

美国律师协会反托拉斯法部、知识产权法部、科学与技术法部和国际法部
关于工业和信息化部电子知识产权中心起草的《行业标准化组织知识产权政
策模板（征求意见稿）》的联合意见

2015 年 1 月 29 日

本意见书中的观点仅代表美国律师协会反托拉斯法部、知识产权法部、科学与技术法部和国际法部的观点。这些意见并未经美国律师协会会员代表大会或者美国律师协会理事会的批准，因此不应被视为代表美国律师协会的政策。

美国律师协会（简称“美国律协”）反托拉斯法部、知识产权法部、科学与技术法部和国际法部（合称“四部门”）非常荣幸有机会就工业和信息化部（简称“工信部”）电子知识产权中心（简称“电子知识产权中心”）起草的《行业标准化组织知识产权政策模板（征求意见稿）》（简称“《征求意见稿》”）提出意见。¹四部门基于其成员在美国、加拿大、欧盟和世界上其他司法辖区从事知识产权法和竞争法工作的经验和专业知识，作出如下意见。

总体意见

四部门对电子知识产权中心为撰写标准化组织知识产权政策模板所做出的努力表示赞赏。但是，四部门谨在此建议不要发布这样一个适用于所有标准化组织和所有情况的模板。尤其是在争议较为激烈的问题上，最好由标准化组织及其成员自行决定其相关知识产权政策。标准化组织的知识产权政策可能会十分复杂，其中会涉及诸多不同的观点和利益，以及某一标准化组织可能会选择的许多不同策略。此外，尤为重要的是，由于《征求意见稿》中所讨论的一些问题在世界上不同司法辖区的立法者、标准化组织和市场参与者之间仍然存在着极大的争议，因此这些问题很有可能引起冲突，从而阻碍标准化组织在中国的创新、有效运作以及取得成功，并进而导致电子知识产权中心起草该模板的宗旨无法得以实现。

此外，由政府机构或者政府机构所支持的组织来颁布这样一个模板的做法，可能会不适当地影响民间标准化组织及其成员对有关知识产权政策的撰写，使得这些组织及其成员采用那些本来可能难以在标准化组织内部达成一致意见的政策，或者是那些可能无法很好地解决标准化组织及其成员还有公众的具体问题的政策。以上情况的出现是十分可能的，这是因为标准化组织会认为政府不允许他们不采用模版中的具体政策，或者说如果不采用该政策可能使标准化组织及其成员承担其他法律责任。

¹四部门的意见是基于对《征求意见稿》的非官方翻译而作出的。该非官方翻译文本请见附件，以供参考。

若电子知识产权中心和/或工信部仍决定发布一个这样的模板，四部门希望提请注意的是，我们在审阅《征求意见稿》的过程中发现，该模板在许多方面（包括合理许可费的计算和禁令救济的使用）存在容易引发争议的问题，而在这些问题上目前尚未形成统一的认识；此外，四部门还注意到，一些规定严格来说存在不一致、不完整和不够明确的情况。因此，四部门强烈建议工信部不要强制标准化组织基于任何模板来制定某一具体许可政策。如果要发布这样一个模板，那么四部门建议在模板中明确说明该模板仅用于参考之目的，并且仅作为制定知识产权政策的一个可能的入手点；即使不采用该模板（无论是全部不采用还是部分不采用）也不会导致标准化组织或其成员在中国《反垄断法》或其他法律项下承担任何法律责任。如果没有以上表述，甚至可能即使有以上表述，任何由工信部认可发布的模板（即便工信部只是间接地认可），都可能被视为是一项政府政策。这样做可能导致该模板成为一个事实上的、刚性的“通用”模板，这会使得标准化组织在中国很难获得成功，并因此无法通过制定标准来实现效率上的提高。

具体而言，若电子知识产权中心和/或工信部准备发布任何模板，四部门强烈建议该模板（1）允许标准化组织采用该模板以外的其他替代方式，并且（2）不与其他规制标准化组织及其成员的法律相冲突。此外，四部门建议此模板的内容中，应当同时附带对采用某条款时标准化组织所应当考虑的各种因素进行讨论——例如，每个具体条款所要达到的目的、在何种情况下该条款可能是有益的、以及在何种情况下该条款可能是有害的。关于这点，美国律协的《标准制定专利政策手册》（简称“《手册》”）也许可以为电子知识产权中心和工信部提供一些有益的参考。该《手册》中包含了一系列注释性的、在政策上中立的说明，以便标准化组织在制定新专利政策或者在希望改进或解释现有政策时进行查阅和使用。（请参考附件）

结语

四部门感谢电子知识产权中心给予我们这次机会对《征求意见稿》提出意见。我们非常乐意回答电子知识产权中心或者工信部对我们的意见提出的任何疑问，或者进一步提供有助于电子知识产权中心和工信部的评论或信息。

COMMENTS OF THE AMERICAN BAR ASSOCIATION'S SECTIONS OF
ANTITRUST LAW, INTELLECTUAL PROPERTY LAW, SCIENCE &
TECHNOLOGY LAW, AND INTERNATIONAL LAW ON THE DRAFT
TEMPLATE FOR IPR POLICIES IN INDUSTRY STANDARDS
ORGANIZATIONS ISSUED BY THE ELECTRONIC INTELLECTUAL
PROPERTY CENTER OF THE MINISTRY OF INDUSTRY AND
INFORMATION TECHNOLOGY

January 29, 2015

*The views stated in this submission are presented only on behalf of
the Antitrust Law, Intellectual Property Law, Science &
Technology Law, and International Law Sections of the American
Bar Association. These comments have not been approved by the
ABA House of Delegates or the ABA Board of Governors, and
therefore may not be construed as representing the policy of the
Association.*

The Sections of Antitrust Law, Intellectual Property Law, Science & Technology Law, and International Law of the American Bar Association (ABA) (together, the Sections) welcome the opportunity to comment on the Draft Template for Intellectual Property Rights (IPR) Policies in Industry Standards Organizations (Draft Template) issued by the Electronic Intellectual Property Center (EIPC) of China's Ministry of Industry and Information Technology (MIIT).¹ The Sections' comments are based upon the experience and expertise of its members who practice intellectual property law and competition law in the United States, Canada, the European Union, and other jurisdictions around the world.

General Comments

The Sections commend EIPC for its efforts to offer a template for standard-development organization (SDO) IPR rules. However, the Sections respectfully recommend against issuance of a single template to serve for all SDOs and circumstances, particularly on highly disputed issues that are best left to individual SDOs and their members to decide. There are many complexities involved in SDO IPR rules, different views and interests involved, and many different approaches that a particular SDO might validly choose to take. In addition, and importantly, because several issues addressed by the Draft Template remain under active debate among policymakers, SDOs, and market participants in several jurisdictions around the world, there is a substantial risk of conflict that could deter innovation and the efficient operation and success of SDOs in China, undermining EIPC's stated objective.

