

Understanding the Patent Policy of the American National Standards Institute (“ANSI”)

By: Patricia A. Griffin, ANSI Senior Vice President and General Counsel

This paper is designed to help ANSI-Accredited Standards Developers (“ASDs”) understand the ANSI Patent Policy (“Patent Policy” – Appendix A) and how it is currently administered by ANSI.¹

The paper is organized into four parts: Section I describes ANSI and its Patent Policy; Section II details the requirements of the Patent Policy and describes decisions by ANSI interpreting those requirements; Section III discusses ANSI's role in resolving disputes relating to the Patent Policy; and Section IV outlines ways some ASDs developing standards in certain high-tech areas have chosen to customize their own patent policies. (Appendix B provides a list of references.) The paper is meant to be informative only. It does not provide legal advice, nor does it establish specific requirements regarding the Patent Policy.

I. ANSI and its Patent Policy

ANSI coordinates voluntary consensus standards, conformity assessment and related activities in the United States and serves as the U.S. member body to various regional and international standards organizations. ANSI accredits interested standards developing organizations (“SDOs”) as ASDs and approves their standards as American National Standards (“ANS”) pursuant to the “ANSI Essential Requirements: Due process requirements for American National Standards” (the “Essential Requirements” www.ansi.org/essentialrequirements). The Essential Requirements are used both to determine the adequacy of procedures submitted by applicant SDOs who wish to be accredited by ANSI and as the criteria (in addition to an ASD’s own procedures) to determine whether individual standards submitted by SDOs, once accredited, can be approved as ANS.²

¹ This paper represents the views of the author. It does not purport to represent the position of any particular committee, group or member of ANSI. This paper may be updated from time to time as circumstances warrant. If any discrepancy exists between this paper and the Patent Policy, the Patent Policy itself controls. An ASD should seek specific advice from its own counsel whenever the circumstances warrant.

² Once accredited, an SDO may call itself an ASD and, once approved, a standard may be called an ANS,

The ANSI Executive Standards Council ("ExSC") accredits (or declines to accredit) SDOs,³ and the ANSI Board of Standards Review ("BSR") approves (or declines to approve) a sponsoring SDO's standards, once-accredited.⁴ (See [ANSI By-Laws](#), dated January 1, 2020 ("By-Laws") at Sections 4.03 (ExSC) and 4.04 (BSR).)

The ANSI Patent Policy is set forth in Section 3.1 of the Essential Requirements. Pursuant to Section 1.10 of the Essential Requirements, all ASDs are required to comply with the Patent Policy. Similarly, pursuant to Section 4.2.1.1, compliance with the Patent Policy is one of the criteria to be considered by the BSR in evaluating whether to approve or withdraw approval of an ANS.

To comply with the ANSI Patent Policy, an ASD may choose to either: 1) adopt or reference the text that is included in Section 3.1 of the Essential Requirements; or 2) develop its own patent policy that complies with the Patent Policy but also includes additional provisions, as appropriate, to meet an ASD's needs. (See [Patent Policy](#), Section 3.0.) More than 90% of ANSI's nearly 240 ASDs simply incorporate the ANSI Patent Policy (either via a "pointer" to the Patent Policy or incorporation of the text word-for-word). However, a number of ASDs, particularly those developing standards in high tech industries, have crafted their own "customized" patent policies which, together with the rest of their procedures for the development of ANS, must be approved by the ExSC in order for that ASD to be (or continue to be) accredited by ANSI.

II. The Specific Requirements of the Patent Policy

There are several key components of the ANSI Patent Policy that an ASD should understand, whether it incorporates ANSI's Patent Policy "as is" or writes its own patent policy. First, the Patent Policy applies only to "essential" patent claims and not to patented technology that may be referenced in the standard, but is not necessary in order to comply with the standard's

entitling the ASD to utilize the ANS certification mark. ANSI cannot require an SDO to seek ANSI accreditation under the Essential Requirements and ANSI cannot require an ASD, once accredited, to submit its standards for approval as ANS. SDOs come to ANSI voluntarily and, in doing so, subject their ANS development process to ANSI's neutral oversight and due process-based requirements, including public review requirements, appeals and audits. (See [ANSI Board of Directors' 2019 Response to By-Laws Commenters](#) ("Board Response") at 3.)

