

Si2 Project IP Policy – Version 1.0

I. Purpose: The following sets forth the Project IP Policy.

II. Disclosure of Necessary Patent Claims

II.A. Scope

II.A.1. Disclosure in Response to a request or a Call for Patents. Any Representative of a Member organization who receives a Call for Patents issued in accordance with Section II.D.2 with respect to a Specification under development, and who has actual personal knowledge of Necessary Patent Claims with respect to such Specification owned or controlled by that Member or an Affiliate of that Member must disclose the known Necessary Patent Claims in accordance with Section II.C herein.

II.A.2. Disclosure Accompanying a Contribution. If any Representative of a Member organization has actual personal knowledge of Necessary Patent Claims owned or controlled by that Member or an Affiliate of that Member with respect to that Member's Contribution, the Representative of such Member must disclose those known Necessary Patent Claims along with the submission of the Contribution in accordance with Section II.C herein. If after submitting the Contribution, the Representative of that Member acquires actual personal knowledge of Necessary Patent Claims owned by or controlled by that Member or an Affiliate of that Member, the Representative of that Member must disclose those known Necessary Patent Claims in accordance with Section II.C herein.

II.A.3. No search of Portfolio/Third Party Patents. In satisfying the disclosure obligations set forth in this Project IP Policy, Members are not required to conduct searches of their patent portfolios, nor are Members required to disclose Necessary Patent Claims of other Members or other third party patents.

II.A.4. Member Responsibility. A Member shall not be responsible for identifying patent rights not owned or controlled by such Member or an Affiliate of such Member for which a license may be required, or for conducting inquiries into the legal validity or scope of those patent rights not owned or controlled by such Member or an Affiliate of such Member that are brought to its attention.

II.A.5. Failure to Disclose. If a Member does not disclose any Necessary Patent Claim(s) owned or controlled by such Member or an Affiliate of such Member in response to a Call for Patents as required under Section II.A.1 (or before a Call for Patents as provided in Section III.C.2), such failure shall have the consequences set forth in Section III.C.3 (subject, however, to the conditions set forth in Section III.C.3, including without limitation the exception set forth therein for Pre-emptive Exclusion Certificates). If a Member does not disclose any Necessary Patent Claim(s) owned or controlled by such Member or an Affiliate of such Member in connection with a Contribution by such Member as required under Section II.A.2, the Member shall be deemed to have agreed, for itself and for its Affiliates, to grant RAND Licenses under the applicable Necessary Patent Claim(s) with respect to the applicable Specification to Si2 and to each Valid Licensee of such Specification.

II.A.6. Public Disclosure. Prior to the date on which the Specification to which a Member's disclosure relates is made public, Members and Si2 shall not make public the content of any Member's disclosure regarding its Necessary Patent Claim(s) outside of Project; provided that nothing in this Section II.A.6 shall be construed as a limitation on any Member's retained rights to use and disclose its own contributed technology. Disclosures received with respect to a particular Specification shall be made public when the Specification is made public. Each Specification shall include suitable disclaimer language.

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II.B. Timing

II.B.1. Timing of Disclosure. Except for disclosures accompanying a Contribution, disclosures pursuant to Section III.E and disclosures included in a Pre-emptive Exclusion Certificate, disclosures in response to a Call for Patents must occur prior to the expiration of the applicable Exclusion Period.

II.B.2. Ongoing Obligation. Subject to Section II.B.3, the disclosure obligations described in Section II.A are ongoing obligations that begin upon the execution of the Agreement.

II.B.3. Termination of Obligation. Subject to Section IV, with regard to a particular Specification under development, the disclosure obligations described in Section II.A terminate when the Specification is approved by a super majority (two-thirds) vote of the Members or when a working group or a super majority (two-thirds) vote of the Members formally indicates in writing that work on the Specification under development has terminated without adoption, whichever is earlier.

II.C. Content

II.C.1. Patent Holder and Specification. Any disclosure of a Necessary Patent Claim(s) must identify in writing the patent holder(s), and the relevant Specification or affected portions thereof.

II.C.2. Necessary Patent Claim(s) in Issued Patents and Published Patent Applications. For each issued patent and published patent application containing a Necessary Patent Claim, a disclosure must also identify in writing the patent number or publication number, respectively.

II.C.3. RAND License or Reciprocal License. Prior to the end of the relevant Exclusion Period following a Call for Patents, or in the case of new Project Members prior to the deadline specified in Section III.E.3, a Member shall submit a RAND License Certificate, Reciprocal License Certificate or an Exclusion Certificate with respect to the disclosed Necessary Patent Claim. An Exclusion Certificate effectively excludes a Necessary Patent Claim whether or not the Certificate includes specific license terms under which the Member is willing to license the Necessary Patent Claim. However, under no circumstances can a Member exclude its Necessary Patent Claims with respect to a Contribution that was submitted by such Member. Failure to submit a RAND License Certificate, Reciprocal License Certificate or an Exclusion Certificate as required under this Section II.C.3 shall have the consequences set forth in Section III.C.3.

