From: Gil Ohana (gilohana) <gilohana@cisco.com>
Sent: Monday, October 8, 2018 10:01 PM
To: Michael Atlass <matlass@qualcomm.com>; John Kolakowski <john.kolakowski@nokia.com>; PSA Department <PSA@ansi.org>
Cc: IPRPC <iprpc@ansi.org>
Subject: RE: [EXTERNAL] comments on proposed revision to 3.1.2 of the ANSI patent policy within the ANSI Essential Requirements

I share the concerns being expressed with making sure licensing commitments made to Accredited Standards Developers remain available. But this discussion is reminding me that the current ANSI Essential Requirements only encourage, but do not require, owners of patents believed to be essential to ANSI standards to declare those to ANSI. The specific text of the patent policy reads as follows:

*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).*

(Emphasis supplied)

So the discussion regarding whether LoAs are maintained by ANSI, by ASDs, or by both pre-supposes that a patentee has indeed accepted ANSI's encouragement and submitted an LoA. I share the concern that LoAs, once filed, be accessible by implementers and potential licensees. Of course, the same concerns with the availability of information about licensing commitments that cause me to share the concern that LoAs be accessible *also* raise a concern that the ANSI Patent Policy does not actually mandate that participants owning essential patent claims actually file LoAs at all. Fortunately, some ASDs, including the IEEE Standards Association and VITA, have gone beyond encouragement.

Hopefully those IPRPC participants who are professing concern with the possible reduced availability of LoAs if the obligation to maintain them is transferred to ASDs per the ExSC proposal will also support changing the Essential Requirements to make patent declarations mandatory. I recognize that patent declaration requirements are often incomplete and imperfect goads to participants to provide information about potentially essential patents (because, among other reasons, of understandable concerns with imposing patent search requirements). Nevertheless, it seems to me that people who in good faith express concerns with the continued availability of letters of assurance should also be concerned that participants in standards development in ASDs that follow the text of the ANSI Patent Policy can choose to ignore ANSI's encouragement to notify those ASDs that they believe they own essential patent claims and therefore not to file LoAs. An LoA that is never filed is every bit as inaccessible as an LoA filed with the hypothetical ASD that (per Michael Atlass's comment) later dissolves.

Best regards,

Gil

From: Michael Atlass <matlass@qualcomm.com>
Sent: Monday, October 08, 2018 8:46 PM
To: Kolakowski, John (Nokia-TECH/Herndon) <john.kolakowski@nokia.com>; psa@ansi.org
Cc: IPRPC <iprpc@ansi.org>

Subject: RE: [EXTERNAL] comments on proposed revision to 3.1.2 of the ANSI patent policy within the ANSI Essential Requirements

With apologies, but my outbound server was stopping my mail delivery to some of you. Resending the below:

Thanks for your patience.

Michael.

From: Michael Atlass
Sent: Monday, October 8, 2018 4:46 PM
To: 'Kolakowski, John (Nokia-TECH/Herndon)' <john.kolakowski@nokia.com>; psa@ansi.org
Cc: IPRPC <iprpc@ansi.org>
Subject: RE: [EXTERNAL] comments on proposed revision to 3.1.2 of the ANSI patent policy within the ANSI Essential Requirements

Thanks for these comments, John.

All,

Qualcomm has had some experience with not being able to obtain information from standards organizations that have gone out of business and not left a trace behind. In such situations, potential implementers of an ANS could be unable to discover whether licensing commitments identified within the non-operational organization to their standards would apply to the potential licensee's intended implementation. Accordingly, Qualcomm agrees with the Nokia comment below that some justification is required for the change proposed to 3.1.2, and seeing none, but understanding the risk this loss of ANSI information storage entails, both for the need to go to multiple locations for an implementation across SDOs and to be completely unable to obtain information from non-operational SDOs also believe that the proposal should be entirely rejected.

Thanks for your consideration and best regards,

Michael.

Qualcomm
Michael Atlass
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California Registered In-House Counsel
(858) 845-3163
(858) 334-8463 (cell)
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