³ The ExSC is also responsible for developing and promulgating procedures and criteria for: (i) the accreditation and auditing of standards developers; and (ii) the coordination, development, approval and withdrawal of standards as ANS. The ExSC exercises exclusive responsibility for the terms of the Essential Requirements, including ANSI's Patent Policy, subject to approval by the ANSI Board of Directors or ANSI Board Executive Committee. ([By-Laws](#), Section 4.03.)

⁴ The BSR has jurisdiction over the approval of standards as ANS except in the case of ASDs that also hold the status of Audited Designator. ([Essential Requirements](#), Section 5.0.)

requirements. Second, the Patent Policy encourages "disclosure" of the possible existence of any such essential patent claims. Third, the ASD must receive from the patent holder or its designee an assurance that the patent holder either does not hold a patent claim required to implement the standard or that it will license applicants (those seeking to implement the standard) under "reasonable terms and conditions that are demonstrably free of any unfair discrimination." Fourth, a record of licensing assurances received must be (a) maintained by the ASD, (b) made publicly available and, (c) in certain circumstances, shared with ANSI. Finally, the ASD must provide a notice in the ANS that compliance may require use of an invention covered by patent rights. Each of these core provisions is discussed, in turn, below.

A. Essentiality of Patent Claims

The Patent Policy provides that "there is no objection in principle to drafting an American National Standard (ANS) in terms that include the use of an essential patent claim (one whose use would be required for compliance with that standard) if it is considered that technical reasons justify this approach." ([Patent Policy](#) at Section 3.1.) A threshold question in applying the Patent Policy, therefore, is whether a potential essential patent claim exists that would trigger its application.

One early decision issued by the BSR, [Echelon v. EIA](#), dated January 8, 1998, sheds some light on the requirement of essentiality. In that case, Echelon challenged the BSR's approval of a standard on the grounds that the ANSI Patent Policy Requirements were not met because the standard might include patented technology. ([Echelon](#) at 1-2.) The standard included patented technology that a patent holder claimed "*may be necessary in order to implement*" the standard but the patent holder would not state unequivocally that it held patents that *were essential* to the standards. The BSR found that:

[It is] incumbent on the patent holder to make ... a definitive statement regarding their technology to the effect that it believes the patent is or is not "essential" in order to implement the standard. Even as of the date of the hearing before the BSR, [the patent holder] was not willing to make such a statement. Based on that and on the fact that [the ASD] did obtain legal advice that the standard did not infringe the patent, the BSR believes that [the patent holder] *did not submit sufficient evidence for the BSR to find that the standard should be disapproved for failure to satisfy the requirements of the ANSI Patent Policy.*

([Echelon](#) at 3, emphasis added.)

In another decision, [Greencool v. ASHRAE](#), dated May 26, 2004, the BSR was able to determine, based upon a facial examination of the standard (that was made part of the record by one of the parties), that a claimed patent was not essential. In that case, the standard did "not advocate usage of" the claimed technology nor did it "delineate specifications to which any and all conforming 'implementations' must comply." Absent these express references linking the standard to a patented technology, the BSR concluded that "the appellant did not present sufficient evidence that anyone seeking to 'implement' the standard must necessarily infringe any patent, much less the appellant's." ([ASHRAE](#) at 9.)

More recently, in [TTi v. PGMA](#), dated September 10, 2018, the BSR provided specific criteria to help ASDs determine whether sufficient evidence exists that an identified patent claim is, in fact, "essential" to an ANS. TTi, the Appellant, appealed the BSR's decision to approve the PGMA's standard on the basis that a particular patent raised a potential violation of ANSI's Patent Policy and that the ASD failed to provide "sufficient assurance" that the patent is not essential to the standard. ([TTi](#) at 4.) The BSR noted that the following questions should be considered when making a determination of essentiality:

- (i) who was asserting the claim that an essential patent exists (the patent holder itself or someone else);
- (ii) what was being asserted about the essentiality of the patent (a definitive statement or merely a belief that a patent "might" apply to the standard or there is a "concern" about a possibly relevant patent); and
- (iii) when was the alleged patent first raised (before the ANS is approved or after and, if after, how long after).

