The proposal from the ExSC to change the ER requirement in ***3.1.2 Record of statement*** undermines the meaning of an ANS and legitimizes the practice of at least one ASD that currently does not submit relevant LOAs for some ANS to ANSI. For these ANS, ANSI does not and can not meet the current ER requirement in 3.1.2 that *A record of the patent holder's statement shall be retained in the files of both the ASD and ANSI.*

ANSI states in the *"User Guide for the American National Standards (ANS) Patent Letter of Assurance Database"* that the *IPR database contains patent holder statements that have been provided to ANSI.* Yet ANSI seems to have accepted ANS where an ASD does not supply ANSI with a copy of the relevant LOAs as the current ER requirement in ***3.1.2 Record of statement*** expects and that BSR9 forms (that ASDs send to ANSI to request ANS approval) currently require.

In the current *"User Guide for the American National Standards (ANS) Patent Letter of Assurance Database"* ANSI properly states that its database only contain statements "*actually received by ANSI"*

ANSI's IPR database contains patent holder statements that have been provided to ANSI and claim IPR or pending patent applications as being essential, or potentially essential, to the implementation of an American National Standard.

However another part of the *"User Guide for the American National Standards (ANS) Patent Letter of Assurance Database* states:

Some of the ANSI-Accredited Standards Developers (ASDs) have supplied ANSI with URLs to their own online Patent Databases. When this is the case, a separate record within the Patent Database in PDF format is posted that will link externally to the respective developer's database

This statement provides helpful information that an ASD might voluntarily submit to ANSI. But ASDs often maintain their own databases for LOAs received for other than ANS. It is quite a challenge to search such databases for ANS. The statement above describes a voluntary act by an ASD. The statement does not substitute for the current requirement in the ERs in 3.1.2 that *A record of the patent holder's statement shall be retained in the files of both the ASD and ANSI.*

In BSR-027-2018 in a reply to ANSI questions one ASD states:

"*This does leave a potential gap for those standards for which an initial LOA was filed with XXX after XXX had completed the BSR-9 submittal. If there are any such instances, XXX has not provided explicit notice to ANSI after-the-fact for a previously submitted BSR-9 package. Notification would occur at the next revision of the standard, when the next BSR-9 submittal (for the revision) was submitted to ANSI. "*

Relevant text in *ANSI Guidelines for Implementation of the ANSI Patent Policy* state as facts :

The Patent Policy applies with equal force to situations involving (1) the discovery of essential patent claims that may be required for use of a standard subsequent to its adoption and (2) the initial issuance of a patent after adoption… Thus, if notice is given of a patent that may be required for use of an already approved American National Standard, a standard developer may wish to make it clear to its participants that the ANSI procedures require the patent holder to provide the assurances contained in the Patent Policy or suffer the withdrawal of ANSI's approval of the standard as an American National Standard.

I urge ANSI not to change the ANSI patent policy as proposed because it will diminish the significance of an ANS. It will also remove the patent policy stated facts in the *ANSI Guidelines for Implementation of the ANSI Patent Policy* that the ANSI patent policy applies both at the time of ANSI acceptance of an ANS and afterwards.

I have personal knowledge that for at least 5 existing ANS ANSI has not complied with the ER current requirement in 3.1.2. In attachment 1 I requested "withdrawal for cause" to the ANSI BSR for 5 ANS because the ANS (in my opinion) do not meet the current ANSI patent policy. That appeal was denied by the ANSI BSR (attachment 2) . The appeal of the ANSI BSR decision to the ANSI appeals board (attachment 3) was also

essentially denied because ANSI denied my request for a hardship exemption for the filling fee for such appeals (attachment 4)

I urge ANSI not to accept the proposed revision. In my opinion the proposed revision legitimizes the practice of one ASD that has not supplied the relevant LOAs to ANSI for at least 5 ANS . ANSI can not comply with the current ER requirements in ***3.1.2 Record of statement*** because the ASD does not submit the relevant LOAs to ANSI.

