

IEEE-SA STANDARDS BOARD PATENT COMMITTEE (PatCom)**MEETING MINUTES****12 June 2018****Hilton The Hague Hotel, The Hague, Netherlands****5:00 p.m. – 6:30 p.m.****Attendees****Members Present:**

Stephen Dukes

Yvette Ho Sang, Non-voting

Gary Hoffman

John Kulick

Hung Ling

Dorothy Stanley

Phil Wennblom, Chair

Members Absent:

None

IEEE Staff:

Matthew Ceglia

Karen Evangelista

Joshua Gay

Jonathan Goldberg

Konstantinos Karachalios

Karen Kenney

Clara Neppel

Dave Ringle, Administrator

Tania Sanchez-Juarez

Sam Sciacca

Lisa Weisser

IEEE Outside Legal Counsel:

Michael Lindsay

Claire Topp

Guests:

Chuck Adams

Michael Atlass

Evelyn Chen

Jean-Philippe Faure

Roya Ghafele

Scott Gilfillan

Simon Hicks

Guido Hiertz

Adrian Howes

Takafumi Ibaraki
Olia Kanevskaia
David Law
Xiaohui Liu
Marco Lo Bue
Kevin Lu
Satoshi Matsuo
John Messenger
Patrick Murphy
Andrew Myles
Paul Nikolich
Elisabeth Opie
Ged Owens
Jon Rosdahl
Matteo Sabattini
Victoria Wang
Helene Workman
Don Wright
Yu Yuan
Jingyi Zhou

1 CALL TO ORDER

Chair Wennblom called the meeting to order at 5:06 p.m. There was a round of introductions by all present.

Chair Wennblom instructed the meeting attendees that there would be limited time for observers to provide comments/questions in open session for items 5.1 and 6.1. These comments/questions would be gathered for PatCom discussion in Executive Session.

2 APPROVAL OF AGENDA

There was a motion to approve the agenda. The motion was approved by unanimous consent.

3 APPROVAL OF 06 MARCH 2018 MEETING MINUTES

There was a motion to approve the previous meeting minutes. The motion was approved by unanimous consent.

4 ADMINISTRATIVE STATISTICS

Dave Ringle reported that there were 9 LOAs (2 were negative LOAs) that were accepted since the March 2018 PatCom meeting.

5 OLD BUSINESS

5.1 Summary of Legal Issues Raised by DOJ Speeches – Lindsay

Michael Lindsay provided a verbal update, making reference to public statements, including:

- USC (Delrahim) [<https://www.justice.gov/opa/speech/file/1010746/download>]
- New Madison (Delrahim) [<https://www.justice.gov/opa/speech/file/1044316/download>]
- 77 enforcers and scholars open letter to Delrahim [<https://www.competitionpolicyinternational.com/wp-content/uploads/2018/05/DOJ-patent-holdup-letter.pdf>]
- Delrahim response to Carrier-Muris [<https://www.competitionpolicyinternational.com/wp-content/uploads/2018/05/2018-05-18-Delrahim-Letter-to-Carrier-and-Muris1.pdf>]
- Multi-association letter to Delrahim [http://actonline.org/wp-content/uploads/05302018_Multi-Assn_DOJ-SEP-White-Paper_FINAL.pdf]
- Leadership Conference (Delrahim) [<https://www.justice.gov/opa/speech/assistant-attorney-general-makan-delrahim-delivers-keynote-address-leadership-conference>]

Comments/questions received from:

- Michael Atlass
- Elisabeth Opie
- Matteo Sabattini
- Helene Workman

6 NEW BUSINESS

6.1 Solely in Regards to Projects/Standards that were Initiated prior to 15 March 2015, Would it be Acceptable to Permit a Submitter to Voluntarily Choose to Include Specific Text as an Attachment to a New LOA Submission with Box D.1.d Checked? – Ringle

Dave Ringle provided a brief background on the proposal for consideration by PatCom.

The IEEE Standards Association (IEEE-SA) implemented updates to its patent policy on 15 March 2015.

The 05 December 2015 resolution of the IEEE-SA Standards Board states:

"RESOLVED, that the IEEE-SA Standards Board hereby confirms that the sole LOA form that the Standards Board has approved does not permit an LOA with the D.1.d box selected to indicate the existence of alternative licensing assurances through contact information or otherwise, or to include attachments other than the extension page for identification of specific patents under Item E.1."

In the past three years, various patent holders have approached the IEEE-SA Standards Board Patent Committee Administrator with statements along the lines of *'We will not provide an LOA with licensing assurance under the terms of the 2015 patent policy. We would, however, ask that you inform standards development participants and other interested parties that we are willing to provide*

an LOA with licensing assurance under the terms of the 2007 patent policy.'

It is possible that some of the patent holders that stated a willingness to provide an LOA with licensing assurance under the terms of the 2007 patent policy did not fully understand that when the 2015 patent policy became effective that it would immediately apply to all IEEE standards development projects/standards regardless of whether or not the project/standard had been initiated prior to the 15 March 2015 implementation date of the updates to the patent policy.

Solely in regards to projects/standards that were initiated prior to 15 March 2015, would it be acceptable to permit a Submitter to include ONLY the following exact text as an attachment to a newly submitted LOA in which box D.1.d is selected?

Notwithstanding its having checked box D.1.d, the Submitter declares that as to the IEEE Standard or IEEE standards project identified in part C and for the Essential Patent Claims covered by part E *Scope of Assurance* of this LOA, the Submitter's licensing position is the same as it would have been if the Submitter had submitted an LOA with box D.1.b selected using the version of the IEEE LOA form that was in use immediately prior to the 15 March 2015 implementation of the updates to the IEEE-SA patent policy, under the terms of the *IEEE-SA Standards Board Bylaws* that were in effect at that time.

Comments/questions received from:

- Michael Atlass
- Adrian Howes
- David Law
- Elisabeth Opie
- Helene Workman

7 EXECUTIVE SESSION

PatCom entered Executive Session at 5:55 p.m.

Remaining in the room:

PatCom Members, PatCom Administrator, SASB Members, BOG Members, IEEE-SA Senior Directors, IEEE-SA Managing Director, IEEE Outside Legal Counsel

Executive Session concluded at 7:06 p.m.

REPORT OUT:

There was no report out for item 5.1.

For item 6.1: PatCom discussed the proposal, took no action today, and plans to continue discussion in Executive Session prior to the December PatCom meeting.

Chair Wennblom encouraged attendees to use PP-dialog as a discussion tool.

8 NEXT MEETING

The next in-person PatCom meeting will occur on either 03 or 04 December 2018 in Piscataway, New Jersey, USA.

9 ADJOURNMENT

There being no further business, the meeting was adjourned at 7:09 p.m.