II.D. Procedure

II.D.1. Disclosure. Disclosures must be submitted either by e-mail to Si2, or by physical mail addressed to Si2 Contracts Administrator, 9111 Jollyville Road, Suite 250, Austin, TX 78759. The current physical mailing address for disclosures may be found online at www.si2.org/Project.

II.D.2. Request. Si2 shall issue a Call for Patents by attaching the Call for Patents to a draft of a Specification, which draft may be a First Draft, a Final Draft or an interim draft, and distributing the Call for Patents to a Representative of each Project Member as well as to the person(s) designated to receive notices for such Member in such Member's Agreement. When Si2 distributes a Call for Patents, Si2 shall use reasonable efforts to communicate the Call for Patents in a manner reasonably calculated to come to the attention of the recipient Representative (e.g., the Call for Patents will be clearly captioned as such). In general, in the absence of circumstances that make one or more additional Calls for Patents desirable, Si2 shall issue a Call for Patents between one and three times, inclusive. Only Si2 shall have the authority to issue a Call for Patents.

II.D.3. Posting. Si2 shall post disclosures on a Member-only accessible website promptly upon receipt.

III. Copyright License, RAND License, Reciprocal License and Exclusions

III.A. Copyright License. Each Member grants to Si2 and to each other Member of the Project a worldwide, perpetual, irrevocable, non-exclusive, non-transferable (except pursuant to Section 5.1 of the Agreement) copyright license to reproduce, create derivative works of, distribute, display, perform and sublicense the rights to reproduce, distribute, display and perform the Contributions of the granting Member solely for the purposes of developing, publishing and distributing Specifications

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and related materials, as well as Conformance Implementations based on such documents. The license granted in this Section III.A. does not include any right or license to distribute or sublicense Source Code. For the avoidance of doubt, copyrightable subject matter created by Si2 and incorporated in a Specification shall not be subject to the foregoing license and shall instead be licensed by Si2 pursuant to license terms that Si2 makes generally available to Valid Licensees, which license terms shall, subject to reasonable limitations and conditions, permit a Valid Licensee to use, copy and modify such copyrightable subject matter (and to have its Affiliates and third party contractors use, copy and modify such copyrightable subject matter on its behalf); provided that such license terms may prohibit or otherwise restrict other use, copying and modification, including redistribution of such copyrightable subject matter or modified versions thereof. For the further avoidance of doubt, each Member and Si2 shall have the perpetual and unrestricted right to use, disclose, distribute or otherwise exploit all ideas, concepts, techniques and know-how contained in copyrightable subject matter provided to the Project by Members or Si2, provided that such right set forth in this sentence shall not imply any license under valid patents and copyrights.

III.B. RAND License and Reciprocal License.

III.B.1. License Grant. Each Member agrees to grant the RAND License and Reciprocal License under any and all of its Necessary Patent Claims not excluded in accordance with Section II or this Section III.

III.B.2. Knowledge not Required. A RAND License or Reciprocal License is granted whether or not the Member or any of its Representatives ever had any knowledge of the existence of such Necessary Patent Claims.

III.B.3. Not Applicable to Source Code. No RAND License or Reciprocal License granted pursuant to this IP Policy includes any right or license to offer, sell, distribute or sublicense any Source Code.

III.B.4. Use of Source Code for Project Activities.

a. Notwithstanding any provision of this IP Policy or the Agreement, each Member and Si2 (as Discloser) hereby authorizes, and each Member and Si2 (as Recipient) is hereby authorized by, the other Members and Si2 (as Recipients or as Disclosers as the context requires) to, at no charge, use solely in connection with activities of the Project and distribute only among Members of the Project and Si2 any and all Contribution(s) and other submission(s) of Source Code submitted by any such Discloser Member or Si2; provided that nothing in this paragraph (4)(a) shall be construed as granting any exclusive rights to Si2 or any Member, or otherwise limiting such Discloser Member in any way with respect to its use of any Source Code it has submitted.

b. In addition, each Member and Si2, respectively (as Accessing Entity) which accesses or views Source Code of any other Member (Accessed Source Code) agrees to grant to such other Member and its Affiliates (now or hereafter) a worldwide, non-exclusive license on reasonable and non-discriminatory terms and conditions under any and all claims of patents, licensable by Accessing Entity or its Affiliates, which cover(s) any and/or all past, present and/or future making, using, selling, distributing, importing or offering of any implementation(s) of the Accessed Source Code, where such activities are not in connection with activities of the Project; provided that such other Member agrees to grant to the Accessing Entity and its Affiliates, the same reciprocal rights, mutatis mutandi, with respect to any implementation(s) of Source Code of such Accessing Entity or its Affiliates which has (have) functionality substantially similar to the Accessed Source Code, where such activities are not in connection with activities of the Project.

