

## Guidance note for use with the ECMA Code of Conduct in Patent Matters

### **This note is not part of the Code of Conduct**

ECMA members are encouraged to grant licenses on reasonable, non-discriminatory terms where they hold or are applying for patents which are known to cover some or all of the subject matter of an ECMA Standard, and where they claim the rights granted thereby. If in the subsequent opinion of the other ECMA members such licenses are not being granted, then the General Assembly will have to withdraw the Standard-

Members who have not taken part in the technical work on a Standard are encouraged to vote in its favour in the General Assembly. The provisions of clause 2 of the Code of Conduct are not intended to discourage such supportive action and, therefore, do not require members to undertake a detailed patent search in this situation. However, known rights should be claimed.

In the same way, a new member on joining ECMA is not required to examine all current ECMA Standards for claimed rights. Any such rights are in effect covered by clauses 1.2 and 1.4, since at the time the

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Standard was approved, a new member was a “Third Party”. The new member should, however, claim any known rights. Once a member has joined, the normal provisions of the Code of Conduct apply, with particular emphasis on the situation described above, where the member has not been active in items of the current work programme.

If a member, acting in good faith, does not claim any issued protective rights, then a Standard may be approved as stated in clause 2.4. If subsequently it becomes known that the application of an ECMA Standard would infringe a patent for which a license would not be granted on reasonable, non-discriminatory terms, then the Standard would be withdrawn.

Two sample form letters for patent declarations are attached to this note:

[sample letter A](#) (short letter);

[sample letter B](#) (long letter).

Either type of form letter, to be typed on Company stationery, is valid, but should not be changed.

Submission of a patent declaration is not mandatory for ECMA members because the members of the Association are assumed to agree with the ECMA Code of Conduct in patent matters.

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