



PROCEDURES

for the

DICOM Standards Committee

(Excerpt)

9. PATENT DISCLOSURE POLICY

9.1 Purpose

Numerous technologies are required for the effective implementation of the DICOM Standard. When it is both possible and practical, such technologies should be available for public use; however, both the DICOM Standards Committee (“the Committee”) and its Secretariat, the National Electrical Manufacturers Association, recognize that Members of the Committee (including its subdivisions and working groups) may hold patents or patent applications for technology that, for sound technical reasons, are required to implement the DICOM Standard. The Committee, in connection with its efforts to develop and update the DICOM Standard, would prefer to know, in advance of the development or revision of the DICOM Standard, whether there are claims of a patent or pending patent application, which users seeking to conform to the DICOM Standard would be required to practice, so that informed decisions can be made by the Committee, its subdivisions or working groups about whether to incorporate proprietary technology in the DICOM Standard. On the other hand, the Committee recognizes the difficulty that some Members may have in monitoring and searching patent portfolios in view of an evolving Standard. The Committee also recognizes that the actual participants in the Committee, or its subdivisions and working groups, may not be familiar with the patents and patent applications of their respective employers or affiliated firms. To meet these competing concerns of the Committee, the users of the DICOM Standard, and the holders of patent rights, the Committee adopts the following policy:

9.2 No Duty to Search Patent Portfolio

Committee Members do not have an affirmative duty to search a patent portfolio to determine if they own a patent or patent application whose claims are required to implement the DICOM Standard.

9.3 Duty of Good Faith to Disclose Known Inventions Required to Implement the DICOM Standard

Subject to the above, Members have an affirmative duty to act in good faith toward the Committee and its other Members to bring to the attention of the Committee any patents or patent applications (where disclosure of the latter would not prejudice the intellectual property rights of an applicant), owned by the Member (or an employer, parent company, subsidiary or affiliate of the Member) and known to the Member that practicing one or more claims of a patent or patent application is required to implement any portion of the DICOM Standard or a revision thereof that is proposed for adoption. No Member shall knowingly conceal from the Committee any patents or patent applications owned by it (or any employer, parent company, subsidiary or affiliate of a Member) where practicing the claimed invention(s) is required by a user of the DICOM Standard to conform to the DICOM Standard and any revision thereof that is proposed for adoption.

The Committee further adopts a requirement that each of its Members execute a Declaration in the form set forth below to ensure fair use of the DICOM Standard, which includes a commitment by the Members to make available inventions subject to a patent or patent application that are required to be practiced by a user of the DICOM Standard in order to conform to the DICOM Standard, on terms described in the Declaration, and subject to a condition of reciprocity. As used herein, “reciprocity” means that with respect to other parties that have a patent or patent application required in the use of the DICOM Standard, the Member shall only be required to license to such parties if they are willing to license their patent or patent applications on the terms provided in the Declaration.

9.4 Timing of Disclosure

The Duty of Good Faith includes a requirement that the disclosure to be made by the Member under this Policy shall be made to the Secretariat of the Committee as expeditiously as possible after the Member recognizes the obligation of disclosure. The disclosure shall be made in a manner as prescribed by the Committee, including any documentation required by the Committee.

9.5 Definitions

The term “Member” as used in this Policy refers to any organization that has been elected membership in the DICOM Standards Committee and to any organization or individual that was appointed by the DICOM Standards Committee as a member or participant in one or more of the DICOM Standards Committee’s subdivisions and working groups.

(OVER)

Approved: October 18, 2004

DECLARATION

_____ (“Member”)
(Member name-company or organization)

agrees that as a condition of its participation in the DICOM Standards Committee (“the Committee”), its subdivisions and working groups, that it (the Member) will abide by the Duty of Good Faith set forth in the Patent Disclosure Policy of the Committee with respect to patents and patent applications where the claims of any patent or patent application (provided that the intellectual property rights of such application would not be prejudiced by disclosure) are known by the Member to be required to implement any provision of the DICOM Standard or any provision of proposals to extend, expand or modify the Standard, and that it will make disclosure to the Secretariat of the Committee of the patent(s) or patent application(s) (where it is possible to disclose patent applications without prejudicing the intellectual property rights of the applicant) and the provision(s) of the DICOM Standard to which the Member believes that claims of any patent or patent application relate.

The Member further agrees, regardless of whether it has disclosed or knows of claims contained in any patent or patent application owned by the Member (or an employer, parent company, subsidiary or affiliate of the Member) whose use and practice would be required to conform with any part of the DICOM Standard, that, at the discretion of the Member and subject to a requirement of reciprocity as defined in the Patent Disclosure Policy, it will make available on a worldwide and non-discriminatory basis (A) a license without compensation to persons or entities seeking to practice one or more claims of any patent or patent application that are required by a user of the DICOM Standard to conform to the DICOM Standard, OR (B) a license under reasonable and non-discriminatory terms to persons or entities seeking to practice one or more claims of any patent or patent application that are required by a user of the DICOM Standard to conform to the DICOM Standard.

Signed By: _____
Authorized Signature for company/organization

Title: _____

Print Name

Date

Member company or organization’s name

Return Declaration to the DICOM Secretariat
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