The reasonable royalty rate associated with any grant under Section III.B.4.b shall be based on commercial reasonableness and is not limited to or necessarily based on the royalty rates set forth in the RAND License or Reciprocal License granted pursuant to Section III.B.1.

III.C. Exclusion Periods and Certificates

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III.C.1. Certificate of Exclusion (Exclusion Certificate). Prior to expiration of each Exclusion Period, each Member shall submit either a RAND License Certificate, a Reciprocal License Certificate or an Exclusion Certificate with respect to any Necessary Patent Claims owned or controlled by such Member or an Affiliate of such Member. An Exclusion Certificate effectively excludes a Necessary Patent Claim from the default RAND License or Reciprocal License obligation. A Member shall not be permitted to submit an Exclusion Certificate or change any previously submitted RAND License or Reciprocal License terms and conditions with respect to a Specification for which such Member had submitted a RAND License Certificate or a Reciprocal License Certificate in connection with a prior Exclusion Period, provided that if a Specification was modified after a prior Exclusion Period in a manner that brings such Specification within the coverage of additional Necessary Patent Claims owned or controlled by such Member or an Affiliate of such Member (in which case such Member may submit an Exclusion Certificate or change previously submitted RAND License or Reciprocal License terms and conditions with respect to the additional Necessary Patent Claims in connection with the first Exclusion Period after such modifications were made).

III.C.2. Pre-emptive Exclusion. Either (a) at the time a new Member joins the Project by signing and submitting an Agreement in accordance with Section III.E.I, but before a Call for Patents or (b) within three (3) months after an existing Member purchases a patent, but before a Call for Patents, such new Member or existing Member may submit an Exclusion Certificate conforming to the requirements of Section III.E.3 to the Si2 Contracts Administrator for the purpose of excluding Necessary Patent Claims identified therein (a "Pre-emptive Exclusion Certificate"); provided that a Pre-emptive Exclusion Certificate submitted pursuant to the foregoing clause (b) may only exclude Necessary Patent Claims contained in the purchased patent. A Pre-emptive Exclusion Certificate shall be deemed a valid Exclusion Certificate responsive to all subsequent Calls for Patents.

III.C.3. Failure to Submit Certificate. If a Member fails to submit a RAND License Certificate, Reciprocal License Certificate or an Exclusion Certificate prior to the expiration of the applicable Exclusion Period (or, in the case of a withdrawal of a Member from the Project, prior to the exclusion deadline set forth in Section III.D.3) and such Member has not previously submitted a Pre-emptive Exclusion Certificate in accordance with Section III.C.2, the Member shall be deemed to have agreed, for itself and for its Affiliates, to grant RAND Licenses under the applicable Necessary Patent Claim(s) with respect to the applicable Specification to Si2 and to each Valid Licensee of such Specification.

III.D. Withdrawal

III.D.1. No Withdrawal. Contributions, once made, may not be withdrawn.

III.D.2. Survival of License. A Member's obligations to license pursuant to Sections II.A.5, III.A, III.B.1, III.B.4.b, III.C.3, III.E.1, III.E.2 and III.G.1 of this Project IP Policy made or incurred prior to withdrawal from Project shall survive such withdrawal, and shall extend to Members that join the Project after the withdrawing Member's withdrawal and to other Valid Licensees of the Specification. A grant of a license to a Member pursuant to the Project IP Policy made prior to such Member's withdrawal from Project shall survive such withdrawal.

III.D.3. Exclusion upon Withdrawal. If a Member withdraws from the Project after the commencement, but prior to the expiration, of an applicable Exclusion Period, then the Member may exclude Necessary Patent Claims the Member is not already obligated to license prior to the earlier of: (i) thirty (30) days after withdrawing from Project; or (ii) the expiration of the applicable Exclusion Period. Failure of such former Member to submit a RAND License Certificate, a Reciprocal License Certificate or an Exclusion Certificate prior to such deadline will have the consequences set forth in Section III.C.3.

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III.D.4. Rights after Withdrawal. Except as described in Sections III.D.2 and III.D.3 above, a prior Member shall have no other obligations arising out of its participation in the Project to Si2, other Members or Valid Licensees as to technologies or intellectual property rights developed by the Member after its withdrawal from the Project.