Furthermore, issuance of a template by a governmental agency, or an entity sponsored by a governmental agency, may unduly influence private SDOs and their members to

¹ The Sections' comments are based on an informal translation of the Draft Template, which is appended for ease of reference.

adopt policies that might not otherwise gain consensus support within a particular SDO and that may not best address the particular issues of that SDO, its members, and the public. This could occur because the SDO believes failing to adopt the specified policy is not permitted or because failing to adopt the policy could subject the SDO and its members to other legal liabilities.

In the event that EIPC and/or MIIT nevertheless were to decide to issue a template, the Sections note that their review of the Draft Template identified many aspects (including the calculation of reasonable royalties and the availability of injunctive relief) that raise contentious issues on which there is no consensus, as well as a number of areas of technical inconsistency, incompleteness, and lack of clarity. As a result, the Sections urge MIIT not to mandate the use of a specific licensing policy for SDOs based on any template. Moreover, the Sections suggest that if a template is issued, it explicitly state that it is provided for informational purposes only and is only one possible starting point, and that failure to adopt the Template, either in whole or in part, will not subject an SDO or its members to legal liability (either under China's Anti-Monopoly Law or otherwise). Without such language (and perhaps even with it), there is a risk that any template endorsed by MIIT, even if only indirectly, may be perceived as government policy. The result could be a de facto, rigid, "one-size-fits-all," approach which could make it unnecessarily difficult for SDOs in China to achieve success and thereby impossible for SDOs to deliver the efficiency benefits of standards setting.

More specifically, if EIPC and/or MIIT were to issue any template, the Sections urge that the template (1) allow for the adoption of alternative approaches, and (2) not conflict with other laws as to which SDOs and their members may be subject. The Sections further recommend that any such template should be accompanied by a discussion of the various factors an SDO should consider when adopting such provisions — for example, the intended goals of each particular provision, under what circumstances the provision would be useful, and under what circumstances the provision may be harmful. In this regard, EIPC and MIIT may find helpful the ABA's "Standards Development Patent Policy Manual," which includes a comprehensive set of annotated, policy-neutral language that may be accessed and utilized by SDOs that are developing new patent policies or looking to refine or interpret existing policies (attached hereto for ease of reference).

Conclusion

The Sections appreciate the opportunity provided by EIPC to comment on the Draft Template. We would be pleased to respond to any questions EIPC or MIIT may have regarding these comments, or to provide additional comments or information that may be of assistance to EIPC and MIIT.

附件：

行业标准化组织知识产权政策模板

（征求意见稿）

条文	Articles
<p>本知识产权政策模板旨在帮助行业标准化组织解决标准制修订过程中涉及的知识产权问题。行业标准化组织在制修订具体知识产权政策时,可以参考本模板的内容和基本概念。</p>	<p>This intellectual property rights (“IPR”) policy template is intended to help industry standardization organizations deal with issues involving IPR in standards setting and revising. While developing their specific IPR policies, industry standardization organizations may use the contents and basic concepts of this template as reference.</p>
<p>第一章 总则</p> <p>第一条 为妥善处理行业标准制修订过程中的知识产权问题, <SDO Name>制定本知识产权政策, 以平衡知识产权权利人, 标准实施者和社会公众的利益, 促进标准实施。本政策规定了<SDO Name>制修订标准过程及其产生的标准文档所涉及的知识产权管理规则。</p>	<p>Chapter I General Provisions</p> <p>Article I To properly deal with IPR issues in the process of industrial standardization, balance the interests of IPR holders , standard implementers and the general public, and promote the implementation of standards, <SDO Name> hereby formulates this IPR policy. This IPR Policy outlines the management rules of the <SDO name> regarding IPR as related to the standards development effort, and the specifications developed thereof.</p>
<p>第二条 本知识产权政策是<SDO Name>成员管理制度（如章程、协议等）的必要组成部分, 并通过引用纳入成员管理制度。成员通过签署<SDO Name>成员管理制度文件, 书面承诺其及其代表同意并遵守本知识产权政策的各项条款。</p>	<p>Article II This IPR Policy is an integral part of the membership management rules (e.g., bylaws, membership agreements) and is incorporated into such membership management rules by reference. By execution of the membership management rules, Members thereby confirm in writing that they and their Representatives agree to and will abide by the terms of this IPR Policy.</p>
<p>第三条 在标准制修订过程中, 本<SDO Name>将从技术层面考虑专利在标准中的必要性和合理性, 及其对标准应用可能产生的影响。</p>	<p>Article III In the process of development or revision of a standard, <SDO Name> will consider the necessity and reasonableness of Patents in the standard from technological</p>

	aspect, as well as the potential impact on implementation of the standard.
<p>第二章 知识产权信息披露</p> <p>第四条 成员代表和提案作者（若有）应根据诚信原则，在其实际知晓的范围内，就<SDO Name>专题组起草的标准草案，尽早向<SDO Name>披露成员及其关联者持有的，包含必要权利要求的已授权专利和已公开专利申请信息。任何情况下，本知识产权政策规定的披露义务都不被解释为要求成员进行专利检索。</p>	<p>Chapter II Disclosure of IP Information</p> <p>Article IV Every participating Member Representative and author of Contribution (if any) shall make a good faith effort to promptly disclose to <SDO Name> the existence of Patents and published Patent applications that may contain Necessary Claims of the Member or its Affiliates to the extent of the Representative's or author's actual knowledge. In no way shall any disclosure duty arising under this IPR Policy be interpreted as requiring Members to conduct a Patent search.</p>
<p>第五条 对包含必要权利要求的已授权的专利和已公开的专利申请，<SDO Name>鼓励成员披露相关信息，其中包括但不限于专利权人和/或申请人的身份、专利号或专利申请号。</p>	<p>Article V <SDO Name> encourages Members to disclose information regarding Patents and published Patent applications that may contain Necessary Claims. The information to be disclosed includes, but not limited to, the patentee's and/or applicant's name, Patent numbers or Patent application numbers.</p>
<p>第三章 知识产权许可</p> <p>第六条 在签署成员管理制度时，每个成员应向<SDO Name>提交“默认许可义务表”，对最终标准中采用的任何技术所涉及的，且在标准制定过程中未披露的该成员的潜在的必要权利要求，做出许可声明。</p> <p>成员可以从以下默认许可义务中做出选择：</p> <p>1.如果成员参加了制定某一标准草案的专题组，且该标准草案其后成为最终标准，那么对于该最终标准相关的任何必要权利要求，成员可以选择：</p> <p>（1）按照公平、合理和无歧视免费许可（FRAND RF）条款许可；</p>	<p>Chapter III IP licensing</p> <p>Article VI Upon signing the Member agreement, each Member shall submit to <SDO Name> a Default Licensing Obligations Form, identify default licensing obligations in connection with any of its potential Necessary Claims to any technology adopted in the final standard which has not been disclosed in the standard development process.</p> <p>Member may select from the following default licensing obligations:</p> <p>1. For Necessary Claims in connection with any specific final standard where Member is a participant in the applicable Subgroup which adopts the Draft Standard that becomes such final standard:</p>

