

**VIDEO SERVICES FORUM  
INTELLECTUAL PROPERTY RIGHTS POLICY**

As amended on January 17, 2017

**1. IPR Generally**

**1.1 Purpose**

Video Services Forum (the "Forum") has adopted this Intellectual Property Rights Policy (the "Policy") and related rules of procedure (the "Rules of Procedure") in order to minimize the possibility of inadvertent infringement of the IPR of Members and third parties using or implementing any Forum work products.

**1.2 Applicability**

(a) All Members, all Member Representatives, and all third parties attending any technical process meeting are subject to this Policy and the Rules of Procedure.

(b) The terms of Section 3 below relate only to Draft Recommendations and Recommendations, and not to Other Work Product. All other Sections of this Policy relate to all work product produced by a Work Group.

**1.3 “Free Look” Provision**

(a) This policy contains a “Free Look” provision described under the definition of Participant in Section 2 below. A Member enrolling as of the date of the launch of an Activity Group who decides to withdraw from that Activity Group within 60 days of the launch date is *not* considered a Participant in that Activity Group for the purposes of this IPR policy.

**2. Definitions**

<b>Term</b>	<b>Definition</b>
Defensive Revocation	A term in a License entitling the licensor to revoke the License if the licensee asserts an Essential Claim under the same Recommendation Owned by it against any Implementer (including the Licensor), where infringement of such Essential Claim results solely from the implementation of such Recommendation.
Draft Recommendation	A technical Recommendation or other material that is produced by an Activity Group that could, if used or implemented as intended, infringe a claim(s) under an issued patent or a patent application anywhere in the world.
Essential Claims	Those claims under patents and/or patent applications anywhere in the world that would be Necessarily Infringed by the implementation of the Required Elements of a Recommendation. Essential Claims do not include claims covering reference implementations or implementation examples.

Implementers	Those Members and non-Members who desire to use or implement a Recommendation.
IPR	An abbreviation of "Intellectual Property Rights". As used in this Policy, IPR means claims in patents and patent applications and copyrights, but excludes trademarks and trade secrets, which are not included in a Participant and Member's licensing obligations.
License	Either (a) an agreement to license Essential Claim(s) to any Implementer, on a RAND or, as the context requires or permits, on a RAND-Z basis, perpetual, non-exclusive and worldwide basis, with such license permitting the licensee to make, have made, use, reproduce, market, import, offer to sell and sell, and to otherwise distribute products that implement such Essential Claim(s), or (b) a binding, perpetual, irrevocable commitment not to assert Essential Claim(s) against any Implementer of the Recommendation to which such commitment relates.
Member	A Forum member of any class
Necessarily Infringed	Unavoidable infringement by an implementation of a Required Element of a Recommendation, there being no reasonable alternative way to implement that element of the Recommendation without resulting in such infringement.
Non-discriminatory	Available to an Implementer under terms that are substantially identical to the terms made available to other Implementers of the same Recommendation under similar circumstances.
Owned	With respect to any Essential Claim(s), the word "Owned" includes any Essential Claim(s) that are owned, controlled, or licensable (without any payment obligation to or permission from a third party other than a Related Party), even if not registered in the name of the Member.
Other Work Product	Any Activity Group deliverable, in draft or final form, that is not a Draft Recommendation or Recommendation. Unless the context otherwise requires, any reference to the adoption of Other Work Product shall also be deemed to apply to the adoption of an amendment to that Other Work Product as well.
Participant	(a) a Member enrolling as of the date of the launch of the Activity Group that does not withdraw within sixty days of the launch date, or (b) a Member later enrolling in an Activity Group, or (c) a non-Member attending a Activity Group, and (d) any Member or non-Member submitting comments on a Draft Recommendation prior to its becoming a Recommendation.
RAND	Reasonable and Non-discriminatory
RAND-Z	Without charge and Reasonable and Non-discriminatory
Reasonable	License terms relating to Essential Claims that are not more onerous (including as to price) than could be obtained by the Owner of such claims in the open market absent their inclusion in a Recommendation.
Reciprocity	A License term requiring a licensee to provide a License back to the licensor with respect to any Essential Claim(s) Owned by the licensee under the same Recommendation.
Related Party	Any entity that is directly or indirectly controlled by the subject