III.E. New Project Member's Licensing Obligation Regarding Existing Specifications; Member Acquiring a Patent Licensing Obligation Regarding Existing Specifications

III.E.1. New Member – RAND License Grant. By signing and submitting an Agreement, a new Member agrees to grant RAND Licenses and Reciprocal Licenses for the then-current version of the Specification as of the joining date of the Member, unless concurrently with the submission of the Agreement, the Member submits an Exclusion Certificate in accordance with Section III.C.2 or

III.E.3.

III.E.2. Member Purchasing a Patent – RAND License Grant. An existing Member purchasing a patent (it being understood that, for all purposes under this Project IP Policy, “purchasing a patent” and cognates thereof shall include acquiring patent rights through acquisition of an entity owning such patent rights) agrees to grant RAND Licenses and Reciprocal Licenses for the then-current version of the Specification as of the date of purchase, unless, within three (3) months after purchase of the patent, the Member submits an Exclusion Certificate in accordance with Section III.E.3.

III.E.3. Certificate of Unwillingness to Grant RAND License or Reciprocal License. If a new Member does not agree to grant RAND Licenses and Reciprocal Licenses pursuant to Section III.E.1 or an existing Member purchasing a patent does not agree to grant RAND Licenses and Reciprocal Licenses pursuant to Section III.E.2, then, in the case of a new Member, it must submit an Exclusion Certificate concurrently with its execution of the Agreement or, in the case of an existing Member purchasing a patent, it must submit an Exclusion Certificate within the period set forth in Section III.E.2. The Exclusion Certificate shall also disclose:

- a. the portion of the Specification that requires the use of any Necessary Patent Claims owned or controlled by the Member or an Affiliate of the Member; and
- b. the information required by Section II.C.

III.F. Have Made License: In response to a written request identifying a product and a manufacturer, Licensee shall in a timely manner inform Licensor if such product is manufactured by such manufacturer pursuant to the Have Made license granted herein. Licensor and Licensee may negotiate a reasonable auditing provision in order to determine the “have made” activity (e.g., quantity, cost to Licensor/revenue) engaged in by a third party operating under such a license grant.

III.G. Project Member's Licensing Obligation to Non-Members Regarding Existing Specifications

III.G.1. RAND License Grant to Non-Member. In the event a non-Member requests in writing a RAND License that a Member is obligated to grant to Project Members pursuant to this Project IP Policy with respect to a Conformance Implementation, then such Member agrees to grant a RAND License to such non-Member, provided that such non-Member executes an Adopter Agreement in a form approved by a majority of the Project Members.

IV. Information Exchange Procedures.

IV.A General:

IV.A.1. Generally, Project meetings shall be conducted by Members on a non-confidential basis. Subject to Section II.A.6, all disclosures of information relating to Project matters shall be deemed to be non-confidential unless specifically disclosed pursuant to a separate written non-disclosure agreement between the discloser and the individual recipient.

IV.A.2. If a Member believes that it is necessary to disclose particular confidential information to other Project Members in connection with Project matters, such disclosure shall be made under the terms of an individual non-disclosure agreement between the discloser and the individual recipient

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that is mutually acceptable to the discloser and the individual recipient. This Section IV(A)(2), does not apply to information, data and materials already in the public domain at the time of disclosure, use, press release or public announcement, or to information, data and materials disclosed by the Member without any obligations of confidentiality or to any disclosure, use, press release, or public announcement to the minimum extent required by law or government regulation.

IV.A.3. Except as may otherwise be provided in such non-disclosure agreement(s) or in Section II.A.6, with respect to all information disclosed by one Member to the Project, the disclosing Member grants to all other Members of the Project and to Si2, to the extent, if any, of the disclosing Member's interest therein, a non-exclusive, paid up, royalty-free, irrevocable, perpetual, unrestricted and worldwide copyright license to use, have used, disclose to others, make copies, and dispose of, all without limitation, such non-confidential information; provided that no rights are granted under any of the patent rights of the discloser in this Section IV(A)(3). The license of this Section IV (A)(3) does not include any right or license to distribute or otherwise dispose of Source Code.

IV.B. Press Releases and Publicity. Members shall not misrepresent the activities of the Project or their role in the Project in press releases or other announcements concerning the Project. Members shall not issue press releases or other announcements concerning the activities of other Members without first obtaining such Member's specific written permission.

V. Independent Action Each Member shall remain free to design, develop, market, modify or distribute any of its products or services without restriction, within the scope of whatever rights and licenses it may have. Participation in the Project shall not be deemed to constitute a partnership, joint venture, or other joint activity. No Member authorizes any other Member or the Project to make any commitments or representations on its behalf. Participation in the Project shall not grant to any other Member the right to use the name or trademarks of the Member in any publicity or advertising without the Member's prior written consent.

VI. No Conflict Si2 represents and warrants that the terms of this Project IP Policy do not conflict with the terms of any other instrument by which it is bound.