



Standards and Patents

“Meeting Legal Requirements”



Patents in Standards

- A patent grants a monopoly
- A group of companies that cooperate to create a standard must avoid creating a monopoly.
- Therefore if a standard requires a patent, that patent must be made available to anyone who wishes to enter the market.
- The solution - RAND - reasonable and non discriminatory licensing



Essential vs non Essential

- Components (e.g., connectors, logic devices, etc.) may contain technology that is patented.
- Patents may be considered essential or non essential with respect to a standard.
- If a patent is required for compliance to the standard, then it is considered to be essential.
- If a patent is not required for compliance, then it is deemed non essential.
- The assumption is that the component can be produced by another company that would meet the standard without infringement.



ANSI Patent Policy

"There is no objection in principle to drafting a proposed American National Standard in terms that include the use of a patented item, if it is considered that technical reasons justify this approach.

Prior to approval ANSI shall receive a letter from patent holder stating that:

- (1) A license will be made available without compensation to applicants desiring to utilize the license for the purpose of implementing the standard, or
- (2) A license will be made available to applicants under reasonable terms and conditions that are demonstrably free of any unfair discrimination.



VSO Early Patent Disclosure

Early Patent Disclosure

- (a) In any VSO meetings, task group meeting, or study group meeting, it will be the responsibility of the chair or vice-chair (in the absence of the chair) of that committee to advise the participants that:
 - 1) The VSO has adopted the ANSI patent policy;
 - 2) Early disclosure of patents, pending patents, or intent to file for patent which may be essential for the use of specifications under development is strongly encouraged; and
 - 3) Disclosures made of such patents may not be exhaustive of all patents that may be essential for the use of specifications under development, and that neither the VSO, working group committees, study group committees, nor the chair of any committee ensure the accuracy or completeness of any disclosure or whether any disclosure is of a patent that in fact may be essential for the use of specifications under development.



VSO Early Patent Disclosure

(b) The meeting minutes shall record a statement that:

1) The foregoing advice was provided;

2) An opportunity was provided for participants to respond on the existence of any patents, pending patents, or intent to file for patent that the participant believes may be essential for the use of that standard; and

3) Include any responses that were given.

(c) If a committee developing a standard within the VSO determines that a patent is essential to the standard and that the early patent disclosure policy was not followed, then that committee may reopen the patent issue in question with a simple majority vote, rather than the two-thirds vote customarily required.



Call for Patent Disclosures

- Any patents?