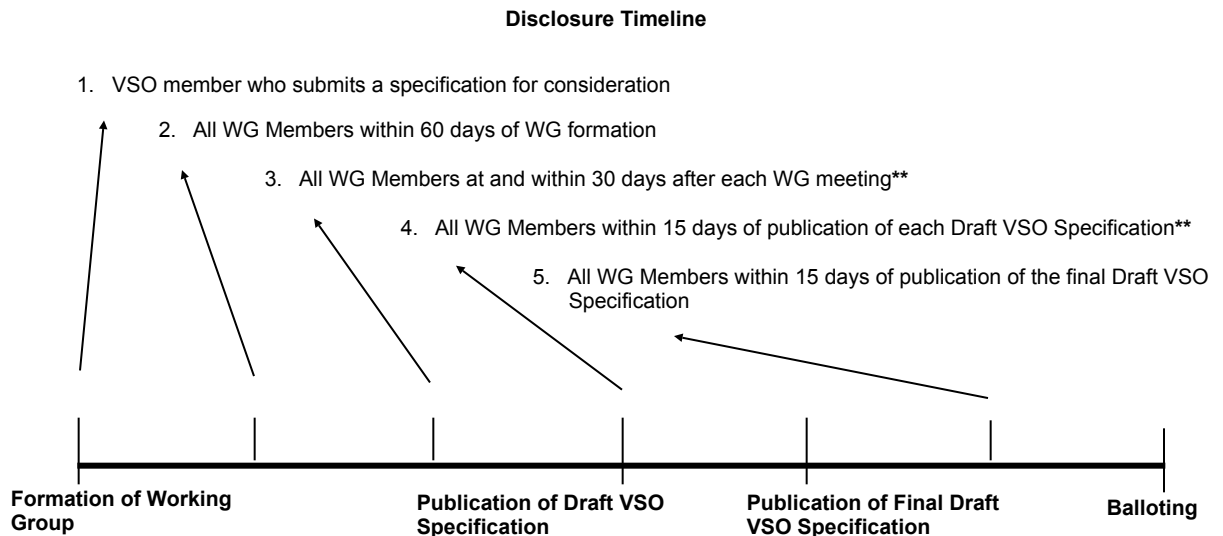


## **IMPLEMENTATION PLAN FOR VITA'S REVISED PATENT POLICY**

### **Working Groups Formed After January 17, 2007:**

#### **Timing of IP Disclosure**



\*\* These are continuing obligations to disclose after each meeting and after publication of each draft specification

1. A VSO member who proposes to VSO a specification for consideration to become a Draft VSO Specification must disclose prior to formation of a WG.
2. All WG Members must disclose within 60 days of formation of a WG.
3. At each WG meeting, the WG Chair will make a call for essential patents and those WG Members who respond must disclose at and within 30 days of the WG meeting.
4. All WG Members must disclose within 15 days of the date of each publication of a Draft VSO Specification.
5. All WG Members must disclose for balloting within 15 days of the date of publication of the final Draft VSO Specification.

#### **Method of Disclosure**

- Each time patent information is required to be disclosed, WG Members must complete the Declaration form and timely submit it to the WG Chair.
- There is no need to submit new Declaration forms for previously disclosed patents, patent applications, or licenses.
- If a WG Member wants to amend license information on a previously-submitted Declaration form, he or she can do so only if the subsequent Declaration is less restrictive upon prospective licensees than the former Declaration.
- WG Members must submit a Declaration form for each new or otherwise previously undisclosed patent or patent application the VITA Member Company owns, controls, or licenses that contains claims essential to implement a Draft VSO Specification.

#### **Good Faith and Reasonable Inquiry Obligation**

- Disclosures must be based on the WG Member's good faith and reasonable inquiry into the patents and patent applications the VITA Member Company he or she represents

owns, controls, or licenses. The scope of this inquiry is limited to those patents, patent applications, or licenses that contain claims essential to the Draft VSO Specification.

- A good faith and reasonable inquiry includes the WG Member using reasonable efforts to identify, contact, and discuss the Draft VSO Specification with: (1) individuals at the VITA Member Company who are experts in the relevant subject area; and (2) the company's attorneys responsible for the patent work in the relevant subject area.
- For example, a WG Member could satisfy his or her good faith and reasonable inquiry obligation by: (1) discussing the Draft VSO Specification with his or her manager and contacting team members involved in the relevant subject matter of the Draft VSO Specification; and (2) contacting the company's inside or outside attorneys, as appropriate, responsible for the patent work in the relevant subject area to determine if there are patents, patent applications, or licenses the company owns or controls that may contain claims essential to implement the Draft VSO Specification.
- This obligation does not require a WG Member to search the VITA Member Company's patent databases.

### **Failure to Meet Disclosure Obligations**

- If any WG Member does not adequately and timely disclose, the VITA Member Company must license any undisclosed patents or patent applications to the extent essential to implement a Draft VSO Specification on a royalty free basis and in accordance with the license restrictions in Section 10.4 of the Patent Policy.
- Any VSO member that believes a WG Member or the VITA Member Company he or she represents has not fulfilled his/her or its obligations under the Patent Policy terms may submit his/her complaint to the WG Chair.
- If the complaint is not resolved within 15 days of notifying the WG Chair, the WG Chair will commence the Arbitration Procedure in Section 10.5 of the Patent Policy.

### **Working Groups Formed Before January 17, 2007:**

The Patent Policy will apply to WGs formed before January 17, 2007, but with the following limitations:

1. For WGs that will not conclude before March 18, 2007, the following applies:
  - All WG Members have 60 days from January 17, 2007 to make the required disclosures and to submit the required Declaration form.
2. For WGs that will conclude before March 18, 2007, the following applies:
  - All WG Members have 30 days from January 17, 2007 to make the required disclosures and to submit the required Declaration form.
  - If WG Members in a WG believe that 30 days is not enough time to satisfy their good faith and reasonable inquiry obligation, as described immediately above, the WG can elect to extend the disclosure deadline an additional 30 days, but, if it does so, the Draft VSO Specification cannot be voted on until all WG Members' disclosures are made and Declarations are submitted to the WG Chair.

In both instances, if any WG Member does not adequately and timely disclose and submit Declaration forms, the VITA Member Company must license any undisclosed patents or patent applications to the extent essential to implement a Draft VSO Specification on a royalty free basis and in accordance with the license restrictions in Section 10.4 of the Patent Policy.