



Video Services Forum Rules of Procedure

Rules and procedures for compliance with the VSF IPR Policy
January 17, 2017

Introduction

This document is intended to assist Video Services Forum (“VSF”) chairpersons, members and staff in taking the steps necessary to conform with the VSF Intellectual Property Rights (“IPR”) Policy (The VSF IPR Policy may be found at <http://www.videoservicesforum.org/ipr>). The purpose of the IPR policy and these Rules of Procedure (“Rules”) is to make sure that any Necessary Claims contained in contributions made to the VSF in its committees are fully disclosed, and to also make clear the terms under which the contribution of these Necessary Claims are made.

While these rules are meant to be an aid in applying the VSF IPR policy, when in doubt, please refer to the IPR policy itself. It is strongly recommended that readers of this document also consult the VSF IPR FAQ which can be found at the URL above. You may also contact the VSF Executive Director or Operations Manager for guidance. Capitalized terms that are not defined in this document are intended to have the definitions given to them in the IPR Policy.

Table of Contents

Introduction.....	1
Table of Contents	1
1. Activity Group IPR Mode.....	1
2. Submission of Technology.....	1
3. Form not required for technology submitted in technical meetings.....	3
4. Patent Calls	3
5. Actions to be taken by chairpersons related to Patent Calls.....	3
6. “Free Look” Provision	4
7. Disclosures Made in the Course of an Activity Group	5
8. Document Notations	5
9. Trademarks	5

1. Activity Group IPR Mode

Every Activity Group (“AG”) shall have an Activity Group Authorization Form which has been approved by the VSF Board of Directors prior to the start of work in the Activity Group. The form shall contain a notation of the IPR Mode of that Activity Group. There are two allowable IPR Modes:

RAND Mode: An Activity Group operating mode under which Participants may offer a RAND License or RAND-Z License with respect to the material they submit for potential incorporation into a Draft Recommendations (a “Submission”).

RAND-Z (i.e., royalty-free) Only Mode: An Activity Group operating mode under which Participants may only offer a RAND-Z License with respect to their Submissions. All existing Activity Groups are, by default, RAND-Z Only Mode groups.

In the case where a Participant makes a Submission but another Participant has an Essential Claim(s) on part or all of the Submission (a “Non-Contributed Essential Claim”), all Participants, other than the submitter in both types of Activity Groups may choose to offer a RAND-Z License, a RAND License, or no license at all with respect to any Non-Contributed Essential Claim(s) that they own and identify in the course of an Activity Group’s work.

Reasoning: Anyone participating in an Activity Group should understand their obligations before joining the group. By declaring the IPR mode of the AG at its inception, potential participants know what is expected of them if they participate and wish to make Submissions. The VSF has always had RAND-Z Only groups. But it may choose to create RAND Mode groups in the future.

2. Submission of Technology

Any entity submitting technology to the VSF for consideration shall complete a *Submission of Technology Form*. The form appears as Appendix A of the VSF IPR Policy. If the Activity Group is a RAND-Z group, then the only selection available to a Submitter is to agree to grant a Royalty Free RAND License. If the Activity Group is a RAND group, then the Submitter may agree to grant either a royalty free RAND License or a Rand License preserving the right to charge a royalty. The Submitter must indicate a license selection. Modifications to the Submission of Technology Form are not allowed.

The form is required whenever a Submission relating to a RAND mode Activity Group is made outside of a regular VSF Activity Group meeting, or outside of activities that could be construed as being a part of the Activity Group discussions (e.g. technical comments made via open emails sent to a VSF AG committee email reflector). In these cases, a form is not required.

Video Services Forum
Rules of Procedure

This is because all Activity Group participants are under an ongoing obligation to disclose any IPR claims of which they are aware, and because all AG Participants agree not to assert IPR claims for IPR contained in collaboratively developed Recommendations. A form is never required in connection with a Submission to a RAND-Z mode Activity Group, because all submissions are always subject to a RAND-Z licensing obligation. However, if a company suggests that an Activity Group be formed to take on a particular task, and that company presents a document to the VSF as a starting point for committee work, then a form must accompany the submission. The Chair of an Activity Group, in his or her discretion, may also request a form in connection with a particular Submission. All Submissions that are not accompanied by a completed form must be documented in the minutes of an Activity Group along with the name of the Member and Representative making the Submission.

Reasoning: The VSF wants to make its best effort to ensure that all the technology contained in its published documents have clear disclosures regarding any IPR associated with that technology. Using a standardized form for technology contributions allows the VSF to relay to the readers of its documents any claims which were identified regarding its documents.

Note: While it is important that accurate minutes and email records are kept of all VSF meetings, it is essential that the minutes of all in-person and telephonic meetings of RAND Activity Groups record the name of every Submitter, and the Chair must also remember to ask each Submitter whether the Submission is being made on a RAND or a RAND-Z basis, and record the response in the minutes of the meeting. Emails relating to RAND Activity Groups that include Submissions must also be indexed and archived. In the case of email Submissions to RAND mode Activity Groups, the Chair shall not accept the Submission unless (or until) it indicates whether the Submission has been made on a RAND or RAND-Z basis.

Chairs should ask for blanket Submission Forms covering any and all potential Submissions made by a Participant when a new Activity Group is forming, and when a Participant joins after the Activity Group is underway. This provides protection for both the Participant and for the VSF in the case where errors or omissions are made in meeting minutes. This applies only to RAND Activity Groups.

Reasoning: The obligations of Submitters are more strict with respect to their Submissions than are the obligations of the other Participants in the same Activity Group. Unless Submitters are not identified to Submissions, these obligations cannot be enforced.