	party. For this purpose, “control” means beneficial ownership or the right to exercise more than 50% of the voting power for the entity.
Representative	Any individual that acts on behalf of a Member in connection with a Activity Group, or in the completion of any form to be delivered to the Forum pursuant to the Policy or the Rules of Procedure.
Required Element	Any element of a Draft Recommendation or Recommendation that has not been identified as “Optional.” For the avoidance of doubt, when a Draft Recommendation or Recommendation requires an Implementer to implement one of two or more alternative elements, then all such elements shall be deemed to be “Required Elements.”
Recommendation	A Draft Recommendation that has been formally adopted by the Forum. Unless the context otherwise requires, any reference to the adoption of a Recommendation shall also be deemed to apply to the adoption of an amendment to a Recommendation as well.
Submission	An affirmative and knowing contribution of IPR with the intention that such IPR be considered for inclusion in a Recommendation or Other Work Product that is (a) accompanied by a Submission Form in the form attached to the IPR Policy as <u>Appendix A</u> , or (b) made by a Participant at any time during a Activity Group meeting, where such contribution has been recorded in the minutes of such meeting, and where the maker of the contribution has not objected to such text after the minutes have been posted for review by all Activity Group Participants.
Submitter	Both a Member as well as any Representative(s) of a Member, and any other person or entity making a Submission.
Technical Committee	At any relevant time, the most senior technical committee involved in the technical process.
Activity Group	A formally chartered Forum technical process that is intended to produce a Recommendation or Other Work Product.

### 3. Patents

#### 3.1 Elections by Submitters at Time of Submission

(a) The charter of each Activity Group developing a Draft Recommendation shall state whether Submissions may be made only on a RAND-Z basis, or whether Submissions may be made on a RAND basis while reserving the right to charge a RAND royalty or other fee for a License.

(b) Any Submitter making a Submission must submit a written declaration in the form of **Appendix A** to this Policy making the commitment set forth in i. below, or, in the event that the charter of the Activity Group permits, committing either as set forth in i. or ii. below:

- i. Royalty Free RAND License. Agree that, if the Draft Recommendation in connection with which the Submission is made is finally approved by the Forum,

the Submitter and each of its Related Parties will provide a License to all Essential Claims Owned by it or any of its Related Parties and included in its Submission that become Essential Claim(s), without compensation and otherwise on a RAND basis, to all Implementers; or

- ii. RAND License with Royalty. Agree to the same terms, but reserving the right to charge a royalty or other compensation on RAND terms [can require disclosure of Essential Claims].

### **3.2 Participant Disclosure and Election Obligations**

Whenever during the development of a Draft Recommendation a Representative Participating in the development becomes aware that he or she, or the Member it represents, Owns a patent that may become an Essential Claim if the Draft Recommendation were to be adopted in its current form, the Representative shall promptly deliver an election in the form of **Appendix B** to this Policy, electing one of the following:

- i. Royalty Free RAND License. Agree that if the Draft Recommendation is finally approved by the Forum, the Participant and each of its Related Parties will provide a License to all Essential Claim(s) Owned by it, without compensation and otherwise on a RAND basis, to all Implementers; or
- ii. RAND License with Royalty. Agree to the same terms, but reserving the right to charge a royalty or other fee on RAND terms, and identify those Essential Claims owned by it and/or its Related Parties under the Draft Recommendation, in its then-current form, and the portion of the Draft Recommendation that would result in such infringement. In the case of Essential Claims under non-public patent applications, the disclosure of such claims need not be in such detail as would disclose any trade secrets; or
- iii. Withholding of License as to Identified Essential Claims. Identify those Essential Claims owned by it and/or its Related Parties under the Draft Recommendation, in its then-current form, and the portion of the Draft Recommendation that would result in such infringement, and indicate that no guarantee of License rights is being made (or that such rights will in fact be denied in some or all cases) as to such Essential Claims by it and its Related Parties. In the case of Essential Claims under non-public patent applications, the disclosure of such claims need not be in such detail as would disclose any trade secrets;

provided, however, that an election form returned pursuant to this Section 3.2 by a Submitter shall only apply to those portions of a Draft Recommendation that are not based on its own Submission(s). The Submitter's original undertakings under Section 3.1(b) above shall continue to be binding as to the portions of the Draft Recommendation that are based on its Submission(s).

