

6UK LIMITED (6UK)

6UK IPR Policy – Issue 1

1 Introduction

The Board has adopted this IPR Policy to clarify the position in respect of IPRs which may be included in a Standard.

2 Definitions

Paragraph 15 contains definitions of certain terms and expressions used in this IPR Policy.

3 ETSI IPR Policy

- 3.1 This Policy is based on the ETSI IPR Policy. In the event of a change in the ETSI IPR Policy, the Board shall consider appropriate changes to this IPR Policy.

4 Policy Objectives

- 4.1 It is 6UK's objective to create documents that are based on solutions which best meet the technical objectives which sustain and promote the adoption of IPv6. In order to further this objective, this IPR Policy seeks to reduce the risk to 6UK, Members and others applying Standards, that investment in the preparation, adoption and application of Standards could be wasted as a result of an Essential IPR for a Standard being unavailable. In achieving this objective, this IPR Policy seeks a balance between the needs of standardisation for public use in the field of telecommunications and the rights of the owners of IPRs.
- 4.2 IPR holders whether Members and their Group Companies or third parties, should be adequately and fairly rewarded for the use of their IPRs in the implementation of Standards.
- 4.3 6UK shall take reasonable measures to ensure, as far as possible, that its activities enable Standards to be available to potential users in accordance with the general principles of standardisation.

5 Disclosure of IPRs

- 5.1 Subject to paragraphs 5.2 and 5.3, each Member and others participating in a particular Working Group shall use its reasonable endeavours, in particular during the development of a Standard where it participates, to inform 6UK of Essential IPRs in a timely fashion. In particular, a Member or other Working Group participant submitting a technical proposal for a Standard shall, on a bona fide basis, draw the attention of 6UK (via the particular Working Group) to any of that Member's or Working Group participant's IPR which might be Essential if that proposal is adopted.
- 5.2 Paragraph 5.1 shall not apply in respect of an Essential IPR which has previously been declared:
- (a) to IETF in accordance with the IETF Policy and which has been the subject of an undertaking given by its owner in writing that it is willing to grant licences on fair, reasonable and non-discriminatory terms and conditions in respect of such IPR to at least the extent provided for in the IETF Policy; or
 - (b) to ETSI in accordance with the ETSI Policy and which has been the subject of an undertaking given by its owner in writing that it is willing to grant irrevocable licences on fair, reasonable and non-discriminatory terms and conditions in respect of such IPR to at least the extent provided for in the ETSI Policy; or

- (c) to the ITU in accordance with the ITU Policy and which has been the subject of a declaration of willingness by the owner that it is willing to grant licences on a non-discriminatory basis on reasonable terms and conditions at least to the extent provided for in the ITU Policy.

- 5.3 The obligations paragraph 5.1 do however not imply any obligation on Members or Working Group participants to conduct IPR searches.

6 Procedures for Committees

6UK shall establish guidelines for the chairmen of Working Groups with respect to Essential IPRs.

7 Availability of Licences

- 7.1 When an Essential IPR relating to a particular Standard is brought to the attention of 6UK, the Board shall immediately request the owner to give within three months an undertaking in writing that it is prepared to grant irrevocable licences on fair, reasonable and non-discriminatory terms and conditions in respect of such IPR to at least the following extent:

- (a) Manufacture, including the right to make or have made customized components and sub-systems to the licensee's own design for use in Manufacture;
- (b) sell, lease, or otherwise dispose of Equipment so Manufactured;
- (c) repair, use or operate Equipment; and
- (d) use Methods.

The above undertaking may be made subject to the condition that those who seek licences agree to reciprocate.

- 7.2 As long as the requested undertaking of the IPR owner is not granted, the Working Group Chairman should, if appropriate, in consultation with the Board use his judgment as to whether or not the Working Group should suspend work on the relevant parts of the Standard until the matter has been resolved and/or submit for approval any relevant Standard.

8 Information on IPR by 6UK

- 8.1 Any published Standard shall include information pertaining to Essential IPRs which are brought to the attention of 6UK prior to such publication.

- 8.2 6UK shall establish appropriate procedures to allow access to information at any time with respect to Essential IPRs which have been brought to the attention of 6UK under this IPR Policy.

9 Non-availability of Licences

- 9.1 Non-availability of licences prior to the publication of a Standard

- 9.1.1 *Existence of a viable alternative technology*

Where prior to the publication of a Standard an IPR owner informs 6UK that it is not prepared to license an IPR in respect of a Standard in accordance with paragraph 7.1, the Board shall review the requirement for that Standard and satisfy itself that a viable alternative technology is available for the Standard which:

- (a) is not blocked by that IPR; and
- (b) satisfies 6UK's requirements.

