

CONSORTIUM, FORUM AND STANDARDS BODIES MEMBERSHIP POLICY AND GUIDELINES

1.0 PURPOSE AND SCOPE.

This document serves as the central corporate resource addressing requests to join a consortium, forum and/or standards body.

These policies and procedures apply worldwide and to all applications for membership by _____ (“the Company”) (or any of its subsidiaries) in a consortium, forum or standards body (hereinafter “consortium”). They apply whenever any such organization wants to join a consortium to merely observe the proceedings in a related industry, to investigate a competing standard, or to contribute The Company resources to further the Company’s interests.

There is a strong interest at the Company both in creating open standards and in including certain of the Company’s existing technology in such open standards. The participation in the development of open standards has significant advantages, especially where such standards result in a standard that is compliant with the Company’s current or future technology. However, membership in consortia that develop these open standards has certain risks and burdens. For example, membership agreements may require its members to license any intellectual property covered by a developed open standard on a royalty-free basis to the other members of the consortium, potentially depriving the Company of market differentiation for its products. Although the Company would receive licenses to the intellectual property of the other members in the consortium, such licenses may not be a significant benefit to the Company. Additionally, the membership agreement may require the Company to assign to the consortium ownership of the Company intellectual property developed during the Company’s participation in the consortium. In some instances, participation may also require the Company to contribute (or at least disclose) existing IP, resulting in a loss of valuable the Company intellectual property. Also, the membership agreement may place unexpected burdens on the Company’s participation in other consortia or development of products compliant with competing standards.

2.0 HOW YOU CAN USE THIS DOCUMENT.

The goal of this document is to ensure more efficient and informed consideration of the issues and more consistent and streamlined decision-making regarding consortium membership.

Use this document:

- To learn the company-wide procedures both for consortium membership approval and related policies and guidelines.
- To request approval for membership in consortia.
- To access the Company's Consortium/Forum Membership Database. The database will be a central repository for information regarding the Company’s participation in consortia. We will provide tools to search the database to find out about existing the Company consortium memberships and the scope and terms of such memberships.

3.0 CONSORTIUM MEMBERSHIP POLICIES AND GUIDELINES. This section

provides general guidelines for membership in a consortium.

- 3.1** General. A consortium membership request should have a well-defined objective for participation, preferably with measurable targeted benefits to Company either in terms of monitoring related markets, encouraging broader visibility and adoption of Company products, participating in open standards affecting a Company product or leading an open standard initiative:
 - 3.1.1** Monitoring consortium activities relating to interfaces with Company products, data handled by Company products or standards affecting Company's customer base is generally encouraged from both a marketing and development standpoint.
 - 3.1.2** Company's participation in a consortium that will develop standards affecting the design of a Company product or competing with a standard used in a Company product is encouraged.
 - 3.1.3** Approval will not be given for membership in any consortium that would tend to involve Company in anti-competitive activities. Company shall not associate itself with a consortium whose policies are primarily designed or used (or are likely to be used) (i) to exclude companies from participation in the consortium itself, (ii) to prohibit member companies from participating in other consortia or other legitimate business activities, (iii) to exclude companies from receiving licenses under fair, reasonable and non-discriminatory terms to practice the standard (iv) to prohibit member companies from adopting other competing standards, or (v) directly or indirectly to set prices for goods or services.
 - 3.1.4** In general, approval will not be given for requests for membership where the consortium requires the members to assign to the consortium (or grant it an exclusive license under) the members' patent rights. This would undermine Company's ability to cross-license our patents to reduce exposure to liability for infringement of other companies' patents.
 - 3.1.5** In general, Company discourages the licensing of its intellectual property without limiting the licensee's ability to further license (sublicense) the Company intellectual property to third parties. The consortium agreements should allow the licensee (either the consortium itself or the other members) to grant sublicenses only (i) to a third party that agrees to license back its intellectual property on a reciprocal basis or (ii) to a member's affiliate or contract manufacturer.
 - 3.1.6** In general, if joining the consortium supports other business objectives, Company is willing to license any necessary patents to the consortium or its members on reasonable, non-discriminatory terms, with reciprocity. In some circumstances, with proper approvals, Company will join consortia that require members to license any necessary patents for free.
- 3.2** Special Considerations – Contributions by Company:
 - 3.2.1** The decision to contribute Company intellectual property to a consortium must receive serious consideration. Contribution of

Company intellectual property generally requires that Company forfeit any technology it relies upon to differentiate its products from those of its competition contained in the donated Company intellectual property. The Requestor should determine whether Company will receive any compensation for the use of its contribution:

3.2.1.1 Generally, most membership or participation agreements contain provisions allowing members to only receive compensation, if at all, in connection with licenses for their patented technology. These are called royalty-bearing licenses. In other words, unless a company has filed for patents relating to the particular standard, it cannot not charge the consortium a license fee under these consortium agreements.