<p>(2) 按照公平、合理和无歧视 (FRAND) 条款许可。</p> <p>2. 如果成员并未参加制定某一标准草案的专题组, 而该标准草案其后成为最终标准, 那么对于该最终标准相关的任何必要权利要求, 成员可以选择:</p> <p>(1) 按照公平、合理和无歧视免费许可 (FRAND RF) 条款许可;</p> <p>(2) 按照公平、合理和无歧视 (FRAND) 条款许可;</p> <p>(3) 无许可义务 (No licensing)。</p>	<p>(1) Fair, reasonable and non-discriminatory, royalty-free (FRAND RF) license;</p> <p>(2) Fair, reasonable and non-discriminatory (FRAND) license.</p> <p>2. For Necessary Claims in connection with any specific final standard where Member is not a participant in the applicable Subgroup which adopts the Draft Standard that becomes such final standard:</p> <p>Fair, reasonable and non-discriminatory, royalty-free (FRAND RF) license;</p> <p>Fair, reasonable and non-discriminatory (FRAND) license;</p> <p>No licensing obligation (No licensing).</p>
<p>第七条 在制修订标准过程中, 成员应就最终标准中潜在的、已披露的任何该成员的必要权利要求, 向本<SDO Name>提交书面的、不可撤销的专利许可声明, 该许可声明应包括下列许可条件之一:</p> <p>(1) 按照公平、合理和无歧视免费许可 (FRAND RF) 条款许可;</p> <p>(2) 按照公平、合理和无歧视 (FRAND) 条款许可;</p> <p>(3) 无许可义务 (No licensing)。</p> <p>若成员参加专题组并且提出提案, 且该提案被纳入最终标准中, 对于该提案中涉及的该成员的任何必要权利不得选择上述第 (3) 项, 即无许可义务 (No licensing)。</p>	<p>Article VII In the development of Standards, a Member shall submit to <SDO Name> a written, irrevocable Patent licensing statement with respect to all of the Necessary Claims of the Member that have been disclosed and potentially incorporated in the Final Standard. Such licensing statement shall include one of the following licensing conditions:</p> <p>(1) Fair, reasonable and non-discriminatory, royalty-free (FRAND RF) license;</p> <p>(2) Fair, reasonable and non-discriminatory (FRAND) license;</p> <p>(3) No licensing.</p> <p>For a Member's Necessary Claims resulted from the Member's Contribution being incorporated in Final Standard, the Member shall not choose option (3) above, which is "No licensing" .</p>
<p>第八条 限于制修订标准草案的目的, 每个成员同意许可<SDO Name>使用该成员提交的提案中包含的该成员及其关联者的任何著作权。上述许可应当是非排他性的、不可转让的、不可撤销的、免费的全球性许可。</p>	<p>Article VIII Each Member agrees to grant to all other Members and to <SDO Name> a license under Member's and its Affiliates' copyright in any Contribution that Member makes, to use such copyright for only the limited purpose of</p>

	developing a Draft Standard. Such license shall be nonexclusive, nontransferable, irrevocable, royalty-free and worldwide use.
<p>第九条 根据本知识产权政策提供的专利许可声明适用于所有成员及其关联者，以及所有实施符合部分的第三方（以下合称“被许可人”）。成员应当就其及其关联者所拥有的必要权利要求向被许可人提供非排他性的、不可撤销的、不可转让的、不可分许可的、全球性的许可，允许被许可人制造、使用、销售、许诺销售、进口或其他方式分发符合部分。</p>	<p>Article IX All commitments to grant Patent licenses under this IPR Policy, shall extend to all Members and their Affiliates and all third party implementers of Compliant Portions (collectively “Licensees”). The Member shall provide all such Licensees a non-exclusive, irrevocable, non-transferable, non-sublicensable, worldwide license to make, use, sell, offer to sell, import and otherwise distribute Compliant Portions.</p>
<p>第十条 根据本知识产权政策做出的公平、合理、和无歧视（“FRAND”）许可声明，其含义包括许可人同意与任何潜在被许可人提出许可请求的人就具体的许可条件进行谈判。</p> <p>除非某一潜在的被许可人不受关于 FRAND 许可条款的独立裁决的法律效力约束，或者拒绝参与独立裁决过程，或者未能遵从独立裁决结果，成员（作为许可人）不应基于侵犯必要权利要求该潜在被许可人停止实施专利。</p> <p>该 FRAND 裁决必须由一个或者多个具有管辖权的法院或仲裁机构（如果双方同意）做出。在涉案专利的有效性得到相关权力机构认定的基础上，该等法院或者仲裁机构必须能够确定 FRAND 金钱补偿以及其它许可条款，并且能够对其它诉求和辩护意见做出裁决，包括是否构成侵权和可执行性等。</p>	<p>Article X The FRAND licensing statement made under this IPR Policy contains the meaning that the licensor agrees to negotiate on specific licensing terms with any potential Licensee that has requested a license.</p> <p>A Member shall not seek injunctive relief against a potential Licensee based on alleged infringement of a Necessary Claim unless the potential Licensee is not subject to the jurisdiction of, fails to participate in, or fails to comply with the outcome of, an independent adjudication of FRAND licensing terms.</p> <p>With the validity of Patent determined by the relevant authority, such FRAND adjudication must be made by courts or arbitration tribunals (if mutually agreed) of competent jurisdiction, that can determine FRAND monetary compensation and other licensing terms, and that will adjudicate any related claims and defences such as non-infringement and enforceability.</p>
<p>第十一条 若成员承诺以 FRAND 条款许可其必要权利要求，合理许可条件的确定可以考虑以下因素：</p>	<p>Article XI The Member making a commitment to license its Necessary Claims under FRAND terms and conditions agrees that a reasonable royalty may consider the following factors:</p>

