

Inbound and outbound IP flow

Goals

We want a "flat" IP-flow policy, whereby the right to use contributions to the Spec (and to the RI and TCK where applicable) are granted directly to implementers rather than flowing through the Spec Lead. (The Spec Lead should be treated as just another implementer.)

Definitions

- **Contribution:** any comments, specifications, code or other materials, or ideas made or disclosed to an Expert Group by any means concerning the subject matter of the JSR for which that Expert Group is formed.
 - The current version of the JSPA has a weird distinction between contributions that are disclosed in “recorded form” and those that are not. This should be eliminated.
 - This definition must be broad enough to cover direct contributions to the RI and/or the TCK. (Non-JSPA signatories who contribute to the RI or TCK must be covered separately by some other kind of CLA.)
- **Compatible:** an implementation of a Java technology is Compatible if it meets the requirements specified in the language equivalent to (a) – (c) of Section 5.B in the current version of the JSPA.
- **Essential Patent:** a patent for which a Compatible implementation of a Specification cannot be created in a technically feasible manner without violation.
- **Output:** the Specification and associated Reference Implementation and Technology Compatibility Kit generated by an Expert Group with respect to the JSR for which that Expert Group is formed.
- **Process:** the version of the Process Document under which a particular JSR is being run.

Inbound IP flow

Everyone who contributes to a JSR (whether or not they are members of the Expert Group) with respect to their copyrights, trade secrets, and Essential Patent Rights in their Contributions, grants a perpetual, non-exclusive, worldwide, royalty-free, fully paid-up license permitting those Contributions to be:

- disclosed, distributed, reviewed, and publicly discussed as necessary to meet the transparency requirements of the Process before and after the JSR is completed.
- modified and incorporated into the Output and into future versions of the Output as these are evolved through the Process.
 - The Spec Lead has the right to create derivative works but other implementers do not. Can we word this in such a way that the Spec Lead is not called out as “special”? Do we need to use the term *derivative works* at all?
- incorporated into Compatible implementations of the current and any future revisions of the Spec.
 - We should remove the current distinction between implementations derived from the RI and Independent Implementations.

Expert Group members make royalty-free grants with respect to their Essential Patents. These grants may be revoked if they disclose the relevant patents and withdraw from the Expert Group prior to Public Review.

JCP members who are not members of the Expert Group and who do not contribute to the JSR have an obligation to disclose any Essential Patents of which they have personal knowledge. Having done so they are obligated to grant rights to these patents on FRAND terms.

Note 1: This obligation is considerably weaker than the current Section 6.

Note 2: Section 6 currently permits declared patents to be withheld. Do we want to make a similar provision?

No member is obliged to grant patent rights to those who are unwilling to make a reciprocal grant.

Patent grants are terminated if the licensee initiates litigation with respect to technologies developed through the JCP. (A Spec Lead initiating litigation in defense of the subject specification would not trigger this defensive termination clause.)

Should offenders lose all the rights they have been granted through the JCP or only the rights for the particular JSR?

Should we use non-assertion language as an alternative to the specific granting of patent licenses?

Since Oracle is not the "You" specified in the JSPA we must include language stating that Oracle makes similar commitments.

Copyright in the “collective work” of the Spec will vest in the Spec Lead.

Outbound IP Flow

Will be covered by the Spec License (which will grant all necessary IP rights to Compatible implementations of the spec) by the approved Open Source RI and TCK licenses, and the approved Commercial RI and TCK licenses.