IEEE-SA Standards Board Patent Committee (PatCom) may ask the patent holder to revise the letter or may choose to accept the letter without taking a position on the terms

~~and conditions. Because of this, y~~ You should forward any letters of assurance you receive to the IEEE Standards Department as soon as possible to avoid complications with your standard.

When an IEEE standards-developing working group incorporates part(s) of another proposed or approved standard directly or through a normative reference to that standard (even an IEEE standard) or industry document, the chair or the chair's delegate shall request of the responsible Standards Development Organization (SDO) the following information:

- Has the SDO requested the identification of any potential Essential Patent Claims for the included or referenced material?
- The identification of, and contact information for, any claimed holder of any potential Essential Patent Claim for the included or referenced material.

Note: The IEEE staff can assist with identification of contact information for SDOs. The chair shall share this information with the IEEE standards-developing working group that is considering the incorporation of part(s) of another standard through normative reference and, the chair shall treat each potential Essential Patent Claim holder from the queried SDO in the same manner as if the potential Essential Patent Claim holder had been identified through a working group call for identification of patents.

If an IEEE standard incorporates by reference another standard in whole and unmodified, an implementation that is built to conform to the IEEE standard will, by definition, also conform to the referenced standard; therefore, there should ordinarily be no need to invite L~~o~~ALOs for this case.

~~Neither y~~ You, ~~-your working group nor the IEEE is~~ aren't responsible for patent searches or determining the validity of ~~the any~~ patent. Your working group ~~also should shall~~ not become involved in determining a reasonable fee for use of the patent claims or any other condition that the patent holder may seek to impose. If you do find yourself involved in a patent issue, remember that your IEEE Standards Staff Liaison is available for assistance. PatCom can be used for guidance as well.

### **Sidebar Information**

The patent policy is contained in the IEEE-SA Standards Board Bylaws with supplemental information in the IEEE-SA Standards Board Operations Manual.

A helpful guide on patents is available.

The recommended method for announcing the IEEE-SA Patent Policy is the PatCom provided slideset. ~~There are also slides about patent issues that should be shown at every working group meeting.~~ Those are available here.

1 For a sample patent [letter of assurance](#) request letter and a ~~template blank~~ letter of  
2 assurance, click [here](#). PatCom strongly recommends that you use [the sample patent letter](#)  
3 [of assurance request letter but you are required to include the](#) ~~this~~ [blank](#) letter of assurance  
4 ~~template to speed up your patent process~~.

5  
6 Keep in mind that when a standard is withdrawn, all patent letters of assurance related to  
7 it are ~~also withdrawn~~ [no longer enforceable](#).

8  
9 More information on patents can be found [here](#).

## Cover Letter for ~~LOA~~LOA Request

To General Counsel--Patents,

I am the Chair of the IEEE Standards Association (IEEE-SA) Working Group [\_\_\_\_\_]. Through the course of development of IEEE Pnnn (standard title), it has come to my attention that your organization may have “essential patent claims” with respect to this standard. Essential patents claims, as defined by the IEEE, are any Patent Claims 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~~are those patents whose infringement is, or in the case of patent applications, potential future infringement the applicant asserts will be, unavoidable in a compliant implementation of either mandatory or optional portions of the standard.~~

According to the IEEE-SA Standards Board Patent Committee Operations Manual, working group chairs to whom patent issues have been raised shall solicit Letters of Assurance for Essential Patent Claims (Letters of Assurance) from patent holders having potential essential patent claims. As the individual within your organization having authority for intellectual property rights management, the IEEE would appreciate your completing and signing the attached Letter of Assurance and returning it to the IEEE Standards Department at:

Secretary, IEEE-SA Standards Board Patent Committee  
IEEE  
445 Hoes Lane  
Piscataway, NJ 08855 USA  
[Fax: Attn: PatCom Secretary (+1-732 875 0524)]

As Working Group Chair, I would appreciate a copy for my records as well.

All published IEEE Standards include the following disclaimer at the beginning of the standard:

“Attention is called to the possibility that implementation of this standard may require use of subject matter covered by patent rights. By publication of this standard, no position is taken with respect to the existence or validity of any patent rights in connection therewith. The IEEE 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 Patents Claims or determining whether any licensing terms or conditions are reasonable or non-discriminatory. Further information may be obtained from the IEEE Standards Association”

~~“Attention is called to the possibility that implementation of this standard may require use of subject matter covered by patent rights. By publication of this standard, no position is taken with respect to the existence or validity of any patent rights in connection therewith. The IEEE shall not~~

~~be responsible for identifying patents or patent applications for which a license may be required to implement an IEEE standard or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention."~~

Additionally, when a Letter of Assurance is received from a known patent holder prior to publication of the specified standard, the following language is also included within the front matter of the standard:

"Attention is called to the possibility that implementation of this standard may require use of subject matter covered by patent rights. By publication of this standard, no position is taken with respect to the existence or validity of any patent rights in connection therewith. A patent holder or patent applicant has filed a statement of assurance that it will grant licenses under these rights without compensation or under reasonable rates, with reasonable terms and conditions that are demonstrably free of any unfair discrimination to applicants desiring to obtain such licenses. Other Essential Patent Claims may exist for which a statement of assurance has not been received. 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 Patents Claims, or determining whether any licensing terms or conditions are reasonable or non-discriminatory. Further information may be obtained from the IEEE Standards Association."

~~A patent holder or patent applicant has filed a statement of assurance that it will grant licenses under these rights without compensation or under reasonable rates and nondiscriminatory, reasonable terms and conditions to applicants desiring to obtain such licenses. The IEEE makes no representation as to the reasonableness of rates, terms, and conditions of the license agreements offered by patent holders or patent applicants. Further information may be obtained from the IEEE Standards Department."~~

The IEEE-SA Standards Board Bylaws state that the assurance is irrevocable once submitted and accepted and shall apply, at a minimum, from the date of the standard's approval to the date of the standard's withdrawal~~the terms of a letter of assurance apply from the date of the standard's approval to the date of the standard's withdrawal and that the letter of assurance is irrevocable upon acceptance by the IEEE-SA Standards Board Patent Committee.~~ For your reference, the complete IEEE standards patent policy, including definition of terms, can be found in:

- ◆ IEEE-SA Standards Board Bylaws, Clause 6  
[<http://standards.ieee.org/guides/bylaws/sect6-7.html#6>]
- ◆ IEEE-SA Standards Board Operations Manual, Clause 6.3  
[<http://standards.ieee.org/guides/opman/sect6.html#6.3>]

Please address questions to the ~~Secretary of~~ the IEEE-SA Standards Board Patent Committee Administrator [[David Ringle, d.ringle@ieee.org](mailto:d.ringle@ieee.org), +1 732 562 3806 voice, +1 732 875 0524 fax [patcom@ieee.org](mailto:patcom@ieee.org)].

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3 Sincerely,

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6 Working Group [\_\_\_\_\_] Chair

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8 Mailing Address

9 Phone/Fax/Email

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