([TTi](#) at 5.) Applying these criteria, the BSR found that the adverse party (TTi) failed to show a violation of the requirements of the ANSI Patent Policy. Specifically, the BSR determined that the allegation of essentiality was not being made by the patent holder itself, but by TTi, who stated during the hearing it had no personal knowledge of the patent. In addition, TTi provided no "definitive statement" regarding whether it believed the patent was or was not essential. Instead, it provided a number of vague statements to the effect that it had "concerns" about the "potential" that a patent existed and that it raised the issue "out of an abundance of caution." Finally, as was true in [Echelon](#), PGMA obtained legal advice that the standard did not in fact infringe the patent. Taking all these facts together, the BSR concluded that there was insufficient evidence to find that any patent was essential and, therefore, insufficient evidence to find that the ANSI Patent Policy was violated. ([TTi](#) at 5.)

B. Disclosure of Essential Patent Claims

The ANSI Patent Policy requires that "participants in the ASD/ANSI standards development process [be] encouraged to bring patents with claims believed to be essential to the standard to the attention" of the ASD. ([Patent Policy](#) at 3.1.)

There are a number of ways an ASD may encourage disclosure, other than stating as much in its patent policy. For example, an ASD may wish to verbally call for essential patents at each consensus-body meeting. ASDs may also wish to adopt procedures whereby one or more explicit requests are made to participants during the standards development process, such as on letter ballots sent to consensus body members voting on drafts of the proposed standard. Alternatively, requests for disclosure could be repeated throughout the course of the standards development process, for example, by periodic emailed communications sent to each member of the consensus body.

Although an ASD must encourage disclosure of essential patent claims, the ANSI Patent Policy does not require an ASD to itself look for essential patent claims. To the contrary, the Patent Policy expressly provides that "neither the ASD nor ANSI is responsible for identifying patents for which a license may be required by an [ANS] or for conducting inquiries into the validity or scope of those patents that are brought to their attention." ([Patent Policy](#), Section 3.1.4.)

C. The Licensing Assurance

The Patent Policy provides that *if* "an ASD receives a notice that a proposed, revised or approved ANS may require the use of ... a patent claim that is not already covered by an existing assurance, the procedures in [Section 3.1.1] shall be followed." ([Patent Policy](#), Section 3.1.) Section 3.1.1, in turn, requires that an ASD that has received such notice:

receive from the patent holder or a party authorized to make assurances on its behalf, in written or electronic form, either:

- a) assurance in the form of a general disclaimer to the effect that such party does not hold and does not currently intend holding any essential patent claim(s); or
- b) assurance that a license to such essential patent claim(s) will be made available to applicants desiring to utilize the license for the purpose of implementing the standard either:

i) under reasonable terms and conditions that are demonstrably free of any unfair discrimination; or ii) without compensation and under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

(Section 3.1.1.) The licensing assurance described in Section 3.1.1(b) – an assurance that an essential patent claim will be made available to applicants desiring to utilize the license for the purpose of implementing the standard – is sometimes referred to as a “Letter of Assurance” or “LoA.” Depending on the specific ASD’s policy, the LoA can take different forms. But, however it is expressed, the form of assurance must be acceptable to the ASD.⁵

In a decision, dated February 25, 2016, an ExSC Appeals Panel noted that the phrase “for the purpose of implementing the standard,” which is contained in Section 3.1.1(b) of the Patent Policy, is “broad enough to include any applicant desiring a license for any conforming implementation of the standard.” ([ExSC LoA Decision](#), February 23, 2018, at 5-6, quoting [ExSC Panel Decision in IEEE Reaccreditation](#), February 25, 2016 (emphasis in original).) However, “the focus on ‘implementing the standard’ serves to limit any assurance to the field of use of the standard. Stated differently, the ANSI Patent Policy does not require a patent holder to make a license available to an applicant for some purpose other than implementing the standard.” ([ExSC LoA Decision](#) at 6).

