LETTER OF ASSURANCE FOR ESSENTIAL PATENT CLAIMS

Please return via mail, e-mail (as a PDF), or fax:

PatCom Administrator, IEEE-SA Standards Board Patent Committee
Institute of Electrical and Electronics Engineers, Inc.
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FAX (+1 732-875-0524) e-mail: patcom@ieee.org

No license is implied by submission of this Letter of Assurance

A. SUBMITTER:

Legal Name: Intel Corporation ("Submitter")

B. SUBMITTER'S CONTACT INFORMATION (for the purpose of licensing information):

Contact Name/Title: Office of General Counsel
Department: Standards Licensing
Address: 2200 Mission College Boulevard
Santa Clara, CA 95052
Telephone: 408-765-1859 Fax: 408-765-1125 E-mail: standards.licensing@intel.com
URL: www.intel.com/standards/licensing.htm

Note: The IEEE does not endorse the content, or confirm the accuracy or consistency of any contact information or web site listed above.

C. IEEE STANDARD OR PROJECT (e.g., AMENDMENT, CORRIGENDA, OR REVISION):

In accordance with Clause 6 of the *IEEE-SA Standards Board Bylaws* and Clause 6.3.5 of the *IEEE-SA Standards Board Operations Manual*, this licensing position is limited to the following:

Standard/Project Number: IEEE 802.3-2012
Title: Standard for Ethernet

D. SUBMITTER'S POSITION REGARDING LICENSING OF ESSENTIAL PATENT CLAIMS:

In accordance with Clause 6 of the *IEEE-SA Standards Board Bylaws*, the Submitter hereby declares the following ***(Check box 1 or box 2 below)***:

Note: Nothing in this Letter of Assurance shall be interpreted as giving rise to a duty to conduct a patent search. The IEEE takes no position with respect to the validity or essentiality of Patent Claims, determining whether an implementation is a Compliant Implementation or the reasonableness of rates, terms, and conditions provided in connection with submission of a Letter of Assurance, if any, or in any license agreements offered by the Submitter. To the extent there are inconsistencies between the Letter of Assurance Form and any sample licenses, material licensing terms, or not to exceed rates provided in connection with 1.a or 1.b below, the terms of Clause 6 of the IEEE-SA Standards Board Bylaws and this Letter of Assurance Form shall control.

☒ 1. The Submitter may own, control, or have the ability to license Patent Claims that might be or become Essential Patent Claims. With respect to such Essential Patent Claims, the Submitter's licensing position is as follows ***(must check a, b, c, or d and any applicable subordinate boxes):***

☐ a. The Submitter will make available a license for Essential Patent Claims without compensation to an unrestricted number of Applicants on a worldwide basis with other reasonable terms and conditions that are demonstrably free of unfair discrimination to make, have made, use, sell, offer to sell, or import any Compliant Implementation that practices the Essential Patent Claims for use in conforming with the IEEE Standard identified in part C.

☐ (Optional) A sample of such a license (or material licensing terms) that is substantially similar to what the Submitter would offer is attached.

☐ (Optional) Such a license will include a Reciprocal Licensing requirement.

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☒ b. The Submitter will make available a license for Essential Patent Claims under Reasonable Rates to an unrestricted number of Applicants on a worldwide basis with other reasonable terms and conditions that are demonstrably free of unfair discrimination to make, have made, use, sell, offer to sell, or import any Compliant Implementation that practices the Essential Patent Claims for use in conforming with the IEEE Standard identified in part C.

☐ (Optional) These reasonable rates will not exceed _____ (e.g., percent of unit price, flat fee, per unit).

☐ (Optional) A sample of such a license (or material licensing terms) that is substantially similar to what the Submitter would offer is attached.

☒ (Optional) Such a license will include a Reciprocal Licensing requirement.

☐ c. The Submitter without conditions will not enforce any present or future Essential Patent Claims against any person or entity making, having made, using, selling, offering to sell, or importing any Compliant Implementation that practices the Essential Patent Claims for use in conforming with the IEEE Standard identified in part C.

☐ d. The Submitter is unwilling or unable to grant licenses according to the provisions of either a or b above or to agree that it will not enforce its Essential Patent Claims as described in c above.

☐ 2. After a Reasonable and Good Faith Inquiry, the Submitter is not aware of any Patent Claims that the Submitter may own, control, or have the ability to license that might be or become Essential Patent Claims.

E. SCOPE OF ASSURANCE:

Note: The Submitter must complete this section if box 1 in part D above is checked.

The Submitter may, but is not required to, identify one or more of its Patent Claims that it believes might be or become Essential Patent Claims. ***(Submitter must check box 1 or box 2 below)***

☐ 1. When checked, this Letter of Assurance only applies to the Patent Claims identified below that are or become Essential Patent Claims. (If no Patent Claim is identified below, then this Letter of Assurance applies to all Essential Patent Claims supported by the disclosure in the patent or patent applications listed below.)