<p>(1) 必要权利要求对符合部分的价值贡献, 以及必要权利要求对应的最小零部件或装置的价值;</p> <p>(2) 标准中其他知识产权权利人寻求类似许可条件所可能产生的累积许可费总额;</p> <p>(3) 标准必要权利要求的创新性、标准所属的技术领域、标准的性质和实施范围等因素;</p> <p>(4) 其他与许可事项相关的因素。</p> <p>合理许可费的计算不应包括该专利技术被纳入标准后的经济增值部分。</p>	<p>(1) The value contributed to a Compliant Portion by the Necessary Claim, assessed against the smallest component or device that is compliant with the Final Standard and that practices the relevant Necessary Claims;</p> <p>(2) the total aggregate royalties that may apply if other owners of intellectual property demand similar terms.</p> <p>(3) The degree of innovativeness of the Necessary Claims in the standard, the technical area of the standard, the nature of the standard, the implementation scope of the standard, relevant licensing terms and other factors.</p> <p>(4) Other relevant factors concerning licensing matters.</p> <p>The royalties shall not take into account the value, if any, associated with inclusion of the Necessary Claims in the Final Standard.</p>
<p>第十二条 根据本知识产权政策做出的 FRAND 许可声明可以包括互惠性要求, 即如果在同一标准中, 被许可人没有实际承诺就自己的必要权利要求按照 FRAND RF、或者 FRAND 条件向某一成员或其关联者提供专利许可, 则该成员及其关联者(“许可人”)没有义务就其必要权利要求向被许可人提供许可;</p> <p>在同一标准中, 如果许可人选择按照 FRAND RF 或者其他更优惠的许可条件对其必要权利要求提供许可, 而被许可人仅仅愿意按照 FRAND 的条件许可自己的必要权利要求, 那么许可人仍有义务向被许可人提供其必要权利要求的许可, 只是该义务可以通过按照 FRAND 的条件提供许可而得到满足。</p> <p>承诺以 FRAND 或者 FRAND-RF 条款许可其必要权利要求的成员, 不应设定先决条</p>	<p>Article XII The FRAND terms granted under this IPR Policy may include reciprocity requirements, which means, if a Licensee does not in fact and practice make a commitment to license its Necessary Claims for the same Standard on FRAND RF or FRAND terms to a Member or its Affiliates, the Member and its Affiliates (“Licensor”) have no obligation to offer to license their Necessary Claims to the Licensee.</p> <p>In the same standard, if a Licensor elects to license its Necessary Claims on either a FRAND RF or more favorable licensing terms, but the Licensee is only willing to offer to license its Necessary Claims under FRAND terms, the Licensor shall be obligated to license its Necessary Claims to that Licensee, but such obligation can be fully satisfied by offering to license under FRAND terms.</p> <p>A party that makes a commitment to</p>

<p>件，包括要求潜在的被许可人：</p> <p>(1) 将其不含必要权利要求的专利许可给该成员；或者</p> <p>(2) 接受该成员不含必要权利要求的专利许可。</p>	<p>license its Necessary Claims under FRAND or FRAND RF terms shall not, as a condition to granting a license to any Necessary Claim, require a potential licensee to:</p> <p>(1) grant a license under any of such potential licensee's Patents that do not contain Necessary Claims in the same standard; or</p> <p>(2) take a license under any Patents of the party making such a commitment.</p>
<p>第十三条 根据本知识产权政策就同一标准做出的公平、合理和无歧视（“FRAND”）许可声明可以包括防御性中止许可的权利。</p> <p>即对于许可人已做出 FRAND 许可声明，若被许可人向已做出 FRAND 许可声明的许可人或其关联者就同一标准中的必要权利要求主张权利，宣称该权利要求为标准必要的，则该许可人有权中止有权针对该被许可人或其关联者中止 FRAND 许可。</p>	<p>Article XIII The FRAND terms granted under this IPR Policy for the same Standard may include defensive suspension rights.</p> <p>If a licensee asserts a Necessary Claims against the Licensor or an Affiliate in the same standard, alleging the claim to be essential to the same standard under which the FRAND license was granted, then the Licensor may suspend such FRAND license.</p>
<p>第十四条 <SDO Name>在将标准草案提交标准审批机构批准之前，应给予所有成员或其他第三方不少于 XXXX 天的审阅期，以便成员和公众第三方审阅有关知识产权方面的事项。</p> <p>对于参与专题组但未提出提案，或者属于标准制定组织但未参与专题组的成员，在审阅期结束前若发现其一项或多项必要权利要求被纳入标准草案中，除成员已经根据本政策第七条的规定承诺了许可义务的必要权利要求外，该成员可以就上述必要权利要求承诺其许可义务为以下选项之一：</p> <p>(1) 按照 FRAND RF 条款许可；</p> <p>(2) 按照 FRAND 条款许可；</p> <p>(3) 无许可义务（No licensing）。</p> <p>如果成员在“审阅期”结束时没有做出</p>	<p>Article XIV <SDO Name> shall provide all Members or the third parties a Review Period of no less than XXXX days prior to submission of a Draft Standard to the Governmental Authorities for approval, in order to review IPR issues.</p> <p>In the event one or more Necessary Claims hold by the Members who Participate in the activities of the Subgroup, but did not submit Contribution; or the other Members of the <SDO Name> who did not Participate in the Subgroup, if the Members realize their Necessary Claims were include in the Draft Standard, except for the Necessary Claims subject to a licensing commitment made under any provision of Article 7 of this IPR Policy, such Member may declare its licensing commitment with respect to any Necessary</p>

<p>声明，将适用成员的默认许可义务。如果成员选择无许可义务（No licensing），<SDO Name>应当对该标准草案进行相应修改。无法进行修改的，应当搁置或撤销标准草案。</p> <p>若在审阅期结束之前，发现不属于<SDO Name>的第三方所拥有的必要权利要求，<SDO Name>应考虑向第三方权利人寻求进行许可承诺，若无法从第三方处获得许可承诺，则应搁置或撤销标准草案。</p>	<p>Claims to be any one of the three options:</p> <p>(1) license under FRAND RF terms;</p> <p>(2) license under FRAND terms; or</p> <p>(3) no licensing obligation (No licensing) .</p> <p>If no such declaration is made by the end of the Review Period, Member ' s Default Licensing Obligation shall apply. If No licensing has been selected by the Member, <SDO Name> shall make appropriate revisions to the Draft Standard. If the revisions are not feasible, it is suggested that the Standard be cancelled or postponed.</p> <p>In the event before the end of the Review Period it is discovered that one or more Necessary Claims are held by the third parties which are not Members of <SDO Name>, <SDO Name> shall consider seeking licenses from the third parties. If the third parties do not voluntarily agree to make a Licensing Obligation, then it is suggested that the Standard be revised, cancelled or postponed.</p>
<p>第十五条 成员同意，其现在没有，将来也不会为规避本知识产权政策的许可义务而转让包含必要权利要求的专利。就受限于 FRAND 或者 FRAND-RF 许可承诺的必要权利要求，成员应当在转让相关专利的文件中包含特定条款，要求受让人同意受到上述承诺的约束；并且受让人在其未来的再次转让文件中包含类似条款以约束每一个利益继受人。</p> <p>成员和<SDO Name>意图使这一承诺对未来所有的利益继受人有约束力，而无论该等条款是否被包含在相关转让文件之中。</p>	<p>Article XV Members agree that they have not transferred and will not transfer Patents containing essential Necessary Claims for the purpose of evading licensing obligations under this IPR Policy.</p> <p>For Necessary Claims subject to a FRAND or FRAND RF commitment, Member shall include in any documents transferring ownership of Patents subject to such commitment, provisions requiring that the transferee to agree to be bound by such commitment and that the transferee will include similar provisions in its own future transfer documents with the goal of binding each successor-in-interest.</p> <p>The Member and <SDO Name> intend that this commitment be binding on all successors-in-interest regardless of whether</p>

