

PWG IPR Revision

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Irvine

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Introduction & Background



- Unchanged since original bylaws Oct 1999
- Some known issues
 - Align terms – Proposed vs. Candidate Standard
 - Non-Member participants
 - Membership form references and update
 - Due diligence standard / personal awareness
 - Anti-trust language inspection (mandated terms)
 - Writing style (eg. Define terms then reference)
 - Filed / Published / Issued
 - Inappropriate waiver of patent rights
 - Letter of Assurance binding of affiliates
- Some new emphasis
 - Copyright statement

Basis for IPR Policy



- Goal of IP policy is to reduce IPR impediments to adoption
 - However IPR issues cannot totally be eliminated.
- Balance – Effective Framework vs. Refusal to Participate
- Licensing Terms
 - Limited (typically Royalty Free)
 - Terms are dictated, non-negotiable
 - RAND (Reasonable and Non-Discriminatory)
 - License in a manner that **does not require payment**
 - License in a manner that **requires payment**
 - One time fee
 - Per product fee
 - License may require reciprocity
 - Withhold permission to implement (the standard)
 - Non-assertion covenant
 - Frequently limited to standard development and test
 - Does not necessarily cover sale or distribution of product

Documenting IPR Policy



Document	Purpose
Membership Agreement	Contract
Bylaws	Empower BOD
IPR Policy Statement	Establish overall IPR behavior (Patents, Copyright, Trademarks)
Assertion Form (LOA)	Disclosure / Intent
Operating Procedures	Reminders, Checkpoints, Recording in Minutes
Copyright Statement	Ownership protection
Trademark License	Compliance protection
Open Source License	Currently n/a

Concepts and Issues



- “*Ex ante*” (Forecast)
 - Up front disclosure of rates, terms, conditions
 - “Not to exceed” promise
- Antitrust
 - Favored licensing terms
- Circumvention through sale or transfer

IEEE links



- Instructions for Working Group Chairs
 - <http://standards.ieee.org/board/pat/pat-slideset.ppt>
- Patent Policy
 - <http://standards.ieee.org/guides/bylaws/sect6-7.html>

Sample Definitions (from IEEE)



- **Essential Claim**

- "*Essential Patent Claim*" shall mean any [Patent Claim](#) 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.

- **Patent Claim**

- "*Patent Claim(s)*" shall mean one or more claims in **issued** patent(s) or **pending** patent application(s).

- **Enabling Technology**

- "*Enabling Technology*" shall mean any technology that may be necessary to make or use any product or portion thereof that complies with the [Proposed] IEEE Standard but is neither **explicitly required** by nor **expressly set forth** in the [Proposed] IEEE Standard (e.g., semiconductor manufacturing technology, compiler technology, object-oriented technology, basic operating system technology, and the like).

Who, What, When, Where...



- Who
 - Members of PWG working groups who participate in the development of new specifications
- What
 - Essential claims
 - Filed? / Published? / Issued
- When
 - Member entry?
 - Candidate Standard?
- How
 - Letter of Assurance
- Where
 - LOA Repository

Next Steps



- Review PWG IP Policy redline
- Review PWG Membership agreement
- Develop PWG Copyright policy
- Discuss and record further steps here...