Patent/Application/Docket Number: _____
Description/Title (optional): _____

Claim (optional): _____

Patent/Application/Docket Number: _____
Description/Title (optional): _____

Claim (optional): _____

Patent/Application/Docket Number: _____
Description/Title (optional): _____

Claim (optional): _____

For additional patents, use additional pages as necessary.

☒ 2. When checked, this Letter of Assurance is a Blanket Letter of Assurance. As such, all Essential Patent Claims that the Submitter may currently or in the future have the ability to license shall be available under the terms as indicated in part D.1; however, a Blanket Assurance shall not supersede any pre-existing or simultaneously submitted specific assurance identifying potential Essential Patent Claims.

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F. APPLICATION TO AFFILIATES:

With respect to any Essential Patent Claims that an Affiliate has the ability to license, the Submitter agrees that (i) the licensing positions described in parts C and D apply to any Essential Patent Claims within the scope of the assurance described in part E; and (ii) the terms of this assurance are binding on each such Affiliate; provided, however, that such representations and commitments shall not apply to Affiliates identified below:

Organization's Name	Organization's Name
Address	Address
Contact person	Contact person

Affiliates may not be excluded if the Reciprocal Licensing box is checked in part D.1.a or D.1.b.
For additional Affiliates, use additional pages as necessary.

G. SIGNATURE:

By signing this Letter of Assurance, you represent that you have the authority to bind the Submitter and all Affiliates (other than those Affiliates permissibly excluded above) to the representations and commitments provided in this LOA and acknowledge that users and implementers of the IEEE Standard identified in part C are relying or will rely upon and may seek enforcement of the terms of this LOA. The Submitter and all Affiliates (other than those Affiliates permissibly excluded above) agree not to sell or otherwise transfer any rights in any Essential Patent Claims that they hold, control, or have the ability to license with the intent of circumventing or negating any of the representations and commitments made in this LOA.

The Submitter agrees (a) to provide notice of an Accepted Letter of Assurance either through a Statement of Encumbrance or by binding its assignee or transferee to the terms of such Letter of Assurance; and (b) to require its assignee or transferee to (i) agree to similarly provide such notice and (ii) to bind its assignees or transferees to agree to provide such notice as described in (a) and (b).

If D.1.a or D.1.b is checked, the Submitter shall not condition a license on the Applicant's agreeing (a) to grant a license to any of the Applicant's Patent Claims that are not Essential Patent Claims for the IEEE Standard identified in part C, or (b) to take a license for any of the Submitter's Patent Claims that are not Essential Patent Claims for the IEEE Standard identified in part C.

If, as described in Clause 6 of the *IEEE-SA Standards Board Bylaws*, the Submitter becomes aware of additional Patent Claims not already covered by an Accepted Letter of Assurance that are owned, controlled, or licensable by the Submitter and that may be or become Essential Patent Claims with respect to the IEEE Standard identified in part C, the Submitter agrees to submit a Letter of Assurance stating its position regarding enforcement or licensing of such Patent Claims.

Print name of authorized person: Earl Nied

Title of authorized person: Program Director of SIGS and Standards

Signature of authorized person: Date: March 27, 2015

Address: 2111 NE 25th Avenue, Hillsboro, Oregon 97124

Phone: 503-712-3397 E-mail: earl.nied@intel.com

Note that this assurance applies, at a minimum, from the date of the standard's approval to the date of the standard's transfer to inactive status and is irrevocable upon acceptance by the IEEE-SA.

The IEEE-SA Patent Policy and the procedures used to execute that policy are documented in the IEEE-SA Standards Board Bylaws and the IEEE-SA Standards Board Operations Manual, available at http://standards.ieee.org/develop/policies/. The terms and definitions set forth in the IEEE-SA Patent Policy, IEEE-SA Standards Board Bylaws, and IEEE-SA Standards Board Operations Manual in effect as of the date of this Letter of Assurance are incorporated herein.

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DEFINITIONS

The following terms, when capitalized, have the following meanings:

"Accepted Letter of Assurance" and *"Accepted LOA"* shall mean a Letter of Assurance that the IEEE-SA has determined is complete in all material respects and has been posted to the IEEE-SA web site.

"*Affiliate*" shall mean an entity that directly or indirectly, through one or more intermediaries, controls the Submitter or Applicant, is controlled by the Submitter or Applicant, or is under common control with the Submitter or Applicant. For the purposes of this definition, the term "control" and its derivatives, with respect to for-profit entities, means the legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the capital stock (or other ownership interest, if not a corporation) of an entity ordinarily having voting rights. "Control" and its derivatives, with respect to nonprofit entities, means the power to elect or appoint more than fifty percent (50%) of the Board of Directors of an entity.