**Note:** A Member may elect different options above with respect to different Essential Claims, but its elections, taken together, must apply to all Essential Claims Owned by it and its Related Parties.

### **3.3 Patent Calls**

At the beginning of every in-person meeting and teleconference that occurs as a part of the technical process, and at any other appropriate time in the course of electronic collaboration as may be provided for under the Rules of Procedure, the following patent call shall be read:

Please be aware that this meeting is being held under the Intellectual Property Rights Policy adopted by the Forum. If you do not have a copy of this policy, please let me know now so that I can make a copy of the policy available to you immediately. You may also view and download a copy of that policy at the Resources section of the Forum website. Your participation, whether as a member or a guest, is governed by that Policy, and your continued attendance at this meeting indicates your acknowledgement that you understand and are complying with the full form of that Policy.

At this time, please inform me if you are personally aware of any claims under any patent applications or issued patents that would be likely to be infringed by an implementation of the Draft Recommendation which is the subject of this meeting. You need not be the inventor under such patent or patent application to inform us of its existence, nor will you be held responsible for expressing a belief that turns out to be inaccurate.

This general reminder is not a substitute for an attendee's responsibility to fully read, understand, and comply with the full IPR Policy.

### **3.4 Consequences of Knowing Withholding of Information**

In the event that:

- a. a Member asserts a Necessary Claim(s) against an Implementer of a VSF Specification with respect to such implementation; and
- b. that Member was required to disclose its Necessary Claims under Section 3 in order to preserve its right not to License such Necessary Claim(s); and
- c. it can be shown that such Member, or its Representative, knowingly and willfully withheld disclosure of such Necessary Claim(s) at the time that such disclosure was required;

then (a) the Member in question shall be deemed to have elected to provide a RAND-Z License with respect to such undisclosed Necessary Claims under the VSF Specification in question, (b), at the discretion of the VSF Board, the membership of such Member may be terminated, without refund of any fees for the then current membership year, and all of its existing licensing obligations under this IPR Policy with respect to other Necessary Claims Owned by it shall remain in force, and (c) VSF shall have no obligation to intervene, but such Implementer shall be entitled to claim protection, and assert a complete defense against such action, under this Section 3.4 as a third party beneficiary of the commitments made by Members under this IPR Policy.

### **3.5 Ownership of Activity Group Work Product**

As regards any portion of a Draft Recommendation that is collaboratively created in an Activity Group (i.e., a portion that was not a formal Submission), the following rules shall apply:

(a) Each Member that was a Participant in an Activity Group agrees that if: (i) the Draft Recommendation of that Activity Group is finally approved by the Forum, (ii) any Representative of such a Participant in such Activity Group is named as an inventor in any patent anywhere in the world, where such patent contains an Essential Claim(s) under such finally adopted Recommendation and that claim was discovered as a result of such collaboration; then such Participant will not assert such Essential Claim(s) anywhere in the world against any Implementer with respect to its implementing of such Recommendation.

(b) In the event that any such inventor or Participant shall breach the foregoing obligation, the Forum shall have no obligation to intervene, but such Implementer shall be entitled to claim protection, and assert a complete defense against such action, under this Section 3.5 as a third party beneficiary.

### **3.6 Patent Searches**

In no event shall the Forum, or any Representative, Participant or non-Participant Member, be obligated to conduct any patent searches regarding any Essential Claims that may be infringed by any implementation of a Draft Recommendation or Recommendation.