The same ExSC Appeals Panel also clarified that the ANSI Patent Policy:

does not impose on the patent holder an obligation to license without conditions. Rather, the Policy grants patent owners the right to condition the availability of the license so long as it does so “reasonably” and “without unfair discrimination.” Recognizing that industries and standards can be quite different, the Patent Policy makes no attempt to spell out what terms and conditions are “reasonable” and what distinctions are “fair.” Those issues are capable of being defined by the policies of an ASD or on a case by case, fact-specific basis.

[ExSC LoA Decision](#) at 6.

As Section 3.1 of the [Essential Requirements](#) states, the Patent Policy applies no matter when in the development process an essential patent claim is identified, including following approval of the ANS. Where notice is given of a patent claim essential to an already-approved ANS, the Patent Policy requires the ASD to receive from the patent holder the requisite assurance contained in the Patent Policy or suffer the potential withdrawal of ANSI’s approval of the

⁵ Some ASDs use form LoAs, as discussed below.

standard as an ANS.

Section 3.1.1 of the Patent Policy was amended in 2015 to address the possibility that essential patents may be sold or transferred by the patent holder to someone else after an assurance has been made. The Patent Policy now requires that the patent holder's statement of assurance include certain additional representations about what the patent holder will do in such a situation. In particular, this Section requires that a licensing assurance:

indicate that the patent holder (or third party authorized to make assurances on its behalf) will include in any documents transferring ownership of patents subject to the assurance, provisions sufficient to ensure that the commitments in the assurance are binding on the transferee, and that the transferee will similarly include appropriate provisions in the event of future transfers with the goal of binding each successor-in-interest.

In addition, the assurance must also indicate that it is intended to be binding on successors-in-interest regardless of whether such provisions are included in the relevant transfer documents. ([Patent Policy](#) at Section 3.1.1.)

D. Record of Licensing Assurance

The Patent Policy currently states that a "record of the patent holder's statement shall be retained in the files of the ASD and shall be made publicly available, at the ASD's election, either on the ASD's website or ANSI's LOA repository." ([Patent Policy](#) at 3.1.2.) This provision was changed in 2020. Previously, ASDs were required to send *all* such licensing assurance statements directly to ANSI, whose staff added them to ANSI's Patent Assurance (or LoA) Repository (www.ansi.org/patentletters).

Over the years, ANSI has received a number of customized letters of assurance conditioned upon "compliant" implementation of an ASD's standard. In 2018, however, the ExSC decided to eliminate the general requirement that ASDs submit licensing assurances to ANSI, since ANSI would have no way of knowing whether such provisions were suitable and appropriate for use by the ASD. In connection with this revision, later implemented in 2020, the ExSC noted that ASDs remain free to "determine the scope of their own patent policy, consistent with ANSI's Patent Policy, and define what must be included to implement their standards." ([LoA](#)

[Decision](#), dated February 23, 2018 at 15).⁶

It is important to emphasize that the 2020 change to the Patent Policy regarding the maintenance and posting of licensing assurances was accompanied by a change to the [BSR-9 form](#) that added a requirement that "*negative* letters of assurance" or "negative LoAs" must continue to be filed with the ANSI BSR-9 form.⁷ Negative LoAs are statements from a patent holder either that it holds or may hold an essential patent claim but that in either case it refuses to license such claim under the ASD's patent policy. In particular, Section 15 of the BSR-9 form now requires that:

A copy of all such statements indicating that the patent holder is willing to license essential patent claims in accordance with the terms of the ANSI and ASD Patent Policies shall be made publicly available, but need not be attached to this BSR-9, unless the ASD elects to have ANSI publish the LOA to ANSI's LOA repository.