9.1.2 *Non-existence of a viable alternative technology*

Where, in the opinion of the Board, no such viable alternative technology exists, work on the Standard shall cease, and the Board shall observe the following procedure:

- (a) if the IPR owner is a Member:
 - (i) the Board shall request that Member to reconsider its position;
 - (ii) if that Member however decides not to withdraw its refusal to license the IPR, it shall then inform the Board of its decision and provide a written explanation of its reasons for refusing to license that IPR, within three months of its receipt of the Board's request.
- (b) if the IPR owner is a third party,
 - (i) the Board shall, wherever appropriate, request full supporting details from any Member who has complained that licences are not available in accordance with paragraph 7.1 and/or request appropriate Members to use their good offices to find a solution to the problem;
 - (ii) where this does not lead to a solution the Board shall write to the IPR owner concerned for an explanation and request ultimately that licences be granted according to paragraph 7.1.

9.1.3 During the process under paragraph 9.1.1 or 9.1.2, the relevant Working Group should in consultation with the Board use its judgment as to whether or not the Working Group should pursue development of the concerned parts of the Standard based on the non-available technology and should look for alternative solutions.

9.2 Non-availability of licences after the publication of a Standard

Where, in respect of a published Standard, 6UK becomes aware that licences are not available from an IPR owner in accordance with paragraph 7.1, that Standard shall be referred to the Board for further consideration in accordance with the following procedure:

- (a) the Board shall request full supporting details from any Member or third party who has complained that licences are not available in accordance with paragraph 7.1;
- (b) the Board shall write to the IPR owner concerned for an explanation and request that licences be granted according to paragraph 7.1. Where the concerned IPR owner is a Member, it shall inform the Board of its decision and provide a written explanation of its reasons in case of continuing refusal to license that IPR;
- (c) where the IPR owner refuses the Board's request or does not answer the letter within three months, a resolution shall be put to the vote of the Board to immediately refer the Standard to the relevant Working Group to modify it so that the IPR is no longer Essential;
- (d) where the resolution put to the vote of the Board under paragraph 9.2(c) is not passed by the Board, the Board shall continue to endeavour to seek a solution to the problem. In parallel, the Board may request appropriate Members to use their good offices to find a solution to the problem.

In carrying out the foregoing procedure due account shall be taken of the interest of the enterprises that have invested in the implementation of the Standard in question.

10 6UK ownership of IPRs

- 10.1 All copyright in any Standard will be vested in 6UK with the exception of any such copyright owned by third parties that is identifiable in a Standard, for which 6UK shall give due acknowledgement to the relevant third parties.
- 10.2 Subject to paragraph 10.3, the publication of a Standard shall contain the grant by 6UK to all Members and to third parties of a non-exclusive right:
- (a) to use and copy and distribute any Standard within their own organisations; and
 - (b) to use any trade mark of 6UK for the purpose of design, manufacture and implementation of equipment to the specification contained in a Standard.
- 10.3 At the request of any Relevant UK Body, the Board may resolve to withhold or otherwise restrict the grant by 6UK of the rights pursuant to paragraph 10.4.
- 10.4 The Board may resolve to grant to other organisations rights to use, copy and distribute Standards, where it considers this to be consistent with the 6UK's objects.
- 10.5 Subject to paragraph 10.6, 6UK shall not transfer ownership or control of any of its IPR other than to its wholly-owned subsidiary.
- 10.6 From time to time, 6UK may grant to any person an irrevocable, perpetual, royalty-free and non-exclusive licence to use any of 6UK's IPRs (including copyright in any Standard or in the working papers of any Working Group) for any purpose (including the right to sue for infringement of such IPRs and the ability to grant one or more sub-licences of all or any of such IPRs on such terms that the person may deem fit). Such licence (and any sub-licence) shall survive the winding-up or dissolution of 6UK.

11 Confidentiality

- 11.1 The proceedings of and information relating to each Working Group (including any sub-committee or sub-working group of a Working Group), including:
- (a) contributions of, and information submitted by, a Member (including by its Working Group representative) (the **Contributing Member**) whether orally, in writing or electronically;
 - (b) meeting agendas and supporting documents, discussions at meetings and meeting minutes (in draft or final form); and
 - (c) all documents and other materials of whatever nature (in draft or final form) produced for the purpose of the Working Group, including draft Standards, policy documents, working papers and technical proposals and specifications,
- (together **Working Group Information**) shall, subject to paragraph 11.2, be kept confidential by 6UK and by Members and shall be used only for the purpose of the proceedings and work of that Working Group and of other Working Groups and for 6UK internal purposes.
- 11.2 The obligations under paragraph 11.1 shall not prohibit:
- (a) the disclosure of Working Group Information which either 6UK or a Member is required to disclose by law, by a court of competent jurisdiction or by any local, national, multinational, governmental or non-governmental authority, statutory undertaking, agency or public or regulatory body (whether present or future) which has jurisdiction over 6UK or the relevant Member;
 - (b) the use or disclosure by 6UK or a Member of Working Group Information of the nature described in paragraph 11.1(a) above which either:

- (i) is in the public domain other than as a result of the unauthorised disclosure by 6UK or the relevant Member; or
 - (ii) is in the possession of 6UK or the relevant Member free from any restriction as to its use or disclosure;
- (c) the use or disclosure by a Contributing Member of Working Group Information of the nature described in paragraph 11.1(a) above which comprises the contribution of or information submitted by that Contributing Member and does not include any other Working Group Information;
- (d) (d) the use or disclosure by a Member or by 6UK of Working Group Information of the nature described in paragraph 11.1(a) above:
- (i) with the prior written consent of the relevant Contributing Member;
 - (ii) which was submitted by the relevant Contributing Member expressly on a non-confidential basis; or
 - (iii) which the relevant Contributing Member subsequently agrees may be treated as non-confidential;
- (e) the disclosure by 6UK or a Member of Working Group Information which the Board approves may be disclosed, subject to such restrictions as to the Working Group Information which may be disclosed and the purpose of such disclosure as specified by the Board; or
- (f) the use or disclosure by 6UK or a Member of Working Group Information, following the publication of the relevant Standard, to the extent to which it which has been incorporated into a Standard.

12 Members' IPRs

6UK acknowledges that, other than copyright in any Standard as referred to in paragraph 10.2, all IPRs created, owned or controlled by any Member shall remain vested in that Member and shall not vest in 6UK.

13 Law and Regulation

This IPR Policy shall be governed by the laws of England and 6UK and the Members agree to submit to the non-exclusive jurisdiction of the English Courts in respect of any dispute arising under or in connection with this IPR Policy.

14 Breach of this IPR Policy

Any breach of this IPR Policy by a Member shall be subject to potential action against the Member under the Articles, including possible termination of membership of 6UK in accordance with the procedure for termination set out in the Articles.

15 Definitions

- (a) **Articles** shall mean the Articles of Association of 6UK as adopted from time to time.
- (b) **BIS** means the Department for Business Innovation and Skills, including any successor Government department.
- (c) **Board** means the board of Directors for the time being of 6UK.
- (d) **Equipment** means any system, or device fully conforming to a Standard.
- (e) **Essential** as applied to IPR means that it is not possible on technical (but not

commercial) grounds, taking into account normal technical practice and the state of the art generally available at the time of standardisation, to make, sell, lease, otherwise dispose of, repair, use or operate Equipment or Methods which comply with a Standard without infringing that IPR. For the avoidance of doubt in exceptional cases where a Standard can only be implemented by technical solutions, all of which are infringements of IPRs, all such IPRs shall be considered Essential.

- (f) **ETSI Policy** means ETSI's Intellectual Property Rights Policy as amended from time to time, the current version of which is as set out in the ETSI Rules of Procedure dated 25 January 2007.
- (g) **IETF Policy** means the Internet Engineering Task Force's policy and processes for handling Intellectual Property, as amended from time to time, the current version of which is set out in RFC 3979 and RFC 4879.
- (h) **IPR** means any intellectual property right conferred by statute law including applications therefore other than trademarks. For the avoidance of doubt rights relating to get-up, confidential information, trade secrets or the like are excluded from the definition of IPR.
- (i) **IPv6** means Version 6 of the Internet Protocol as defined in Internet standards document RFC2460 and related specifications.
- (j) **ITU Policy** means the common patent policy of the International Telecommunication Union, as amended from time to time, the current version of which is as announced by the ITU on 19 March 2007.
- (k) **Manufacture** means production of Equipment.
- (l) **Member** means a member of 6UK. References to a Member shall wherever the context permits be interpreted as references to that Member and its Group Companies.
- (m) **Methods** means any method or operation fully conforming to a Standard.
- (n) **Relevant UK Bodies** means government and departments and agencies, industry bodies and other organisations in the UK whose responsibilities and functions are relevant to the interconnection and interoperability of IPv6 based communications networks and the BIS (including any successor department, agency, body or organisation of each of them).
- (o) **Standards** means standards, technical specifications, service descriptions, information notes, guidelines, codes of practice and other forms of documentation relating to the interconnection and interoperability of IPv6 based communications networks.
- (p) **Working Group** means a Working Group of 6UK which is undertaking a particular element of 6UK's work programme.
- (q) **Working Group Representative** means the representative of a Member on a Working Group.