### **3.7 Confidential and Proprietary Information**

For the avoidance of doubt, the disclosure obligations set forth in this Section 3 shall not require a Member to violate the terms of any written non-disclosure agreement with a third party that is not (i) a Related Party of such Member, or (ii) controlled by, or under common control with, a Related Party of such Member. This condition only applies as long as (a) such agreement has not been entered into with the purpose, in whole or in part, of avoiding disclosure under this IPR Policy, and (b) the Member makes such disclosure as it is able to make without violating such agreement. At minimum, the Member shall disclose (x) the fact that it has knowledge of a patent claim that it would otherwise be obligated to disclose, and (y) the portion of the Draft Recommendation that would result in infringement of such patent claim

### **3.8 Transfers of Essential Claims**

(a) Each Member and Participant agrees that it will not transfer, and has not transferred, Ownership in patents or patent applications having Essential Claims solely for the purpose of circumventing such Member or Participant's obligations under this IPR Policy.

(b) No party bound by this Policy shall transfer Ownership in any patent or patent application having Essential Claims, except to a successor that agrees in writing

to (i) be bound by all commitments previously made by the direct or indirect transferor(s) under this Policy with respect to such patent or patent application, and (ii) include the obligations set forth in this Section 3.8 in any document of transfer relating to such patent or application in the event that it later transfers the same.

### **3.9 Patent Claims Revealed After Publication**

In the event that an Essential Claim is first revealed by a Member or third party Owner of such claim following adoption and publication of a Recommendation (other than an Essential Claim subject to consequences under Section 3.5 above), such holder will be asked to License the Essential Claim in the manner outlined in Section 3.1 above. If such request is refused, the Recommendation in question shall be referred to the VSF Board for consideration and possible action.

### **3.10 Document Notations**

All electronic and tangible copies of Draft Recommendations that are subject to public comment, and all Recommendations, shall include the relevant legend specified in **Appendix C**.

## **4. Copyrights**

The terms of this Section 4 relate to all work product of the Forum (e.g., Draft Recommendations, Recommendations, and Other Work Product).

### **4.1 Copyright in Recommendations**

The copyright for all Draft Recommendations, Recommendations and Other Work Product shall belong to the Forum.

### **4.2 Contributions of Copyrighted Materials**

Each Submitter who contributes copyrighted materials to the Forum shall retain copyright ownership of its original work, while at the same time granting the Forum a non-exclusive, irrevocable, worldwide, perpetual, royalty-free license under the Submitter's copyrights in its Submission to reproduce, distribute, publish, display, perform, and create derivative works of the Submission based on that original work for the purpose of developing a Draft Recommendation, Recommendation or Other Work Product under the Forum's own copyright.

## **5. Trade Secrets**

Participants and other Members will not be expected to reveal trade secret information in the course of participation in any Forum activity, nor will they be asked by the Forum to sign non-disclosure agreements. The Forum will not be held responsible for the disclosure of any Member's or non-Member's trade secrets, regardless of the circumstances.

## **6. Trademarks**

## **6.1 Forum Trademarks**

Trademarks created by the Forum, registered or otherwise, are the property of the Forum. Use of Forum trademarks shall be governed by such policies, procedures and guidelines as may be established and approved by the Forum from time to time, and applicable law.

## **6.2 Non-Forum Trademarks**

The Forum's use of third-party trademarks, registered or otherwise, shall be governed by such policies, procedures and guidelines as may be established and approved by the owners of such trademarks, and applicable law.

## **7. Irrevocability and Binding Nature of Commitments**

All commitments made under this policy shall be irrevocable, except that the Owner of an Essential Claim may include a Reciprocity or Defensive Revocation term in a License to its Essential Claims.

## **8. Survival of Obligations**

(a) Any License obligations and other obligations that a Member incurs under this Policy shall continue in force after the Member ceases to be a Member for any reason. However, no Member shall become subject to any new License obligations or other Obligations under this Policy after it ceases to be a Member.

(b) The Forum shall have the right to assign all of its rights under this Policy, and the right to enforce all obligations incurred by Members and Participants under this Policy, to any successor to the mission of the Forum.

(c) All persons and entities that are intended third party beneficiaries of rights and obligations incurred under this Policy shall remain entitled to enforce the same, notwithstanding any termination, dissolution or winding up of The Forum.