- Check here if such patent letters of assurance are attached because you are asking ANSI to post these on ANSI's LOA repository.

A copy of all statements indicating that the patent holder is unwilling to license essential patent claims in accordance with the ANSI and ASD Patent Policies must be attached to this BSR-9.

- Check here if such patent letters of assurance were received by your organization.
- Check here to indicate that such patent letters of assurance are attached, along with an explanation as to why the ASD believes the proposed ANS meets the ANSI Patent Policy.

Thus, under the Patent Policy, ASDs are no longer required to file "positive" statements of assurance (*i.e.*, licensing commitments from patent holders that meet the requirements of Section 3.1.1) with ANSI, but they are still required by the BSR-9 form to submit "*negative*" statements of assurance (*i.e.*, licensing statements from patent holders indicating an unwillingness to license its technology under the terms of the ASD patent policy) to ANSI. And the ASDs are required to maintain all LoAs in their files, subject to audit, and post them

⁶ The ExSC created a Task Group to look at whether "there [was] a continuing need to require that ASDs submit statements of assurance" to ANSI. Thereafter, the ExSC accepted the Task Group's recommendation that there was no such need, as long as the licensing assurances were made publicly available. (See [LoA Decision](#) and [ExSC 087 2017](#).)

⁷ ANSI's [BSR-9](#) form is the "Proposed ANS Formal Submittal Checklist" used by all ASDs other than Audited Designators, to transmit evidence of procedural compliance to ANSI in support of a standard's approval as an ANS. Audited Designators submit BSR-109 forms rather than BSR-9 forms, but the required information concerning LOAs is comparable.

publicly on their own website or through ANSI.

In those situations where ASDs elect to submit LoAs from patent holders for inclusion in ANSI's public patent LOA repository, ANSI staff will not undertake to evaluate whether the terms and conditions of the assurance satisfy the Patent Policy, and ANSI's acceptance of such LoAs should not be regarded as an implied approval of the assurance. If a challenge is made at a later date to the sufficiency of the assurance under the ANSI Patent Policy or the ASD's patent policy, any such challenge would be heard and decided by the BSR, ExSC and/or the Appeals Board, as appropriate. (See Section V below.)

E. Notice of Essential Patent Claims

The Patent Policy requires that when an ASD receives from a patent holder the assurance required by Section 3.1.1.b, the standard must include a note that points out to implementers that there may be a patent claim that is essential to the implementation of the standard. The note should be substantially in a form as follows:

NOTE – The user's attention is called to the possibility that compliance with this standard may require use of an invention covered by patent rights.

By publication of this standard, no position is taken with respect to the validity of any such claim(s) or of any patent rights in connection therewith. If a patent holder has filed a statement of willingness to grant a license under these rights on reasonable and nondiscriminatory terms and conditions to applicants desiring to obtain such a license, then details may be obtained from the standards developer.

([Patent Policy](#) at 3.1.3.)

III. Approval of and Challenges to ASD Patent Policies

An ASD seeking approval of a proposed ANS should take steps that it reasonably determines are sufficient to permit a representation to ANSI that its own patent policy and the ANSI Patent Policy have been met. Sometimes third parties challenge an ASD's patent policy, arguing that it does not in fact comply with ANSI's or that it has been applied to a particular ANS in a manner that violates the ANSI *Essential Requirements*. In most such cases, a challenge of this nature must be first made to the ASD in accordance with the ASD's own appeals procedures. (See [Essential Requirements](#) at 2.8.)

If a directly and materially interested party, who has been or will be adversely affected by an

action/inaction of the developer, is unsuccessful at the ASD-level appeal, it may bring its complaint to ANSI as long as it has standing to do so.⁸ The ANSI appeals procedures for challenges made to an ASD's procedures, including an ASD's patent policies, are contained in clause 19 of the ExSC Operating Procedures,⁹ and the appeals procedures for challenges related to the approval of a particular ANS are contained in clause 7 of the BSR Operating Procedures. Final appeals to the ANSI Appeals Board may be taken in accordance with the ANSI Appeals Board Operating Procedures.