Attachment One (must clip of the document below to open the full version) Request for denial of approval of 5 ANS

May 24, 2018

To: ANSI Board of Standards Review (BSR)
C/O Anne Caldas, Secretary, BSR
Via Email: acaldas@ansi.org

From: George T. Willingmyre,
President, GTW Associates

Re: **Request to withdraw certain ANS for cause**

Pursuant to Section 4.2.1.3.4 of the ANSI Essential Requirements[1] (ER), I request withdrawal of the following American National Standards (ANSs) for cause: ANSI/IEEE 802.11n-2009, ANSI/IEEE 802.11v-2011, ANSI/IEEE 802.11z-2010, ANSI/IEEE 802.16-2009, and ANSI/IEEE 1901-2010. I provide in this Request the sufficient showing required under ER 4.2.1.3.4(a) that "ANSI's patent policy was violated" with respect to these 5 standards. I have paid the fee required for processing this Request as confirmed by the BSR Secretary in her email to me.

Interest of Requester

I am the President of GTW Associates (GTW), an international standards policy consultancy. I have been active as a company member of the American National Standards Institute (ANSI) since 2000, serving as a voting member on several of its committees.[2] I have withdrawn my voting status on most of these committees and currently serve in non-voting capacity since mid-2017. I also represent GTW Associates' clients on the ANSI Organizational Member Forum. I am a member of IEEE and have participated in IEEE activities for 14 years. I currently serve on the Intellectual Property Committee of IEEE-USA. My Request, opinions, and views are my own and do not represent the positions or views of any of these entities or GTW clients.

Previously, I served as Vice President of ANSI from 1989 to 1995. My 45-year career has been devoted to standards policy. Over these years, I have come to appreciate the importance of ANSI and the value of the ANS designation on standards. This Request is not made on behalf of, or at the request of, any other party; it is based solely on my own conviction and interest in preserving the integrity of the ANSI process and the ANSI Essential Requirements and ensuring that both are in fact met by standards that are approved and held-out as ANSs. My reputation as a former ANSI Vice President and my own professional interest in preventing dilution of the industry-respected ANS status and in preserving the ANS brand, make me a "materially interested party" for the purposes of this Request. I submit this Request in full adherence to ANSI's Code of Ethics.[3]

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[1] *ANSI Essential Requirements: Due process requirements for American National Standards* (January 2018) at www.ansi.org/essentialrequirements.

[2] I serve on the following ANSI committees: the Intellectual Property Rights Policy Committee (IPRPC); the ANSI National Policy Committee (NPC); the ANSI International Policy Committee (IPC) ; the ANSI ISO Council (AIC); the ANSI ISO Forum (AIF); the Regional Steering committees for Asia/Pacific, Europe/Middle East, and the Americas; the ANSI Conformity Assessment Policy Committee; the Company Member Forum (CMF); and the Consumer Interest Forum (CIF).

[3] http://www.ansi.org/publicstatements/codeofethics?menuid=1

Attachment Two (must clip of the document below to open the full version) Denial of the request to BSR

100 ANSI 1918 - 2018

September 4, 2018

George Willingmyre
gtw@gtwassociates.com

David Ringle
d.ringle@ieee.org

Re: George Willingmyre's request to the ANSI Board of Standards Review (BSR) for the withdrawal for cause of five (5) American National Standards (ANS) sponsored by IEEE

Dated Notice

Dear Mr. Willingmyre and Mr. Ringle -

At its August 17, 2018 meeting, the ANSI Board of Standards Review (BSR) considered Mr. Willingmyre's request for the withdrawal for cause of five American National Standards (ANS) sponsored by IEEE, an ANSI-Accredited Standards Developer (ASD). The BSR considered the filings of both parties and finds that Mr. Willingmyre is not a "materially interested party" and therefore does not have standing to pursue the withdrawal of the IEEE standards as ANS given the facts presented and discussed below.

