

## 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.

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IEEE standards may include the known use of essential patents and patent applications provided the IEEE receives assurance from the patent holder or applicant with respect to patents whose infringement is, or in the case of patent applications, potential future infringement the

The Submitter of the Letter of Assurance may, after Reasonable and Good Faith Inquiry, indicate it is not aware of any Patent Claims that the Submitter may own, control or have the ability to license that might be or become Essential Patent Claims. 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 a reaffirmation, if the IEEE receives notice of a potential Essential Patent Claim after the standard's approval or a prior reaffirmation. An asserted potential Essential Patent Claim for which an assurance cannot be obtained (e.g., a Letter of Assurance is not provided or the Letter of Assurance indicates that assurance is not being provided) shall be referred to the Patent Committee for resolution.

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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. At its sole option, the Submitter may provide with its assurance any of the following: (i) a not-to-exceed license fee or rate commitment, (ii) a sample license agreement, or (iii) 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.

**Deleted:** patent(s) whose use would be required to implement either mandatory or optional portions of the proposed IEEE standard

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The Submitter and all Affiliates (other than those Affiliates excluded in a Letter of Assurance) shall not sell or otherwise transfer any rights in any Essential Patent Claims, that are the subject of such Letter of Assurance, that they hold, control or have the ability to license with the intent of circumventing or negating any of the representations and commitments made in such Letter of Assurance.

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The Submitter of a Letter of Assurance shall agree (a) to provide notice of a Letter of Assurance either through a Statement of Encumbrance or by binding any assignee or transferee to the terms of such Letter of Assurance; and (b) to require your assignee or transferee to similarly provide such notice and bind its assignees or transferees to provide such notice as described in (a) and (b)

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August 18, 2006

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If, after providing a Letter of Assurance to the IEEE, the Submitter 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 become Essential Patent Claim(s) for the same IEEE Standard but are not the subject of an existing Letter of Assurance, then such Submitter shall submit a Letter of Assurance stating its position regarding enforcement or licensing of such Patent Claims. For the purposes of this commitment, the Submitter is deemed to be aware if any one of the following individuals 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, (b) other individuals from, employed by or representing the Submitter who are involved in the technology of the [Proposed] IEEE Standard, (c) the person executing the previously submitted Letter of Assurance, or (d) members of the Submitter's intellectual property management department.

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, for conducting inquiries into the legal validity or scope of those Patent Claims, or determining whether any licensing terms or conditions are reasonable or non-discriminatory.

In order for IEEE's patent policy to function efficiently, individuals participating in the standards development process shall inform the IEEE or cause the IEEE to be informed of any potential Essential Patent Claims, of which they are personally aware and not already the subject of an existing Letter of Assurance, owned or controlled by the participants or others including the entity the participant is from, employed by, or otherwise represents.

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