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. We want to consider the Spec Lead 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.
    - o 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.
    - o 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

With respect to your copyrights, trade secrets, and Essential Patent Rights in your Contributions you grant a perpetual, non-exclusive, world-wide, royalty-free, fully paid-up license permitting your 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.
    - o 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"?
- incorporated into Compatible implementations of the current and any future revisions of the Spec.
    - o It would be good to remove the current distinction between implementations derived from the RI and Independent Implementations.

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.

Notes

- This language only covers IP that is actively contributed, whether or not the contributor is a member of the Expert Group. Essential Patents not related to Contributions (currently covered by section 6) must be dealt with separately. (We are leaning towards relaxing the current requirement that non-contributors must license **all** their Essential Patents on RAND terms.)
- Essential Patent grants should be covered by *reciprocity* language. As in the current version of the JSPA there will be no obligation to grant essential patent rights to those who will not reciprocate.
- Similarly, essential patent grants will be terminated if the grantee initiates litigation with respect to technologies developed through the JCP (see the Eclipse and Apache licenses for examples.)
    - o Should offenders lose all the rights they have been granted through the JCP or only the rights for the particular JSR?
- Essential patent grants can be withdrawn if disclosed and if notification is given before [what point in the process?]
    - o Does this apply to grants made through Contributions, or only those not so related?
- Should we use non-assertion language as an alternative to the specific granting of patent licenses?

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 licenses.