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| **Document Title:** | **Draft RESOLUTION GSC-17/22: (IPR) IPR Policies(Reaffirmed)** |
| **Source:** | IPR Policies HIS Panel at IPR |
| **Contacts:** | Mr. Dirk Weiler(ETSI) |
| **GSC Session:** | IPR Policies |
| **Agenda Item:** | 3.17 |

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| **RESOLUTION GSC-17/22: (IPR WG)Intellectual Property Rights Policies (Reaffirmed)** |

The 17th Global Standards Collaboration meeting (Jeju, 13 – 16 May 2013)

**Recognizing:**

1. that effective standardization utilizes intellectual property rights policies that encourage participation, respect the contribution of valuable intellectual property, and result in standards that are technically proficient and widely accepted;
2. that such intellectual property rights policies typically provide incentives to interoperate, innovate and compete by:

* respecting intellectual property,
* balancing the interests of all stakeholders so that the outcomes are representative, inclusive and more broadly supported,
* being open and transparent for all to review and understand,
* promoting the use of the best technical solutions given commercial requirements,
* being consistent with internationally accepted norms such as widely accepted RAND/FRAND-based intellectual property rights policies,
* recognizing the right of intellectual property right holders to receive reasonable and adequate compensation for the shared use of their technology;

1. that such effective intellectual property rights policies;

(i) encourage participation in standardization and the contribution of valuable technology,

(ii) stimulate the sharing and adoption of technological advances that otherwise would be outside the relevant IPR policy,

(iii) stimulate innovation, both in terms of the interoperability technology and also additional, non-standard features to accommodate customer needs and consumer choice, and

(iv) solve interoperability challenges in effective ways that are focused and well-defined while preventing splintering (which can undermine the primary interoperability objective);

1. that such effective intellectual property rights policies do not discourage either collaboration or widespread acceptance because they do not (1) mandate corporate patent searches, (2) impose unreasonable disclosure obligations, (3) seek to impose inflexible licensing commitments on intellectual property holders or (4) permit any group discussion of licensing terms during the standards development organization’s meetings or activities;
2. that the intellectual property rights policies of the majority of standards development organizations include provisions for standards users to license standards-essential intellectual property under RAND/FRAND compensatory or compensation-free (e.g. royalty free) terms and conditions;
3. that there is a trend in some user communities and some standards development organizations in support of patent policies with enforced compensation-free provisions for standards implementers;
4. that there are some standards development organizations whose intellectual property rights policies are exclusive to members and discriminatory to non-members;
5. that not all intellectual property holders are members/participants of standards development organizations; and
6. that some intellectual property policies seek to have overbroad disclosure obligations that discourage participation because they implicitly require companies to engage in patent searches in order to avoid severe penalties for inadvertently failing to make a disclosure.

**Considering:**

1. that protection of intellectual property rights is necessary to ensure that the best and most innovative technology is made available for inclusion in standards and that such innovation should be encouraged;
2. that the commitment to license an essential intellectual property must extend to anyone who wishes to implement the standard and be under RAND/FRAND terms and conditions; and
3. that GSC has approved a Resolution on Open Standards.

**Resolves:**

1. that the Participating Standards Organizations of GSC:
   * + strongly support the adoption of effective intellectual property policies that are transparent, widely accepted and encourage broad-based participation and the contribution of valuable technical solutions by respecting intellectual property rights, including the right of the intellectual property holder to receive reasonable and adequate compensation for the shared use of its technology;
     + strongly voice their opposition to policies that mandate compensation-free licensing provisions and licensing practices that discriminate between members and non-members; and
     + strongly voice their opposition to intellectual property policies (a) with overbroad patent disclosure obligations that explicitly or implicitly mandate corporate patent searches with the penalty of loss of patent enforcement rights in connection with the relevant standard or (b) permit any group discussion of licensing terms during the standards development organization’s meetings or activities.

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