Background

On May 24, 2018, George T. Willingmyre, President of GTW Associates ("GTW"), filed with the ANSI Board of Standards Review ("BSR") a request for the withdrawal for cause of five ANS developed by IEEE (the "IEEE Standards")[1]. According to Mr. Willingmyre, the IEEE Standards were

[1] The IEEE Standards are: IEEE 802.11n-2009 *Standard for Local and Metropolitan Area Networks - Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) - Amendment: Enhancements for Higher Throughput*; IEEE 802.16-2009 *Standard for Local and Metropolitan Area Networks - Part 16: Air Interface for Fixed and Mobile Broadband Wireless Access Systems*; IEEE 1901-2010 *Standard for Broadband over Power Line Networks: Medium Access Control and Physical Layer Specifications*; IEEE 802.11z-2010 *Standard for Information Technology - Telecommunications and Information Exchange Between Systems - Local and Metropolitan Area Networks - Specific Requirements - Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications - Amendment 7: Extensions to Direct Link Setup (DLS)*; and IEEE 802.11v-2011 *Standard for Information Technology - Telecommunications and Information Exchange Between Systems - Local and Metropolitan Networks - Specific Requirements - Part II: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications - Amendment: IEEE 802.11 Wireless Network Management*

Attachment Three (must clip of the document below to open the full version) Appeal of Denial Decision

October 4 , 2018

To: Anne Caldas
Secretary, ANSI Appeals Board

Via Email: acaldas@ansi.org

From: George T. Willingmyre
President, GTW Associates

Re: Appeal to the ANSI Appeals Board of BSR decision

This is an appeal to the ANSI Appeals Board of the BSR decision on my request under the ANSI Essential requirements (ER) *ANSI Essential Requirements: Due process requirements for American National Standards Section 4.2.1.3.4 Withdrawal for Cause Requests for withdrawal of an ANS.* The BSR decision was sent to me September 4, 2018 and decided at a meeting of BSR August 17,2018. The BSR decision stated:

"The BSR considered the filings of both parties and finds that Mr. Willingmyre is not a "materially interested party" and therefore does not have standing to pursue the withdrawal of the IEEE standards as ANS given the facts presented and discussed below."

According the Appeal board Operating Procedures - Section 1 Authority and scope:

The Appeals Board shall consider appeals by directly and materially affected persons that have exhausted all other appeals available to them through ANSI and who believe they have been, or will be, adversely affected by a decision of ANSI.

I believe that I am a "directly and materially affected person" but at a minimum I am a "materially affected person" consistent with ER Section 4.2.1.3.4 Withdrawal for Cause Requests for withdrawal of an ANS. I believe I have exhausted all other appeals available through ANSI and believe I have been, or will be, adversely affected by a decision of ANSI.

According the Appeal board Operating Procedures Section 11.1 Appeal, the Appeals Board operating procedures state in part:

... Specifically, the appeal should include as appropriate:

a) a copy of the decision from which the appeal is taken;
b) an explanation of the issue and the procedural history;
c) arguments that explain why appellant believes the decision was in error;
d) references to the provision(s) of the ANSI procedures upon which appellant relies;
e) relevant evidence that directly supports appellant's position and upon which appellant relies; and

Attachment Four (must clip of the document below to open the full version) Appeal of Denial Decision)

From: Anne Caldas
Sent: Friday, October 05, 2018 11:55 AM
To: George Willingmyre
Cc: Anne Caldas
Subject: Dated Notice - GTW - Request for fee waiver - action today is required

*****Dated Notice – Action required by 5:00 pm Eastern today*****

Dear Mr. Willingmyre –

I'm writing in response to your request for a fee waiver (attached). Please note that the ANSI Appeals Board's Operating Procedures state the following with respect to filing fees:

- **11.1 Appeal** All appeals shall be made in writing. Appeals and the required filing fee shall be directed to the secretary of the Appeals Board on or before midnight Eastern time of the due date. The filing fee may be waived or reduced only upon sufficient evidence of hardship.

Your request for a waiver of the filing fee was submitted with your electronic appeals filing at 11:44 pm on the deadline date and did not include sufficient evidence of hardship based on ANSI's established practice as it relates to the hardship exemption. I note that you paid the equivalent filing fee at the BSR level eight months ago, without claiming any kind of hardship. Accordingly, your request is denied. If you wish to proceed with your appeal, please contact ANSI's Accounting Department before 5:00 pm (Diedra Smith at 212-642-4941) and pay the filing fee today.

Since your filing deadline has passed, the fee must be paid today before 5:00 pm, if you wish to proceed.

Thank you –
Anne

Anne Caldas
Secretary, ANSI Appeals Board
212-642-4914
acaldas@ansi.org