IV. Customized Patent Policies

The Essential Requirements in general, and the ANSI Patent Policy in particular, establish the minimum required content for an ASD's patent policies. The Patent Policy expressly recognizes, however, that ASDs may depart from the specific text in 3.1 when fashioning their own policies – as long as their customized policies continue to align with the ANSI Patent Policy. ([Patent Policy](#) Section 3.1). ANSI encourages ASDs to "customize their accredited procedures in a manner that is suited to their sectors." ([ExSC Panel Decision in IEEE Reaccreditation](#), February 25, 2016 at 7.) Indeed, the ExSC has stated many times that ANSI does not follow a "one-size-fits-all" approach to the Patent Policy and the ExSC has approved a number of customized policies over the years. (See, e.g., [Motorola v. VITA](#), October 1, 2007; [ExSC Panel Decision in IEEE Reaccreditation](#), February 25, 2016.)

Some of the issues addressed in customized ASD policies are outlined below.

A. Heightened Disclosure Obligations

As noted in Section III(b) above, the ANSI Patent Policy provides that participants in the standards development process should be *encouraged* to bring to the ASD's attention patents with claims believed to be essential. Some customized policies *require* disclosure of patents containing claims believed to be essential to its proposed or approved ANS, though such a requirement is not necessary for compliance with the ANSI Patent Policy. It is acceptable, for example, to require consensus body members to "make a good faith and reasonable inquiry into" the patents owned by them and/or to impose a royalty-free licensing

⁸ In order to have standing to seek the withdrawal of a standard for violation of the Patent Policy, a party must show that it has been personally and meaningfully affected in an unfavorable way by the standard to which it takes exception. (See [GTW v. IEEE](#), September 4, 2018, at 3.)

⁹ For those that hold the status of ANSI Audited Designator, clause 20 applies.

requirement on members that "willfully fail" to disclose a known essential patent. (See [ExSC Panel Decision in *Motorola v. VITA*](#), September 10, 2007).

B. Patent-Related Information Disclosures

In a customized policy, an ASD may choose to require (generally or only under certain circumstances) a more robust disclosure of information concerning the patent itself, including the identity of the patent holder, the patent number, the jurisdiction(s) in which the patent is filed and information regarding precisely how the patent may relate to the standard being developed. Similarly, some customized policies require participants to disclose the existence of any published pending U.S. patent application relating to a standard under development.

C. Requirements Relating to Royalty-Free Licenses

An ASD may also customize its patent policy to require only compensation-free types of licensing commitments for essential patent claims, as described in Section 3.1.1(b)(ii) of the Patent Policy.¹⁰ As with other terms, such policies also might contain a mechanism allowing a patent holder to decline to license essential patent claims on compensation-free terms (such as an opt-out provision).

D. Reciprocity

Some ASDs adopt custom patent policies that reserve to patent holders the right to require "reciprocity" in connection with their licensing terms and conditions. In other words, an ASD might decide to allow patent holders to license essential patent claims on reasonable terms and conditions only to those applicants who are likewise willing to license their own essential patent claims, whose use would be required to implement the same ANS, on reasonable terms and conditions.

Neither the ExSC nor the BSR has yet opined on the propriety of any particular formulation of reciprocity. But "reciprocity" has been recognized by a number of prominent SDOs worldwide such as, for example, in the ISO/IEC/ITU Common Declaration Form, <https://www.iso.org/iso-standards-and-patents.html>.

¹⁰ The ExSC issued the American Petroleum Institute ("API") a reaccreditation approval after considering and accepting API's royalty-free-only patent Policy.

E. Use of Forms

The ExSC has permitted ASDs to use “form” patent letters of assurance and require that patent holders use such forms when submitting information to the ASD relating to an essential patent claim. While not required, the use of such forms may help ensure that the licensing commitment being made by a patent holder sufficiently aligns with and complies with the terms of an ASD's patent policy, particularly if it is a customized patent policy. There are many compliant form patent statements of assurance currently in use by ASDs. For example, ANSI accepts the ISO/IEC/ITU Common Declaration Form, <https://www.iso.org/iso-standards-and-patents.html>, for national adoptions of ISO and/or IEC standards.