"*Applicant*" shall mean any prospective licensee for Essential Patent Claims. "*Applicant*" shall include all of its Affiliates.

"*Blanket Letter of Assurance*" shall mean a Letter of Assurance that applies to all Essential Patent Claims for which a Submitter may currently or in the future (except as otherwise provided for in these Bylaws and in the *IEEE-SA Standards Board Operations Manual)* have the ability to license.

"*Compliant Implementation*" shall mean any product (e.g., component, sub-assembly, or end-product) or service that conforms to any mandatory or optional portion of a normative clause of an IEEE Standard.

"Enabling Technology" shall mean any technology that may be necessary to make or use any product or portion thereof that complies with the IEEE Standard but is neither explicitly required by nor expressly set forth in the IEEE Standard (e.g., semiconductor manufacturing technology, compiler technology, object-oriented technology, basic operating system technology, and the like).

"*Essential Patent Claim*" shall mean any Patent Claim the practice of which was necessary to implement either a mandatory or optional portion of a normative clause of the IEEE Standard when, at the time of the IEEE Standard's approval, there was no commercially and technically feasible non-infringing alternative implementation method for such mandatory or optional portion of the normative clause. An Essential Patent Claim does not include any Patent Claim that was essential only for Enabling Technology or any claim other than that set forth above even if contained in the same patent as the Essential Patent Claim.

"*Letter of Assurance*" and *"LOA"* shall mean a document, including any attachments, stating the Submitter's position regarding ownership, enforcement, or licensing of Essential Patent Claims for a specifically referenced IEEE Standard, submitted in a form acceptable to the IEEE-SA.

"*Patent Claim(s)"* shall mean one or more claims in issued patent(s) or pending patent application(s).

"*Prohibitive Order*" shall mean an interim or permanent injunction, exclusion order, or similar adjudicative directive that limits or prevents making, having made, using, selling, offering to sell, or importing a Compliant Implementation.

"*Reasonable and Good Faith Inquiry*" includes, but is not limited to, a Submitter using reasonable efforts to identify and contact those individuals who are from, employed by, or otherwise represent the Submitter and who are known to the Submitter to be current or past participants in the development process of the [Proposed] IEEE Standard identified in a Letter of Assurance, including, but not limited to, participation in a Sponsor Ballot or Working Group. If the Submitter did not or does not have any participants, then a Reasonable and Good Faith Inquiry may include, but is not limited to, the Submitter using reasonable efforts to contact individuals who are from, employed by, or represent the Submitter and who the Submitter believes are most likely to have knowledge about the technology covered by the [Proposed] IEEE Standard.

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"*Reasonable Rate*" shall mean appropriate compensation to the patent holder for the practice of an Essential Patent Claim excluding the value, if any, resulting from the inclusion of that Essential Patent Claim's technology in the IEEE Standard. In addition, determination of such Reasonable Rates should include, but need not be limited to, the consideration of:

- The value that the functionality of the claimed invention or inventive feature within the Essential Patent Claim contributes to the value of the relevant functionality of the smallest saleable Compliant Implementation that practices the Essential Patent Claim.

- The value that the Essential Patent Claim contributes to the smallest saleable Compliant Implementation that practices that claim, in light of the value contributed by all Essential Patent Claims for the same IEEE Standard practiced in that Compliant Implementation.

- Existing licenses covering use of the Essential Patent Claim, where such licenses were not obtained under the explicit or implicit threat of a Prohibitive Order, and where the circumstances and resulting licenses are otherwise sufficiently comparable to the circumstances of the contemplated license.

"*Reciprocal Licensing*" shall mean that the Submitter of an LOA has conditioned its granting of a license for its Essential Patent Claims upon the Applicant's agreement to grant a license to the Submitter with Reasonable Rates and other reasonable licensing terms and conditions to the Applicant's Essential Patent Claims, if any, for the referenced IEEE Standard, including any amendments, corrigenda, editions, and revisions. If an LOA references an amendment or corrigendum, the scope of reciprocity includes the base IEEE Standard and its amendments, corrigenda, editions, and revisions.

"Statement of Encumbrance" shall mean a specific reference to an Accepted LOA or a general statement in the transfer or assignment agreement that the Patent Claim(s) being transferred or assigned are subject to any encumbrances that may exist as of the effective date of such agreement. An Accepted LOA is an encumbrance.

"*Submitter*" shall mean an individual or an organization that provides a completed Letter of Assurance. A Submitter may or may not hold Essential Patent Claims. "*Submitter*" shall include all of its Affiliates unless specifically and permissibly excluded.

Should any discrepancy exist between the definitions above and the definitions in the IEEE-SA Standards Board Bylaws clause 6.1, the definitions contained in the Bylaws shall control.

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