3. Form not required for technology submitted in technical meetings.

A *Submission of Technology Form* is not required for comments made during an Activity Group technical meeting or for comments made outside of a conference call or physical meeting, if the comments are made in relation to the collaborative work of the Activity Group creating the specification. For example, if someone suggests a particular solution to a technical problem in an email to an Activity Group reflector, then a form is not required. But the submission shall be noted in the minutes.

Reasoning: Comments made in association with the work of an Activity Group are covered by the ongoing obligation to disclose, as outlined in Patent Calls.

Patent Calls shall be made at the beginning of each Activity Group meeting. Anyone making a technical comment during an AG meeting which involves potential IPR is obliged to disclose this at the time the comment is made.

4. Patent Calls

At the beginning of every in-person meeting and teleconference that occurs as part of the technical process, and at any other appropriate time in the course of electronic collaboration, the Patent Call appearing in Section 3.3 of the IPR policy shall be read, or shall be circulated electronically, as appropriate for the situation.

Note: In addition to reading the call, it is highly desirable that the chairperson display the patent notice above through any shared visual means available (e.g. PowerPoint if at a physical meeting, or via a screen share if through a teleconference).

Rationale: The purpose of the Patent Call is to remind attendees that they have an ongoing obligation to declare any IPR. The reason the Patent Call must be read at every meeting is that in the past, some IPR claims have been upheld and implementers and end users have had to pay royalty payments when it was shown that Patent Calls were not consistently made at every meeting, or where the association was not able to show proof through formal meeting minutes that the Patent Calls had been made, even if participants said they had recalled them having been read at each meeting.

5. Actions to be taken by chairpersons related to Patent Calls

- The Patent Call shall be read and shown at every Activity Group meeting. There are no exceptions.

- The minutes shall reflect the fact that the Patent Call was read at the meeting

- The minutes shall list the people who attended the meeting

Rationale: Some IPR claims have been upheld, and implementers and end users have had to pay royalty payments, when it was shown that an Association could not prove that the company with the IPR was attending a meeting where the Patent Call had been read.

- If, while acting as the chairperson of an Activity Group, someone approaches you in response to a Patent Call, saying that they do not have a copy of the IPR policy, please give them the following URL and ensure that they are able to access the IPR policy. If they are unable to access the policy, instruct them to contact the VSF Operations Manager.

The most current version of the VSF IPR policy may always be found at <http://www.videoservicesforum.org/ipr>.

Rationale: The IPR Policy must be available to everyone who is working in an Activity Group so that they can read, understand, and comply with its obligations.

- If, while acting as the chairperson of an Activity Group, someone makes information known in accordance with the Patent Call and the VSF IPR Policy, then the chairperson shall, in the meeting minutes, make a note of the disclosure including all specifics available at the time of the disclosure, along with the name and contact information of the person making the disclosure. In addition to including this information in the minutes, the chairperson shall contact the Executive Director and the Operations Manager and make them aware of the disclosure. The chairperson, at their discretion may continue the meeting, but should avoid continuing discussion of the affected sections of the document.

Rationale: It is important that the chairperson capture the disclosure in relation to any AG activities so that the Video Services Forum may take appropriate action based upon the disclosure, and so that those who might not be present at the meeting may also be made aware of the disclosure.

6. “Free Look” Provision

The IPR Policy includes a “Free Look” provision. Once a new AG is formed, Members may attend AG meetings without becoming “Participants” and invoking certain terms of the IPR Policy for a period of 60 days. Once the initial 60 day period has passed, the provisions of the Free Look period no longer apply, except with respect to any Submissions made by the Member before it dropped out.

Rationale: By Participating in a VSF AG, Members agree to provide licenses to their IPR under the appropriate terms of the IPR Policy. An informed

Member might decide not to Participate in an AG if they knew more precisely what the final scope of the Draft Recommendation might be, or how useful its participation in the AG might be to it.

7. Disclosures Made in the Course of an Activity Group

When a Submission is made to an Activity Group, it may be the case that another Participant in that group not involved in the Submission either Owns an Essential Claim, or knows of a Third Party Essential Claim. These claims are called “Non-Contributed Essential Claims” because the person with the Essential Claim did not contribute it as part of a Submission. In this case, the IPR Policy requires that the Participant complete an Intellectual Property Rights Election Form, found in Appendix B of the IPR Policy. The Participant may elect to provide a RAND license either with or without a fee, or it may elect to not provide a license at all.

Rationale: Because the VSF desires to know as much about any Essential Claims contained in its work, we require Participants to disclose Essential Claims even if they did not make the Submission containing those claims. However, since the Participant did not make the Submission, we allow them to choose any license, or no license, as permitted under the IPR Policy.

8. Document Notations

All VSF documents being prepared as Draft Recommendations shall contain the appropriate Document Notations as shown in the Appendix “Document Notations” in the VSF IPR Policy.

Rationale: It is important to notify anyone who is considering implementing any Recommendation of any IPR disclosures made during the drafting of the Recommendation.

9. Trademarks

It is the responsibility of the chairperson of the Activity Group to secure permission to use any third-party trademarks from the owner of those trademarks. Such permission shall be in writing from a duly authorized representative of the owner. That said, it is generally the case that the VSF discourages the inclusion of any trademark in a Recommendation.

Rationale: The VSF has the right to publish its own documents, but it cannot use a trademark from another party in its documents without permission. However, since publishing a document with another organization’s trademark may provide unfair advantage to that company, we try to avoid this.