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**Sent:** Monday, December 21, 2020 4:36 PM

**To:** PSA Department <[PSA@ansi.org](mailto:PSA@ansi.org)>

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**Subject:** Public Comments: ANSI - Proposed amendments to ANSI Auditing Policy and Procedures

Dear Madam/Sir,

There are two elements upon which Fraunhofer IIS provides comment in relation to the proposed amendments to the ANSI Auditing Policy and Procedures:

**1. Evidence presented as part of a special audit.**

The proposed amendments contained in Section 5.2 state that “[...] the ExSC shall consider ~~all the evidence presented~~ all evidence it deems relevant [...]”

The wording in the original provisions (deleted Section 5) stated that “[...] the ExSC shall consider all the evidence presented [...]”.

It is suggested that the wording in 5.2 be “[...] the ExSC shall consider all the evidence presented ~~all evidence it deems relevant~~ [...]”. This is because the ExSC will naturally have to consider all the evidence presented in order to determine what is relevant to the special audit.

**2. References to development of an ANS in the last five years**

Annex B contains a list of questions to be completed by an ASD when it is audited. Question 14.3 asks if an ASD has drafted an ANS which includes an essential patent claim in the last five years however there is no indication this can be used as grounds for suspension or withdrawal of an ASD accreditation by the ExSC:

14.3 Has the accredited standards developer drafted an ANS in terms that include the use of an essential patent claim within the last five years? Yes\_\_ No\_\_

There are no current requirements in the Auditing Policy and Procedures for an accredited ASD to develop a proposed ANS within 5 years from the ExSC’s decision to require a special audit.

The proposed in Section 5.3 states::

**5.3 Special audit implementation**

An ANSI-Accredited Standards Developer that has not developed a proposed ANS within five (5) years from the date of the ExSC's decision to require a special audit shall submit their accredited procedures for review by the ExSC along with reasons why they have not developed a proposed ANS and why they believe their accreditation nevertheless remains relevant. In addition, thereafter, and on an annual basis, the developer must submit updated comparable information until a subsequent special audit takes place. The ExSC may suspend or withdraw the accreditation if the requested information is not provided or is deemed unsatisfactory.

The proposed amendment does not appear to largely impact the current procedures as it ensures that an ASD remains relevant and continues to produce ANSs in accordance with its accreditation.

If the amendments are approved, an open question is whether suspension or withdrawal of ANSI accreditation could impact on an ASD's ability to participate in international SDOs, as we understand that there is a requirement that any standard submitted to ISO, IEC or ISO/IEC JTC-1 has to be an ANS.

Please see, for example, Section 2.5.1 of the Essential Requirements. This Section states that, at the initiation of a project to develop or revise an ANS, notification shall be submitted to ANSI using the Project Initiation Notification System (PINS) form ([https://www.ansi.org/portal/psawebforms/PINS\\_Form](https://www.ansi.org/portal/psawebforms/PINS_Form)) for announcement in Standards Action.

Along with the PINS form, the ASD shall also submit a statement which includes:

(a) an explanation of the need for the project, including, if it is the case, a statement of intent to submit the standard for consideration as an ISO, IEC or ISO/IEC JTC-1 standard; and

(b) identification of the stakeholders (e.g., telecom, consumer, medical, environmental, etc.) likely to be directly impacted by the standard.

It is not clear what will occur if an ASD has produced an ANS which is recognised as an international standard, and then the ASD's accreditation is withdrawn or suspended. For this reason, it appears to be an open question whether this will result in the ANS no longer being recognised as an international standard.

We hope that these comments are helpful to your review process.

Sincerely,

Stefanie Mielert

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Kind regards / Mit freundlichem Gruss,

Stefanie Mielert

Rechtsanwältin

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