Appendix A

**VIDEO SERVICES FORUM**

**SUBMISSION OF TECHNOLOGY FORM**

**NOTE:** All blanks must be completed in order for this Submission to be given consideration. This submission is subject to the Intellectual Property Rights Policy (the "IPR Policy") of the Video Services Forum (the "Forum"), and related rules of procedure (collectively, both such documents are referred to below as the "Policies and Procedures"). *All capitalized terms used in this form are intended to have the meanings given to them in the IPR Policy.*

<b>Name of Submitter:</b>	
<b>Name of Representative Completing this Form on Behalf of Submitter:</b>	
<b>Mailing Address of Representative:</b>	
<b>Email Address of Representative:</b>	
<b>Draft Technical Recommendation and Request For Proposals (if any) to which this Submission relates:</b>	

A. The Representative hereby represents the following on behalf of him/herself and the Submitter, as the context requires:

1. The Representative is authorized to make the Submission attached as **Exhibit A** on behalf of the Submitter, and to make the following representations and warranties.

2. The Submitter has reviewed the Policies and Procedures and agrees that its Submission is being made in full compliance with the same.

3. The Submitter hereby irrevocably agrees to (i) the first alternative below, where the charter of the Activity Group so limits Submitters, and (ii) as the Submitter indicates below where the charter of the Activity Group permits Submitters to elect one of the two choices following (*such a Submitter **must** elect at least one of the following*):

(a) Royalty Free RAND License. If the Draft Recommendation is finally approved by The Forum, the Submitter and each of its Related Parties will provide a License to all Essential Claims Owned by it or any of its Related Parties and included in its Submission that become Essential Claim(s), without compensation and otherwise on a RAND basis, to all Implementers; or (b) RAND License with Royalty. Agrees to the same terms, but reserves the right to charge a royalty or other compensation on

RAND terms in connection with the Essential Claims identified on **Exhibit B**, together with the portions of the Draft Specification that would result in such infringement.

4. The Submitter hereby agrees that the Forum may copy, distribute and otherwise make available this Submission for the purpose of evaluation, and that in the event that the Submission is accepted, in whole or in part, that the Forum will own the copyright in the resulting Recommendation and all rights therein, including the rights of distribution. This agreement shall not in any way deprive the Submitter of any patent claims or other IPR relating to the technology to which its Submission relates.

5. The Submitter is not aware of any Essential Claim(s) of any third party that might be infringed by the implementation of the Recommendation referenced above as a result of the incorporation of the Submission therein, whether in whole or in part. If the Submitter is aware of any such potential infringement, then the Submitter has described such Essential Claim(s) on **Exhibit B**, together with any supporting documentation that may be readily available to the Submitter.

B. The Forum, in accepting this Submission, acknowledges the following:

1. The representation required in paragraph A.5 above is being solicited purely for informational purposes, and the Forum will not be relying on such representation or otherwise holding the Representative or Submitter responsible for its completeness or accuracy.

2. EXCEPT AS SPECIFICALLY PROVIDED FOR ABOVE, THIS SUBMISSION IS BEING OFFERED WITHOUT ANY WARRANTY WHATSOEVER, AND IN PARTICULAR, ANY WARRANTY OF NON-INFRINGEMENT IS EXPRESSLY DISCLAIMED, EXCEPT TO THE EXTENT OF KNOWING FALSITY IN ANY STATEMENT MADE ABOVE. ANY IMPLEMENTATION OF ANY RECOMMENDATION INCORPORATING THIS SUBMISSION IN WHOLE OR IN PART SHALL BE MADE ENTIRELY AT THE IMPLEMENTER'S OWN RISK, AND THE SUBMITTER SHALL HAVE NO LIABILITY WHATSOEVER TO ANY IMPLEMENTER OR THIRD PARTY FOR ANY DAMAGES OF ANY NATURE WHATSOEVER DIRECTLY OR INDIRECTLY ARISING FROM SUCH IMPLEMENTATION, EXCEPT AS A RESULT OF ANY KNOWING FALSITY IN ANY STATEMENT MADE ABOVE.