	such provisions are included in the relevant transfer documents.
<p>第十六条 许可义务的存续</p> <p>1、在成员资格终止或被撤消之后，成员根据本知识产权政策向<SDO Name>提供的针对下列必要权利要求的许可承诺仍继续有效：</p> <p>（1）与该成员就并入某一最终标准的任何标准草案提出的提案有关的任何必要权利专利要求。但是，相应提供的许可承诺仅限于该标准草案，以及最终标准中为了向前兼容该标准草案所必需的部分；</p> <p>（2）该成员的与并入某一最终标准的任何标准草案有关的，其提案之外的任何必要权利要求，如果该标准草案在该成员的<SDO Name>成员资格存续期间可供其审阅。但是，该成员或前成员应有权根据第七条的规定做出声明，并且提供的许可承诺仅限于该标准草案，以及最终标准中为了向前兼容该标准草案所必需的部分。</p> <p>2、如果<SDO Name>解散，成员同意在解散后就必要权利要求提供许可，但仅限于该成员在解散之前有义务提供许可的最终标准；以及</p> <p>3、与某一后续最终标准有关的必要权利要求，但仅限于与该最终标准如下部分有关的必要权利要求：（1）该部分是为了向前兼容，且是该成员的成员资格存续期间被采纳的某一最终标准所必需的；（2）该成员就在先采纳的最终标准对该必要权利要求已经承诺了许可义务。</p> <p>除本条明确规定之外，成员资格终止或</p>	<p>Article XVI Survival of Licensing Obligations</p> <p>1. A Member’ s licensing commitment to <SDO Name> under this IPR Policy shall survive the Member’ s termination or cancellation of its membership, on below Necessary Claims:</p> <p>(1) any Necessary Claim to a Contribution made by such Member to any version Draft Standard that is incorporated into a Final Standard, provided that the agreement to grant licenses is limited to only such Draft Standard(s) and portions of the Final Standard required for backward compatibility with such Draft Standard(s); and</p> <p>(2) any Necessary Claim of such Member, which is not a Contribution, to any version Draft Standard that is incorporated into a Final Standard, where such Draft Standard(s) was made available for review during such Member ’ s membership in <SDO Name>. However, the Member or former Member shall be entitled to furnish a declaration in accordance with Article 6, and the agreement to grant licenses is limited to only such Draft Standard(s) and portions of the Final Standard required for backward compatibility with such Draft Standard(s).</p> <p>2. In the event of dissolution of <SDO Name> (if any), each Member agrees to grant licenses after dissolution for essential Necessary Claims but only in connection with Final Standards for which such Member was committed to grant licenses before dissolution; and</p> <p>3. Any essential Necessary Claim to a later Final Standard, but only to the extent that such</p>

<p>被撤销的成员没有义务许可任何其他必要权利要求。</p> <p>所有有义务根据本条规定对一个或多个必要权利要求提供许可的成员仍然有权享有第十二条规定的互惠性权利。</p>	<p>claim is a Necessary Claim to the portion of such Final Standard that: (1) is required to be backwards compatible with a Final Standard adopted during such Member's membership in <SDO Name>, and (2) such Member is already obligated to license such claim with respect to such earlier adopted Final Standard.</p> <p>In no event is a withdrawn or terminated Member obligated to license any additional Necessary Claims except as specified in this Article.</p> <p>Members that are obligated to grant licenses for one or more Necessary Claims under this Article remain entitled to the reciprocal right under Article XII.</p>
<p>第十七条 所有成员同意,除了按照本知识产权政策的明文规定提供许可外,该成员或其关联者在本知识产权政策下没有,以直接或间接或其他方式,向其他方或其关联者提供或同意提供任何知识产权的许可、豁免或其他权利。</p>	<p>Article XVII The Members agree that no intellectual property license, immunity or other right is granted, or agreement to grant licenses is made, under this IPR Policy by any Member or its Affiliates to any other party or their Affiliates, either directly or by implication or otherwise, other than the agreements to grant licenses expressly set forth in this IPR Policy.</p>
<p>第十八条 在标准制修订过程中对其他标准进行规范性引用时,若存在被引用标准适用的知识产权政策,则该被引用标准涉及的必要权利要求的许可不适用本知识产权政策;若不存在被引用标准适用的知识产权政策,或者存在的政策并不提供本知识产权政策旨在提供的必要权利要求许可,则应根据本章的规定要求寻求专利权人或者专利申请人做出专利实施许可声明。</p>	<p>Article XVIII In case <SDO name> incorporates other standards by Normative Reference in the development of this standard, if the IPR policy of the referenced standard exists, the IPR Policy of <SDO name> would not apply; In case there is no such IPR policy in the referenced standard, or the IPR policy in the referenced standard cannot provide license for the Necessary Claims to implement this standard, <SDO name> should make request to obtain new licenses from the Patent holders or Patent applicants under this IPR policy.</p>
<p>第四章 著作权</p>	<p>Chapter IV Copyright</p>

<p>第十九条 <SDO Name>拥有标准草案的著作权，除非事先得到<SDO Name>明确的书面许可，任何成员均不得出版或发行标准草案的全部或部分内容，或其他任何相关演绎作品。<SDO Name>对标准草案的著作权受提案人和其他权利人的著作权约束。</p>	<p>Article XIX <SDO Name> shall own the copyright of the Draft Standard, subject to the underlying rights of the contributing Members and other copyright owners. No Member shall publish or distribute a Draft Standard, or any part or derivative work thereof, except with the prior express written consent of <SDO Name>.</p>
<p>第二十条 由标准审批机构批准颁布的最终标准，推荐性标准的著作权归属于<SDO Name>。最终标准的使用、修改和发行应遵守《著作权法》等有关法律法规的规定。</p>	<p>Article XX The copyright of the voluntary standard which is approved and released by the authorities belongs to <SDO Name>. Any use, modification or distribution of Final Standard shall be in conformity to Copyright Law and other applicable laws and regulations.</p>
<p>第二十一条 成员提供软件作为某一最终标准的全部或部分参考实施方案（例如，用于示例如何实现某一标准的符合实施方案）的，应当向成员和标准实施者提供一份不含专利权的、不可撤销的、非排他性的著作权免费许可，允许其在任何符合最终标准的实施方案中测试、评估和使用该软件及其衍生作品。<SDO Name>、其成员或其他任何实施者都没有义务在本知识产权政策下或者为了制造符合部分使用上述软件。</p>	<p>Article XXI A Member contributing software to serve as a reference implementation (e.g., a compliant implementation of a standard offered as an example for how to implement such standard) for all or a portion of the Final Standard shall give implementers a royalty free copyright license (excluding any Patent license) to test, evaluate and use the software and its derivative works. The license should be irrevocable and non-exclusive. No other copyright license from such Member shall be implied. None of <SDO Name>, its Members or any other implementers shall have any obligation to use such software under this IPR Policy or in order to create a Compliant Portion.</p>
<p>第二十二条 如果为了确定是否符合某一<SDO Name>最终标准要求而使用特定的测试套件或遵循特定的测试规程，该测试套件或测试规程必须在第二十一条描述的许可条件下可以公开获得。</p>	<p>Article XXII If the conformance with a <SDO Name> Final Standard requires the use of specific test suite or following specific test program, the test suite or test program shall be publicly available under copyright licensing terms described in Article XXI.</p>
<p>第五章 商标</p> <p>第二十三条 如果<SDO Name>需要以任何名称或标志作为商品商标、服务商标（总称</p>	<p>Chapter V Trademarks</p> <p>Article XXIII In the event that <SDO Name> proposes to adopt any name or logo as a trade mark, service mark (“trademark”), <SDO</p>

