

6. Patents

IEEE standards may be drafted in terms that include the use of Essential Patent Claims. If the IEEE receives notice that a [Proposed] IEEE Standard may require the use of a potential Essential Patent Claim, the IEEE shall request licensing assurance, on the IEEE Standards Board approved Letter of Assurance form, from the patent holder or patent applicant. The IEEE shall request this assurance without coercion. If the patent holder or patent applicant provides an assurance, it should do so as soon as reasonably feasible in the standards development process. This assurance shall be provided prior to the Standards Board's approval of the standard or shall be provided prior to its reaffirmation, if the IEEE receives notice of a potential Essential Patent Claim after the standard's approval. An asserted potential Essential Patent Claim for which an assurance cannot be obtained shall be referred to the Patent Committee for resolution.

This assurance shall be either:

- a) A general disclaimer to the effect that the patentee will not enforce any of its present or future Essential Patent Claims against any person or entity making, using, selling, offering to sell, importing, distributing or implementing a compliant implementation of the standard; or
- b) A statement that a license for a compliant implementation of the standard will be made available without compensation or under reasonable rates, with reasonable terms and conditions that are demonstrably free of any unfair discrimination. The Submitter may provide with its assurance a not-to-exceed rate commitment and either a sample license agreement or material licensing terms. Copies of an Accepted LOA may be provided to the working group, but shall not be discussed, at any standards working group meeting.

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If, after providing a Letter of Assurance to the IEEE, the submitter becomes aware of Patent Claim(s) that may become Essential Patent Claim(s) for the same IEEE Standard but are not covered by an existing Letter of Assurance, then such submitter shall submit a Letter of Assurance covering such Patent Claims.

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 IEEE is not responsible for identifying Essential Patent Claims for which a license may be required or for conducting inquiries into the legal validity or scope of those Patents Claims. The IEEE will neither be a party to discussions of any licensing terms or conditions in an Accepted LOA, which are left to the parties involved, nor will the IEEE opine or judge whether proposed licensing terms or conditions in an Accepted LOA are reasonable or non-discriminatory.

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July 7, 2006

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