This submission has been made on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name of Submitter

By: \_\_\_\_\_  
Signature of Representative

Name: \_\_\_\_\_

**Exhibit A**

**SUBMISSION**

Insert description of Submission in such detail as may from time to time be required under the Policies and Procedures

**Exhibit B**

**SUBMITTER ESSENTIAL CLAIMS**

List here all Essential Claim(s) Owned by you

<b>Jurisdiction and Patent Number</b>	<b>Essential Claim(s)</b>	<b>Affected Portion of Draft Recommendation</b>

**THIRD PARTY IPR**

List here all Essential Claim(s) Owned by third parties, to the extent of your knowledge.

<b>Jurisdiction and Patent Number</b>	<b>Essential Claim(s)</b>	<b>Affected Portion of Draft Recommendation</b>

Appendix B

**VIDEO SERVICES FORUM**

**INTELLECTUAL PROPERTY RIGHTS ELECTION FORM**

**NOTE:** All blanks must be completed in order for this election form to be given consideration. This election form is subject to the Intellectual Property Rights Policy (the "IPR Policy") of the Video Services Forum (the "Forum"), and related rules of procedure (collectively, both such documents being referred to below as the "Policies and Procedures"). *All capitalized terms used in this form are intended to have the meanings given to them in the IPR Policy.*

<b>Name of Member:</b>	
<b>Name of Representative Completing this Form on Behalf of Member:</b>	
<b>Mailing Address of Representative:</b>	
<b>Email Address of Representative:</b>	
<b>Draft Recommendation to which this Election Form relates:</b>	

A. The Representative hereby represents the following on behalf of him/herself and the Member, as the context requires:

1. The Representative is authorized to complete and submit this Election Form on behalf of the Member, and to make the following representations and warranties.

2. The Representative and the Member have each reviewed the Policies and Procedures, and agree that this Election Form is being completed and submitted in full compliance with the same.

3. The Representative has become aware of a patent claim that might become an Essential Claim if the Draft Recommendation listed above were to be adopted in its current form, and, on behalf of the Member or non-Member Participant represented by the Representative, agrees to the following (*all Representatives **must elect at least one of the following***):

(a) Royalty Free RAND License. If the Draft Recommendation is finally approved by The Forum, the Participant and each of its Related Parties will provide a License to all related Essential Claim(s) Owned by it, without compensation and otherwise on a RAND basis, to all Implementers; or

(b) RAND License with Royalty. Agrees to the same terms, but reserves the right to charge a royalty or other compensation on RAND terms in connection with the Essential Claims identified on **Exhibit A**; together with the portions of the Draft Specification that would result in such infringement; or

(c) Withholding of License as to Identified Essential Claims. Asserts that no guarantee of License rights is made (or that such rights will in fact be denied in some or all cases) as to the Essential Claims Owned by it and identified on **Exhibit A**.

**Notes:**

(i) A Member may elect different options above with respect to different Essential Claims, but its elections, taken together, must apply to all related Essential Claims Owned by it and its Related Parties.

(ii) In the case of Essential Claims under non-public patent applications, the disclosure of such claims need not be in such detail as would disclose any trade secrets.

4. The Representative is not aware of any Essential Claim(s) or other IPR of any third party that might be infringed by the implementation of the Draft Recommendation referenced above. If the Representative is aware of any such potential infringement, then the Representative has described such Essential Claim(s) or other IPR on **Exhibit A**, together with any supporting documentation that may be readily available to the Representative.

B. The Forum, in accepting this Election Form, acknowledges that the representation required in paragraph A.4 above is being solicited purely for informational purposes, and the Forum will not be relying on such representation or otherwise holding the Representative or Member responsible for its completeness or accuracy.

This Election Form has been submitted on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name of Participant or  
Non-Participant Member

By: \_\_\_\_\_  
Signature of Representative

Name: \_\_\_\_\_

**Exhibit A**

**WITHHELD IPR**

List here all Essential Claim(s) Owned by you for which Section 3.2 i. or ii. Licenses will not be supplied.