<p>为“商标”), <SDO Name>应根据章程的规定办理相关事项。</p> <p>如果<SDO Name>选择任何商标作为证明所有采用此商标的产品或服务均相兼容的标识, 该商标的使用应当由<SDO Name>或其指定的实体按照公平、合理和无歧视的条款进行许可, 许可方式应当保证产品或服务与最终标准相符合。</p>	<p>Name> shall act in accordance with the procedures set forth in the constitution.</p> <p>To the extent that any trademark is selected by <SDO Name> as an indicator that a product or service is compatible with all products or services so marked, such trademark shall be licensed under FRAND terms by <SDO Name> or an entity designated by <SDO Name> in a manner to ensure compliance with a Final Standard.</p>
<p>第六章 其他</p> <p>第二十四条 任何与本知识产权政策有关权利主张, 应当适用中华人民共和国法律。</p>	<p>Chapter VI Miscellaneous</p> <p>Article XXIV Any claim relating to this IPR Policy shall be governed by the laws of the People’ s Republic of China.</p>
<p>第二十五条 对本知识产权政策的任何修改必须遵循<SDO Name>章程的有关规定。应当给予成员至少 90 天的时间决定是否接受修改(“接受期间”), 该期间自成员接到有关修改的书面通知之日起算。在接受期间内, 如果成员代表没有书面表示接受修改后的知识产权政策, 该成员将被视为自动退出<SDO Name>。在接受期间结束之前退出<SDO Name>, 或者在接受期间结束时自动退出的任何成员不受修改后的知识产权政策的约束。</p>	<p>Article XXV Any revisions to this IPR Policy shall be approved pursuant to the requirements of the constitution of <SDO Name>. Members shall be afforded at least ninety (90) days from the date of receiving written notice of such revisions (“acceptance period”) to accept such revisions. A Member will be automatically withdrawn from <SDO Name> if an authorized Member Representative does not confirm their acceptance in writing of the revised IPR Policy within the acceptance period. Any Member that withdraws from <SDO Name> prior to the end of the acceptance period or is automatically withdrawn at the end of the acceptance period will not be subject to the revised IPR Policy.</p>
<p>第二十六条 本知识产权政策自二零一 年 月 日起施行, 由<SDO Name>负责解释。</p>	<p>Article XXVI This IPR Policy shall come into effect on [date]. The right to interpret this IPR Policy lies with <SDO Name>.</p>

附件 1:

定 义 Definitions

本知识产权政策中使用的词语,若在<SDO Name>成员管理制度或其它<SDO>文件中已有定义,其含义应遵从有关文件中的定义。本知识产权政策中定义的词语具有以下含义:

Terms used in this IPR Policy and defined in the <SDO name> Member agreement or other <SDO name> documents shall have the meanings defined in those documents. The following terms are defined in this IPR Policy to have the following meanings:

定 义	Definitions
<p>1、“专利”是指许可方或其关联者拥有的,或者在无需向非关联第三方付费的情形下有权对外许可的发明专利和实用新型或公布提请异议的任何可执行的专利申请或实用新型申请,但不包括外观设计专利。</p> <p>“关联者”是指成员直接或间接控制其他法律实体,或受其控制,或与其共同受控于另一个法律实体。</p> <p>“控制”是指在一个法律实体中直接或间接拥有超过 50%的有表决权的股份,或者在没有表决权股份的情况下,拥有决策权。</p>	<p>1. “Patent” shall mean any issued Patent and utility model, or any enforceable allowed Patent application or enforceable allowed utility model application published for opposition, excluding design Patents, which a licensing entity or its Affiliates owns, or has the right to grant licenses without payment to any entity other than an Affiliate.</p> <p>“Affiliate” means an entity that directly or indirectly controls, is controlled by, or is under common control with, another entity.</p> <p>For purposes of this document, control means direct or indirect beneficial ownership of more than fifty percent of the voting stock, or decision-making authority in the event that there is no voting stock, in an entity.</p>
<p>2、“必要权利要求”是指根据授权或公布某专利的所在国法律,被有关产品或服务中的符合部分不可避免地侵犯到的某一专利权利要求,且仅限于该权利要求。</p> <p>专利的某一权利要求被不可避免地侵犯,是指在实施最终标准时,无法通过采用另一个技术上可行的、不侵权的实施方式来</p>	<p>2. “Necessary Claim” means a claim, but only such claim, in a Patent which is necessarily infringed by a Compliant Portion of a product or service as applicable under the laws of the country that issued or published the Patent.</p> <p>A claim in a Patent is necessarily infringed if such infringement could not have been avoided by another technically feasible non-infringing</p>

<p>避免该专利的某一权利要求被侵犯。</p> <p>必要权利要求不包括，并且许可也不适用于：（1）不符合上文规定的其他权利要求，即使该权利要求包含在同一件专利中；（2）制造或使用符合最终标准文档的产品、服务及其部分时可能必须用到的实现技术，但在该标准文档中没有明确描述该技术。</p>	<p>implementation of such Final Standard.</p> <p>A Necessary Claim shall not include, and no license shall apply to: (1) a claim other than the one set forth above even if contained in the same Patent, or (2) enabling technologies that may be necessary to make or use any product or service or portion thereof that complies with a Final Standard, but are not expressly set forth in such standard.</p>
<p>3、“成员”既可以单独指某一<SDO Name>成员，也可以整体指<SDO Name>所有成员，而不论其成员资格类别，除非本文件另有特殊规定。</p> <p>“成员代表”是指由成员指派参与<SDO Name>及下属专题组活动起草标准草案的人员，包括但不限于专家。</p>	<p>3. “Member” individually means any <SDO Name> Member and collectively means all <SDO Name> Members, regardless of membership class unless otherwise specified in this document.</p> <p>“ Member Representative ” means the person(s) appointed by a Member to Participate in the activities of the Subgroup, including but not limited to expert staff to development of Draft Standards.</p>
<p>4、“最终标准”是指被标准审批机构采纳和批准颁布的标准草案，以及由标准化机构采纳和批准颁布的对最终标准的更新或修订。</p> <p>“标准草案”是指专题组提出的，标题为“标准草案”的建议或文件草案。</p>	<p>4. “Final Standard” means any Draft Standard adopted and approved for release by the authorities of standardization, and any updates or revisions to such Final Standard that are approved for release by the authorities.</p> <p>“Draft Standard” means a draft proposal or document of a Subgroup that is titled "Draft Standard."</p>
<p>5.“提案”是指以书面（包括电子媒体等）形式向专题组正式提交的技术材料和技术建议等，其目的在于对某一标准草案的内容，或者对标准草案或最终标准的补充或修订提出建议。每份正式提交的文件将获</p>	<p>5. “ Contribution ” means any material, suggestion or other submission formally submitted in writing (including electronic media) to a Subgroup, that proposes all or part of a Draft Standard, or an addition to, or modification of a</p>