Appendix A – The ANSI Patent Policy (2020)

3.0 Normative American National Standards Policies

Every ANSI-Accredited Standards Developer (ASD) shall comply with the normative policies contained in this section. The ASD may choose to: 1) include the text that follows, as appropriate, in its accredited procedures along with any additional information as required; or 2) submit to ANSI a written statement of full compliance with these policies in addition to policy statements that satisfy the requirements set-forth in this section.

3.1 ANSI patent policy - Inclusion of Patents in American National Standards

There is no objection in principle to drafting an American National Standard (ANS) in terms that include the use of an essential patent claim (one whose use would be required for compliance with that standard) if it is considered that technical reasons justify this approach.

Participants in the ASD/ANSI standards development process are encouraged to bring patents with claims believed to be essential to the attention of the ANSI-Accredited Standards Developer (ASD).

If an ASD receives a notice that a proposed, revised or approved ANS may require the use of such a patent claim that is not already covered by an existing assurance, the procedures in this clause shall be followed.

3.1.1 Statement from patent holder

The ASD shall receive from the patent holder or a party authorized to make assurances on its behalf, in written or electronic form, either:

- a) assurance in the form of a general disclaimer to the effect that such party does not hold and does not currently intend on holding any essential patent claim(s); or
- b) assurance that a license to such essential patent claim(s) will be made available to applicants desiring to utilize the license for the purpose of implementing the standard either:
 - i) under reasonable terms and conditions that are demonstrably free of any unfair discrimination; or
 - ii) without compensation and under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

Such assurance shall indicate that the patent holder (or third party authorized to make assurances

on its behalf) will include in any documents transferring ownership of patents subject to the assurance, provisions sufficient to ensure that the commitments in the assurance are binding on the transferee, and that the transferee will similarly include appropriate provisions in the event of future transfers with the goal of binding each successor-in-interest.

The assurance shall also indicate that it is intended to be binding on successors-in-interest regardless of whether such provisions are included in the relevant transfer documents.

3.1.2 Record of statement

A record of the patent holder's statement shall be retained in the files of the ASD and shall be made publicly available (at the ASD's election, either on the ASD's website or ANSI's LOA repository).

3.1.3 Notice

When the ASD receives from a patent holder the assurance set forth in 3.1.1.b above, the standard shall include a note substantially as follows:

NOTE – The user's attention is called to the possibility that compliance with this standard may require use of an invention covered by patent rights.

By publication of this standard, no position is taken with respect to the validity of any such claim(s) or of any patent rights in connection therewith. If a patent holder has filed a statement of willingness to grant a license under these rights on reasonable and nondiscriminatory terms and conditions to applicants desiring to obtain such a license, then details may be obtained from the standards developer.

3.1.4 Responsibility for identifying patents

Neither the ASD nor ANSI is responsible for identifying patents for which a license may be required by an American National Standard or for conducting inquiries into the legal validity or scope of those patents that are brought to their attention.

Appendix B – List of References

[ANSI Patent Policy 2020](#)

[ANSI By-Laws 2020](#)

[ANSI Board Response to Comments on By-Laws Revisions](#)

[Appeals Board Operating Procedures](#)

[BSR9-2020](#)

[BSR Operating Procedures](#)

[BSR-ASHRAE Decision- 052604](#)

[BSR-GTW IEEE withdrawal-090418](#)

[BSR-Re Echelon Decision-010898](#)

[BSR-TTi PGMAG300-091018](#)

[Essential Requirements](#)

[ExSC Operating Procedures](#)

[ExSC_dec LOA 022318](#)

[ExSC-Decision Motorola Appeal VITA Reaccreditation-100107](#)

[ExSC-Decision IEEE Reaccreditation-022516](#)

[ExSC 087 2017 091417 patent policy 022318 amended](#)