<b>Jurisdiction and Patent Number</b>	<b>Essential Claim(s)</b>	<b>Affected Portion of Draft Recommendation</b>

**THIRD PARTY IPR**

List here all Essential Claim(s) Owned by third parties, to the extent of your knowledge.

<b>Jurisdiction and Patent Number</b>	<b>Essential Claim(s)</b>	<b>Effectuated Portion of Draft Recommendation</b>

## Appendix C

### DOCUMENT NOTATIONS

#### 1. Notation when no Essential Claims have been Identified

All Draft Recommendations that are subject to public comment and all Recommendations shall include the following introductory language:

"Recipients of this document are requested to submit, with their comments, notification of any relevant patent claims or other intellectual property rights of which they may be aware that might be infringed by any implementation of the Recommendation set forth in this document, and to provide supporting documentation."

All Recommendations shall additionally include the following introductory language:

"THIS RECOMMENDATION IS BEING OFFERED WITHOUT ANY WARRANTY WHATSOEVER, AND IN PARTICULAR, ANY WARRANTY OF NON-INFRINGEMENT IS EXPRESSLY DISCLAIMED. ANY USE OF THIS RECOMMENDATION SHALL BE MADE ENTIRELY AT THE IMPLEMENTER'S OWN RISK, AND NEITHER THE FORUM, NOR ANY OF ITS MEMBERS OR SUBMITTERS, SHALL HAVE ANY LIABILITY WHATSOEVER TO ANY IMPLEMENTER OR THIRD PARTY FOR ANY DAMAGES OF ANY NATURE WHATSOEVER, DIRECTLY OR INDIRECTLY, ARISING FROM THE USE OF THIS RECOMMENDATION."

#### 2. Notation when Essential Claims or other IPR are Identified

(a) When Essential Claims have been identified for Draft Recommendations, or thereafter with respect to already published Recommendations, where the owner of such Essential Claim(s) is willing to provide a License agreement relating to such Essential Claim(s), such Draft Recommendation or Recommendation shall include a notice substantially as follows in the introductory language:

"THE FORUM draws attention to the fact that it is claimed that compliance with this Recommendation may involve the use of a patent ("IPR") concerning [section of Recommendation]. THE FORUM takes no position concerning the evidence, validity or scope of this IPR.

"The holder of this IPR has assured THE FORUM that it is willing to License all IPR it owns and any third party IPR it has the right to sublicense which might be infringed by any implementation of this Recommendation to THE FORUM and those Licensees (Members and non-Members alike) desiring to implement this Recommendation. Information may be obtained from:

[Name of Holder of Right]  
[Address]



"Attention is also drawn to the possibility that some of the elements of this Recommendation may be the subject of IPR other than those identified above. THE FORUM shall not be responsible for identifying any or all such IPR.

"THIS RECOMMENDATION IS BEING OFFERED WITHOUT ANY WARRANTY WHATSOEVER, AND IN PARTICULAR, ANY WARRANTY OF NON-INFRINGEMENT IS EXPRESSLY DISCLAIMED. ANY USE OF THIS RECOMMENDATION SHALL BE MADE ENTIRELY AT THE IMPLEMENTER'S OWN RISK, AND NEITHER THE FORUM, NOR ANY OF ITS MEMBERS OR SUBMITTERS, SHALL HAVE ANY LIABILITY WHATSOEVER TO ANY IMPLEMENTER OR THIRD PARTY FOR ANY DAMAGES OF ANY NATURE WHATSOEVER, DIRECTLY OR INDIRECTLY, ARISING FROM THE USE OF THIS RECOMMENDATION."

(b) In the event that the owner of any IPR has asserted that infringement would result from the implementation of a Draft Recommendation or Recommendation, and such owner has refused to grant a License under the terms of this Policy, then the second paragraph of the above notice shall be replaced or supplemented, as appropriate, with the following:

"The holder of such IPR has refused a request by the Forum that it agree to make a License available for the purpose of implementing this Recommendation. Information may be obtained from:

[Name of Holder of Right]  
[Address]"