得一个文件管理号，用以标识该提案。	Draft Standard or Final Standard. Such formal submissions will be assigned a document control number that will identify the Contribution.
6. “符合部分”仅指有关产品或服务中的特定部分，该特定部分事实上符合最终标准的所有相关规范性要求。这些规范性要求在最终标准中被明确公开，其目的是使产品或服务能够实现最终标准所定义的技术方案。	6. “ Compliant Portion ” means only those specific portions of products or services as applicable that implement and are compliant with all relevant normative requirements of a Final Standard, to the extent specifically disclosed in a Final Standard and where the purpose of such requirements is to enable products or services as applicable to implement the technical solutions as defined by such Final Standard.
7. “专题组”是指<SDO Name>不定时设立的专门课题小组。专题组负责起草特定的标准草案。工作结束后，该专题组即可被撤销。 “参加（某一专题组）”是指成员正式申请并且得到批准，在专题组完成某一标准草案之前，该成员可以参加专题组活动、提出提案或以其他方式接触到专题组的工作，而不论其是否实际参加专题组活动、提出提案或审阅专题组的工作。	7. “ Subgroup ” refers to special subject Subgroups of <SDO Name> to be set up and removed by <SDO Name> from time to time. The Subgroups are responsible for drafting specific Draft Standards. “ Participate(s) ” or “ Participation ” (in a Subgroup) shall mean that a Member has formally requested, and has been approved, to attend, contribute or otherwise gain access to the work of a Subgroup prior to the Subgroup completing a Draft Standard, regardless of whether they actually participated in the Subgroup’s activities, made proposals or reviewed the Subgroup’s work.
8、“规范性引用”是指通过引用包含在最终标准中的,非本<SDO>制定的文档或标准，且为了符合包含该参考文件的最终标准就必须符合该引用内容。这有助于理解、实施或以其他方式使用最终标准的文档或标准，如果与其相符合并非为遵循最终标准所必须，则该文档或标准不属于规范性引用文件。	8. “ Normative Reference ” shall mean a document or standard that is included by reference in a Final Standard and for which compliance is required to claim compliance with the Final Standard that includes the reference. A document or standard that may be useful for understanding, implementing or otherwise using a Final Standard but for which compliance is not required to claim compliance with the Final Standard is not a Normative Reference.

附件 2:

成员默认许可义务表

根据《行业标准化组织知识产权政策》及相关文件规定，成员有义务填写下列默认许可义务表，并提交至<SDO Name>保存。

成员名称：
代表姓名（印刷体）： 职务：
代表签名： 日期：
通讯地址：
邮编：_____
电子邮件：
电话： 传真：_____
（填写前请阅读本文件结尾处的填表说明）：

表一：本成员确认参加的专题组及承诺的专利默认许可义务

本成员确认参加如下专题组（标☒表示选中，下同）：
 ☐ 所有专题组（即选中随后的全部专题组以及将来成立的专题组）
 ☐ XXXX 专题组
 ☐ XXXX 专题组
 ☐ XXXX 专题组
 ☐ XXXX 专题组
当上述选中的专题组所起草的草案成为最终标准，则对于与该最终标准中涉及的本成员未事前披露的任何必要权利要求，本成员的默认许可为：
 ☐ 按照公平、合理和无歧视的条款免费（FRAND RF）许可
 ☐ 按照公平、合理和无歧视的条款(FRAND)许可

表二：本成员确认不参加的专题组及承诺的专利默认许可义务

本成员确认不参加如下专题组（标☒表示选中，下同）：
 ☐ XXXX 专题组
 ☐ XXXX 专题组
 ☐ XXXX 专题组
 ☐ XXXX 专题组
当上述选中的专题组所起草的草案成为最终标准，则对于与该最终标准有关的任何必要权利要求，本成员的默认许可为：
 ☐ 按照公平、合理和无歧视的条款免费（FRAND RF）许可
 ☐ 按照公平、合理和无歧视的条款(FRAND)许可
 ☐ 无许可义务（No Licensing）

成员代表签名并加盖成员单位公章：_____

日期：_____年_____月_____日

填表说明：

(1) 成员可以选择“所有专题组”，这样就可以避免每次成立新的专题组时都补签本表。在这种情况下，成员不必填写表二（也就是只需要提交第一页既可）。

(2) 成员也可以在每次成立新的负责制定新标准的专题组时通过填写此表书面确认是否参加及关于新专题组的默认许可业务。

(4) 若成员对不同专题组选择不同的默认义务，可以通过复制表一或表二分别表述。

Attachment 2:

Default Licensing Form for the Member of <SDO Name>

According to the <SDO Name> IPR Policy, Members shall complete this Default Licensing Form, which shall be submitted to <SDO Name>

Member: _____
Name: _____
Authorized delegate (Printed name): _____
Signature: _____ Date: _____
Address: _____
Post Code: _____
Tel: _____ Fax: _____
Email: _____

(Please read the directions before filling out the forms)

Form I: A confirmation of the Subgroup(s) in which the Member wishes to Participate and the default obligations the Member agrees to commit:

As a Member of <SDO Name>, we confirm Participation in the following Subgroups: (“x” means confirmation):

- ☐ **all** of the Subgroups (means all existed and going to be created subgroups)
- ☐ **XXXX** Subgroup
- ☐ **XXXX** Subgroup
- ☐ **XXXX** Subgroup
- ☐ **XXXX** Subgroup

As a Member of <SDO Name>, according to the IPR Policy of the <SDO Name>, we commit to the following default licensing obligations for Necessary Claims in the Final Standard:

- ☐ **FRAND-RF**
- ☐ **FRAND**

Form II: Default licensing obligation committed to by the Member for the Subgroup(s) that the Member does not join:

As a Member of <SDO Name>, we do not confirm Participation in the following Subgroups: (“x” means confirmation):

- ☐ **XXXX** Subgroup
- ☐ **XXXX** Subgroup
- ☐ **XXXX** Subgroup
- ☐ **XXXX** Subgroup

As a Member of <SDO Name>, according to the IPR Policy of <SDO Name>, we commit to the following default licensing obligations for Necessary Claims in the Final Standards produced by Subgroups of which we are not Members:

- ☐ **FRAND-RF**
- ☐ **FRAND**
- ☐ **No Licensing**

Stamp: __

Date: Year Month Day

Directions:

- (1) Members may wish to select “**all** of the Subgroups” in **Form I** to avoid the discommodity of creating new Subgroups. Under this condition, Members only need to fill **Form I**
- (2) Members may also wish to fill in this form when a new Subgroup created, to confirm or disconfirm the Participation and the default licensing obligations for the new Subgroup.
- (3) If the obligations a contributing Member promises are different for different Subgroups, the above forms I and II can be copied and completed separately according to the circumstances of the Member.

