

6.3 Patents

The patent policy is set forth in [clause 6](#) of the IEEE-SA Standards Board Bylaws and is incorporated herein by reference.

Letters of Assurance are to be e-mailed (preferred), faxed, or mailed to the IEEE Standards Association (to the attention of the PatCom Administrator). The PatCom Administrator shall record both the date on which the IEEE receives and the date the IEEE accepts the Letter of Assurance. Completed Letters of Assurance are accepted by the PatCom Administrator or by PatCom upon referral from the PatCom Administrator. The IEEE may request a Letter of Assurance from Affiliates specifically excluded on another Letter of Assurance.

Unless the Letter of Assurance is received from an individual within the issuing organization who has clear authority for intellectual property and legal matters, the IEEE Standards Association (PatCom Administrator) shall send a certified letter, return receipt requested, to the General Counsel or other appropriate representatives of the issuing organization to confirm receipt of the Letter of Assurance and to ensure that the Letter of Assurance is factually correct and was submitted by an appropriate individual within the issuing organization. No response to this letter, other than the return receipt, is required.

Upon request, the IEEE will make available copies of any Letter of Assurance and its attachments. Letters received after 31 December 2006 shall be posted on the IEEE-SA website.

6.3.1 Public notice

The following notice shall appear when the IEEE receives assurance from a known patent holder or patent applicant prior to the time of publication that a license will be made available to all applicants either without compensation or under reasonable rates, with reasonable terms, and conditions that are demonstrably free of any unfair discrimination.

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 those 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.

If the IEEE has not received Letters of Assurance prior to the time of publication, the following notice shall appear:

Formatted: Font: (Default) Times New Roman

Formatted: Normal (Web)

Formatted: Font: Not Italic

Deleted: Patent holders or patent applicants shall submit letters of assurance to the IEEE Standards Department (to the attention of the PatCom Administrator). The patent holder or applicant should provide this assurance as soon as reasonably feasible in the standards development process. This assurance shall be provided no later than the time of IEEE-SA Standards Board review of the standard for approval.¶

¶ In the event that a patent or patent application may apply to a standard and a letter of assurance cannot be obtained, the working group shall refer this matter to the PatCom Administrator.¶

Deleted: letter of assurance

Deleted: Department (PatCom Administrator)

Deleted: letter of assurance

Deleted: letter of assurance

Deleted: The IEEE will make public the contact information about the patent holder or patent applicant that is provided in the letter of assurance.¶

Formatted: Right: 0", Space Before: 0 pt, After: 0 pt

Deleted: 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.

Deleted: and nondiscriminatory,

Deleted: 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.

Deleted: Department

Deleted: letters

Deleted: assurance

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 those Patents Claims or determining whether any licensing terms or conditions are reasonable or non-discriminatory. Further information may be obtained from the IEEE Standards Associations.

Formatted: Right: 0", Space Before: 0 pt, After: 0 pt

Deleted: shall

Deleted: be

Deleted: patents or patent applications

Deleted: to implement an IEEE standard or

Deleted: patents that are brought to its attention

6.3.2 Call for patents

The chair or the chair's delegate of an IEEE standards-developing working group or the chair of an IEEE standards sponsor shall be responsible for informing the members of the working group that if any individual believes that Patent Claims might be Essential Patent Claims, that fact should be made known to the entire working group and duly recorded in the minutes of the working group meeting. This request shall occur at every standards-developing meeting.

Deleted: a patent or patent application

Deleted: essential to the implementation of the standard

Deleted: request

Deleted: request that each potential essential

Deleted: either

Deleted: patent letter

Deleted: assurance (

Deleted:) or a statement that the potential essential patent holder is not aware of any patents or patent applications that it owns that would be infringed by a compliant implementation of the standard

Deleted: ¶ Patent letters of assurance or non-awareness statements from potential essential patent holders shall be submitted to the PatCom Administrator.¶

Deleted: assurance

Deleted: claiming a patent, issued or under application

Deleted: 6.3.4 Disclaimer¶ The IEEE is not 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.¶

The chair or the chair's delegate shall ask any patent holder or patent applicant for a Patent Claim that might be or become an Essential Patent Claim to complete and submit a Letter of Assurance in accordance with Clause 6 of the *IEEE-SA Standards Board Bylaws*. Information about the draft standard will be made available upon request.

