

Title: NGMN Recommendations regarding the Transparency of SEP Disclosures

Source: NGMN Alliance Project P3 – IPR Forum

To: 3GPP, ATIS, ITU, ISO, IEC, ETSI, CEN/CENELEC, IEEE, BBF, TMF, MEF, WBA, IETF, ANSI, GSMA

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1. About the NGMN Alliance

The NGMN Alliance is an industry organization of leading world-wide Telecom Operators, Vendors and Research Institutes (see www.ngmn.org) and was founded by international network operators in 2006. Its objective is to ensure that the functionality and performance of next generation mobile network infrastructure, service platforms and devices will meet the requirements of operators and, ultimately, will satisfy end user demand and expectations. The NGMN Alliance will drive and guide the development of all future mobile broadband technology enhancements with a focus on 5G. The targets of these activities are supported by the strong and well-established partnership of worldwide leading operators, vendors, universities, and successful co-operations with other industry organisations.

2. NGMN 5G Work-Programme, IPR Eco-System for 5G SEP

In February 2015 the NGMN Alliance published its 5G White Paper providing consolidated 5G operator requirements (<https://www.ngmn.org/5g-white-paper.html>). With reference to IPR, NGMN is developing recommendations and an implementation strategy supporting a more transparent and predictable IPR eco-system for 5G Standards Essential Patents (SEP) across industries that will support sustainable implementation of 5G technologies and ensure that innovation is stimulated and innovators appropriately rewarded. One of the business objectives is to make 5G accessible for all types of devices from high-end smartphones and tablets down to low-end MTC (Machine Type Communication) devices such as smoke detectors and sensors. In support of this objective, the IP licensing terms and conditions for 5G market should be fair, reasonable and non-discriminatory so as to enable sustainable and successful mass deployment of any 5G service or Product Type including MTC devices to support the Internet of Things (IoT). One of the objectives is to improve the transparency of 5G Standard Essential Patent (SEP) Disclosures.

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3. Recommendations

In order to achieve this objective, NGMN is kindly requesting Standards Developing Organizations working on 5G technologies to consider the recommendations in the enclosed Annex relating to the disclosure and licensing of patents and patent applications (collectively, “Patents”) as potentially essential to a standard. NGMN is continuing to improve the recommendations and may come up with further updates. Any feedback on the recommendations in this Liaison Statement will be appreciated.

References

None.

Annex: NGMN IPR Forum Recommendations to Improve SEP Declarations

PREAMBLE TO SECTION 7 OF THE WHITE PAPER

This section provides background to the high level recommendations set forth in section 7.2 of the 5G White Paper published by the NGMN Alliance on 17 February, 2015.

NGMN and the IPR Forum respect the boundaries of competition law, have taken care to abide by competition law principles when discussing and formulating the recommendations in Sections 7.2.1-7.2.3, and recognize that competition law considerations apply within the context of these recommendations.

The IPR Forum does not take any position regarding the appropriateness of any given SDO IPR policy for use by other SDOs. Further, these recommendations are not intended to normalize or harmonize any aspect of the IPR policies of SDOs. An SDO is free to decide whether, and to what extent, it considers any of the following recommendations. NGMN intends that no negative implication arise if an SDO decides not to implement any of the recommendations.

Finally, the recommendations in Sections 7.2.1-7.2.3 do not represent the individual position of any company that participated in or contributed to the IPR Forum.

Recommendations

Subject to the Preamble above, NGMN recommends that the following procedures be considered by SDOs working on 5G technologies in relation to the disclosure and licensing of patents and patent applications (collectively, "Patents") as potentially essential to a standard:

1. Disclosure of potentially essential Patents – It is recommended that such SDOs consider requiring their patent holder members to disclose timely to the SDO Patents that they believe may be essential or potentially essential to a standard and declare the member's licensing position for these Patents, and that the SDO makes these disclosures publicly available not later than upon publication of the adopted standard. This disclosure process is not intended to imply any requirement to conduct patent searches.
2. Licensing declarations – In the absence of a disclosure and licensing declaration as described in recommendation 1, above, it is recommended that such SDOs consider, as a minimum, requiring their members to provide timely to the SDO a declaration of the member's licensing position for their Patents that are essential to a standard, and that the SDO makes these declarations publicly available not later than upon publication of the adopted standard.

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3. Details of disclosures – It is recommended that SDOs consider requesting that their members provide non-binding information in their disclosures that identifies at least one version and specific section(s) of the standard for which the member believes a Patent may be essential or potentially essential.

4. Voluntary update request – It is recommended that the SDO consider requesting that its members voluntarily update, according to their present belief, any past essentiality disclosures.