附件 3:

成员提案专利披露与许可承诺表

根据《行业标准化组织知识产权政策》第四、五、六、七条等相关规定，成员在向各专题组提交技术提案时应填写本《成员提案专利披露与许可承诺表》，作为该提案的必要组成部分同时提交。

专题组名称: xxxx ☐ xxxx ☐ xxxx ☐ xxxx ☐

提案文档编号: _____

提案日期: _____

提案标题: _____

提案成员名称: _____

提案代表姓名: _____ 电话: _____

Email: _____ 传真: _____

提案代表通讯地址: _____ 邮编: _____

提案成员应当通过选中表 A 或者选中并填写表 B 相关部分完成此表。表 C 可以自愿填写。下列表格均可根据实际需要增加表格行。

表 A:

提案成员在其实际知晓的范围内已获知本提案不涉及提案成员或其关联者，以及他人的专利、专利申请。 ☐

表 B: 已获得授权的专利和/或已公开的专利申请 ☐

如果本提案中包含提案成员或其关联者已获得授权的专利和/或已公开的专利申请，提案成员应当填写下表：

序号	专利名称	专利权人或申请人	专利号或申请号	授权日或申请日	获得授权或者申请的国家/地区	专利主要技术内容介绍及其与标准内容相关性说明（提案成员自愿给出）	许可承诺（请选择） (a) FRAND-RF 许可或 (b) FRAND 许可	更多许可信息
1								
2								

表 C: 自愿填写 ☐

提案成员自愿在其实际知晓的范围内披露本提案可能涉及到的他人的专利和专利申请：

序号	专利名称	专利权人或	专利号或	授权日或	获得授权或者申请的国家/地区	专利的主要技术内容介绍及其与标准内容相关性说明（提案成员自愿给出）	更多披露信息
----	------	-------	------	------	----------------	-----------------------------------	--------

		申请人	申请号	申请日			
1.							
2.							

成员代表签名并加盖成员单位公章：_____

日期：_____年_____月_____日

Attachment 3:

**Form for the Disclosure and Licensing Commitment of Patents
Contributed by Members**

According to "IPR Policy of Industry Standardization Organizations" article 4, 5, 6, 7 etc, Members shall fill in the following forms when they propose technical Contributions to <SDO Name> and the forms shall also be applied as a necessary appendix of the Contribution.

Subgroup: XXXX ☐ _____ XXXX ☐ _____ XXXX ☐ _____ XXXX ☐ _____

File No. of Contribution: _____ Date: _____

Topic of the Contribution: _____

Contributing Member: _____

Authorized delegate (Printed name): _____ Signature: _____

Tel: _____ Email: _____ Fax: _____

Address: _____ Post Code: _____

Contributing Member shall fill in Form A or the corresponding sections of Form B to complete this Form. Contributing Member may voluntarily fill in Form C.
More lines can be added to each form, if necessary.

Form A: To the Contributing Member's actual knowledge, the proposed standard does not implicate any Patents or Patent Applications held by the Contributing Member, its affiliates or others. ☐

Form B: Granted Patent and/or published Patent application ☐

The Contributing Members or their Affiliates who have granted Patent and/or published Patent applications shall fill in the following form.

No.	Title	patentee's or applicant's name	No. of Patent Or No. of Application	Date of Granting Or Date of Application	Countries and regions where the Patent is granted or published	Details of the Patent and Relationship with the Standard (voluntarily fill in)	Licensing commitment (Please make a choice) (a)FRAND-RF (b)FRAND	Other Licensing Information
1.								
2.								

Form C Voluntarily fill in

Contributing Members may voluntarily disclose the granted Patent or Patent application of others

that they are aware of:

No.	Title	patentee's or applicant's name	No. of Patent Or No. of Application	Date of Granting Or Date of Application	Countries and regions where the Patent is granted or published	Details of the Patent and Relationship with the Standard (voluntarily fill in)	Other disclosed Information
1.							
2.							

Stamp: __

Date: Year Month Day

附件 4:

标准草案专利披露与许可承诺表

标准草案名称: _____

成员名称: _____

成员代表姓名: _____ 电话: _____

Email: _____ 传真: _____

成员代表通讯地址: _____ 邮编: _____

如果成员或其关联者拥有可能与标准草案相关的必要权利要求,则必须就包含这些必要权利要求的专利或已公开专利申请填写下表,按照知识产权政策的相关规定声明其许可义务。另外,提案成员对于已在“提案专利披露与许可承诺表”中披露过的专利或专利申请,也可以通过填写下表声明更优惠的许可承诺(可根据实际需要增加表格行)。

序号	专利名称	专利权人或申请人	专利号或申请号	授权日或申请日	获得授权或者申请的国家/地区	主要技术内容介绍及其与标准内容相关性说明(成员自愿给出)	许可承诺 (a) FRAND 免费许可或 (b) FRAND 许可或 (c) 无许可义务	更多许可信息
1								
2								

如果成员在标准草案提交标准审批机构批准之前没有反馈此表做出声明,视为成员认为本标准草案不涉及成员或其关联者的任何专利或专利申请。对于成员或其关联者拥有的必要权利要求将适用成员的**默认许可义务**。

成员代表签名并加盖成员单位公章: _____

日期: _____ 年 _____ 月 _____ 日

Attachment 4:**Form of the Disclosure and Licensing Commitments of Patents for Draft Standard**

Draft Standard Name: _____

Member Name: _____

Authorized Delegate (Printed Name): _____ Signature: _____

Tel: _____ Email: _____ Fax: _____

Address: _____ Post Code: _____

Members and their Affiliates who own the Patents or Patent applications which meet the Necessary Claims of the Draft standard are required to fill in the form under the relevant licensing obligations of the relative regulation of <SDO Name> IPR Policy.

The contributing Members could supply a more favorable licensing commitment for these disclosed Patents or Patent applications in their Contribution by fill in the following form, in comparison with the licensing commitment they made in the *“Form of the Disclosure and Licensing of Patents for Contributions of Members of <SDO Name>”*.

(More lines can be added to each form, if necessary)

No.	Title	patentee's or applicant's name	No. of Patent Or No. of Application	Date of Granting Or Date of Application	Countries and regions where the Patent is granted or published	Details of the Patent and Relationship with the Standard (voluntarily fill in)	Licensing commitment for Necessary Claims in the Final Standard (a)FRAND RF; (b)FRAND; (c)No Licensing	Other Licensing Information
1.								
2.								

If no such declaration is made before a Draft Standard is submitted to the Standard Approval Authority, Members and their Affiliate(s) shall be treated as they have no such Patents or Patent applications related to the Draft Standard. Member's Default Licensing Obligation shall apply to any of their Necessary Claims.

Stamp: _____

Date: Year Month Day