6.3.3 Withdrawn standards

All active IEEE standards are subject to periodic review for reaffirmation, revision, stabilization, or withdrawal every five years. Thus, any standard that incorporates patented technology may at some point in time be withdrawn. Clause 6 of the *IEEE-SA Standards Board Bylaws* contains policies concerning the period of validity for any Letter of Assurance received from a party regarding an Essential Patent Claim.

6.3.4 Multiple Letters of Assurance and Blanket Letters of Assurance

A Submitter may provide the IEEE with a Blanket Letter of Assurance for a specific [Proposed] IEEE Standard which covers all Essential Patent Claims the Submitter may currently or in the future have the ability to license. A Submitter may submit separate Letters of Assurance providing separate assurances for different Patent Claims that might be or become Essential Patent Claims.

Over time, a Submitter may also provide multiple assurances for a given Patent Claim by submitting multiple Letters of Assurance for such claim. For Essential Patent Claims, each such Letter of Assurance shall be binding on the Submitter. Each potential licensee may choose to invoke the terms of any applicable Letter of Assurance accepted by the IEEE, with one exception: If a Submitter has signed and submitted a Letter of Assurance specifically identifying a Patent Claim before or concurrently with signing and submitting a Blanket Letter of Assurance, the Blanket Letter of Assurance cannot be invoked as to the specified Patent Claim. (The Submitter, however, may submit a separate specific Letter of Assurance offering the Blanket

Letter of Assurance terms for the specified Patent Claim.) The intention of this paragraph is to permit the Submitter to offer alternative assurances, and to permit the potential licensee to choose from among the alternative assurances offered.

If, after submitting a Blanket Letter of Assurance, a Submitter acquires an Essential Patent Claim or a controlling interest in an entity that owns or controls an Essential Patent Claim, the existing Submitter's Blanket Letter of Assurance shall apply to such acquired Essential Patent Claims unless the acquired entity or the prior holder of the acquired Essential Patent Claim has submitted a Letter of Assurance before the acquisition. Any Blanket Letter of Assurance submitted by the acquired entity or the prior holder of the acquired Essential Patent Claim before the acquisition shall continue to apply to acquired Essential Patent Claims covered by such letter (but not to the acquirer's Essential Patent Claims). Letters of Assurance covering specified Essential Patent Claims shall continue to apply to specified Essential Patent Claims, whether acquired in the acquisition or held by the acquirer before the acquisition, as provided in this Operations Manual. Nothing in this paragraph shall prevent an acquiring party from asking a seller of an acquired Essential Patent Claim or acquired entity to submit additional Letters of Assurance before closing of the acquisition.

6.3.5 Applicability of Letters of Assurance to Amendments, Corrigenda, or

Revisions

A Letter of Assurance referencing an existing standard, amendment, corrigenda, or revision will remain in force for the application of the Essential Patent Claim(s) to the technology specified in another amendment, corrigenda, edition or revision of the same IEEE Standard but only if (a) the technology application required by the amendment, corrigenda, edition or revision of the same IEEE Standard has not changed and, (b) the same Essential Patent Claims covered by the prior Letter of Assurance remain Essential Patent Claims in the same IEEE Standard or revision thereof.

Working Groups shall initiate a request for a new Letter of Assurance from a known Submitter when re-using portions of or technologies specified in an existing [Proposed] IEEE Standard, amendment, corrigenda, or revision referenced in an Accepted Letter of Assurance in a different [Proposed] IEEE Standard with another application or scope.