3.2.1.2 Some consortia require its members to license intellectual property relating to the specification or proposal for free. These are royalty-free licenses. In such cases, even if the intellectual property contributed by Company is patented, Company will not receive any license fees for its use by other members.

3.2.2 Royalty-free contributions of Company technology to a consortium should, whenever possible, be limited to situations in which Company will receive demonstrably greater benefit from the widespread adoption of the contributed technology than it would from retaining sole access to it. Benefits that Company might gain from contributing its technology to a consortium may include, for example:

- accelerated growth of a market for network- or internet-based products or services that rely on and will, therefore, in turn, increase demand for Company hardware or software products;
- broad adoption of a standard based on technology in which Company has a head start over its competitors;
- receipt of licenses from the other members of the consortium, thereby enabling Company to implement a technology in its products with reduced exposure to liability for infringement of third party patents; or
- enhanced public perception of Company as a leader in a particular market.

3.2.3 Contribution of significant amounts of resources, such as facilities, hardware and employees should be limited to situations in which the consortium's activities will affect the design, manufacturing or marketing of an identifiable Company product (whether released or under development).

3.3 Special Considerations – Company’s Ongoing Obligations:

3.3.1 Some consortia use trademarks to identify themselves or the standard they adopt. Some also license out trademarks to manufacturers to identify their products as conformant to the consortium's standard. If

Company is requested to vote on adoption of any such mark, Company's representative to the consortium should contact the trademarks group within Legal Services to ensure that no such mark is confusingly similar to a Company mark. In addition, a consortium may request a license to use a Company trademark or the Company name in connection with the activities of the consortium. Any such request should be forwarded to the trademarks group mentioned above or the Company attorney reviewing the request.

3.3.2 Membership in a consortium usually entails acceptance of a duty, sometimes express, sometimes implied, to identify and disclose the member's issued patents (and sometimes pending patent applications) that may cover a specification being developed by the consortium. Company's representative to the consortium should contact Company's Worldwide Patent Counsel to determine whether a proposed specification (or proposed revision to an adopted specification) implicates a Company patent and to make the proper disclosure to the consortium. Failure to make the proper disclosures can affect Company's ability to enforce the patent.

3.3.3 A few consortia require Company to appropriately mark and care for third party and consortium confidential material. The Requestor must ensure that the Company employees involved in the consortium are aware of these requirements and that each requirement is met. For example, some consortia require that draft specifications are limited to a certain number of employees or that they are marked "XXX Consortium Members' Eyes Only."

3.3.3.1 If Company is also involved in work on a competing standard, then it should be particularly careful about any such confidentiality provision and the potential for "contamination" of Company engineers with third party confidential information.

3.3.4 In general, disclosure of Company confidential material to a consortium should be subject to a non-disclosure agreement.

3.3.4.1 A few consortia have no express provisions for the protection of confidential information disclosed in connection with consortium activities. Company engineers involved in the activities of any such consortium must be made aware that once intellectual property is disclosed to a third party (for instance, a consortium) without a duty of confidentiality or with the intention to make it available without restriction, certain Company intellectual property rights may be lost.

3.4 The consortium membership approval process is not a substitute for the Requestor's good judgment. Approval from Legal Services relating to participation or membership in a consortium, reflects a general judgment that certain legal concerns associated with consortium membership have been satisfactorily addressed. However, the Requestor should always carefully assess the risks and burdens involved in consortium membership against the benefits of joining. For example:

- 3.4.1** A few consortia require their members to use a particular standard. Other consortia prohibit members from using a competing standard or from joining a competing consortium. Company should never accept any such provisions absent the most compelling business reasons.
- 3.4.2** More commonly, a membership agreement may impose a more general requirement that members cooperate in promotion of the standard. Such weaker language is usually acceptable but should be considered on a case-by-case basis.
- 3.5** In many circumstances, participation in a consortium does not require contribution or licensing of existing IP, disclosure of confidential information, or imposition of other onerous burdens. For such cases, Legal approval is automatic if such participation meets certain predefined criteria. Even if it is clear that the membership request will automatically be approved, you still must submit the appropriate questionnaire.
- 3.6** In some instances, a consortium member must indemnify the consortium for any infringement claims made against the consortium or its members if the infringement claim is based on intellectual property provided by the member. Company will generally not indemnify for any intellectual property it provides to a consortium. Legal approval is required before any indemnity can be provided. Approval will be based on, among other things, the type of intellectual property being provided by Company and the type and purpose of the consortium.
- 3.7** Some consortia require or offer their members the opportunity to sit on committees of the consortium. This opportunity may provide Company an enhanced ability to provide input and direction to the consortium, but will need to be analyzed based on the specific purpose of the consortium as well as the particular obligations of the committee members.

4.0 CONSORTIUM MEMBERSHIP APPROVAL PROCESS.

The consortium membership Requestor should complete the Consortium, Forum and Standards Bodies Membership Questionnaire to gain approval for membership in a consortium (including resources that Company may intend to contribute to the consortium).