



## SYNCML INITIATIVE IPR POLICY

1 This SyncML Initiative IPR Policy (the “Policy”) shall be interpreted within the context of the SyncML Initiative Intellectual Property Agreement (the “IPA”). The Policy shall be interpreted to be consistent with the IPA, and any terms used in this Policy shall have their meanings derived from the IPA, whenever possible. In particular, any terms written in all capital letters shall have the definitions specified in the IPA.

2 The IPA specifies all of the intellectual property rights and obligations of individual MEMBERS resulting from their membership in the SyncML Initiative (the “Initiative”). This Policy describes practices and procedures of the Initiative as a collective entity, and it will not add to or affect any of the rights and obligations of individual MEMBERS. This Policy shall not affect the terms and conditions of the IPA or the interpretation of the IPA.

3 The Initiative will publish information regarding any NECESSARY CLAIMS of which it becomes aware, whether those NECESSARY CLAIMS are owned by MEMBERS or non-MEMBERS. Thus, the Initiative will publish information regarding NECESSARY CLAIMS that are disclosed pursuant to section 4 of the IPA. In addition, MEMBERS are encouraged to disclose to the Initiative any NECESSARY CLAIMS of which it becomes aware that are owned by other MEMBERS and/or by non-MEMBERS, and the Initiative will publish information regarding these NECESSARY CLAIMS as well. However, MEMBERS are under no obligation to search for NECESSARY CLAIMS owned by other MEMBERS or by non-MEMBERS.

4 For all NECESSARY CLAIMS of which the Initiative becomes aware, the Initiative will publish, as soon as possible after availability and publication of the related SPECIFICATION(s), the numbers of the affected paragraphs of the related SPECIFICATION(s), the company owning the NECESSARY CLAIMS, the name, address, telephone numbers, and email addresses of any appropriate contact(s) of the owning company, the title of the patent(s) or patent application(s) that include the NECESSARY CLAIMS, the countries in which the patent(s) has issued or in which the patent application(s) has been filed, the application numbers for published patent applications, the patent numbers, and any other information pertinent to the applicability of the NECESSARY CLAIMS to the SPECIFICATION(s) that is disclosed to or received by the Initiative

5 When an EXPERT GROUP Chair becomes aware of potential NECESSARY CLAIMS of a non-MEMBER, the Chair should solicit Letters of Assurance (“LoA”) from each such non-MEMBER for every patent and patent application owned by such non-MEMBER that has NECESSARY CLAIMS. The request for a LoA should be addressed to the individual within the non-MEMBER’s organization having authority for intellectual property rights management. The request for a LoA shall take the form of a letter substantially as shown in Exhibit A, while the LoA itself shall be substantially as shown in Exhibit B. SyncML Initiative should be sent a copy of the request to the address below as well as a copy of the completed and signed LoA.

Executive Director, SyncML Initiative  
445 Hoes Lane  
Piscataway, NJ 08855 USA  
Fax: +1 509 355 5073  
Email: admins@syncml.org

6 At each meeting of an EXPERT GROUP, the Chair shall make a call for NECESSARY CLAIMS related to the SPECIFICATION that the EXPERT GROUP is developing. The request is directed to the NECESSARY CLAIMS of MEMBERS as well as non-MEMBERS.

7 Information regarding disclosed NECESSARY CLAIMS will be identified on the SyncML Initiative web site together with the SPECIFICATION to which they are relevant. The SyncML Initiative web site shall indicate, for each of the identified NECESSARY CLAIMS, whether the owner is a MEMBER or whether, for a non-MEMBER owner, there is a Letter of Assurance associated therewith, indicating that the owner is willing to license on fair, reasonable and non-discriminatory terms

Exhibit A: Request for Letter of Assurance

Exhibit B: Letter of Assurance

Exhibit C: Specification Disclaimer Notice

To General Counsel--Patents,

I am the Chair of the SyncML Initiative Expert Group [\_\_\_\_\_]. Through the course of development of a SyncML Specification for \_\_\_\_\_, it has come to my attention that your organization may have patents or patent applications that contain "NECESSARY CLAIMS" with respect to this specification. "NECESSARY CLAIMS, as defined by the SyncML Initiative Intellectual Property Agreement are those patent claims which are necessarily infringed by an implementation of a version of the SPECIFICATION where such infringement could not have been avoided by another technically feasible noninfringing implementation of such SPECIFICATION.

Expert Group chairs to whom the existence of NECESSARY CLAIMS have been disclosed are required to solicit Letters of Assurance for patents and applications having NECESSARY CLAIMS (Letters of Assurance) from patent/application owners having potential necessary claims.

As the individual within your organization having authority for intellectual property rights management, SyncML Initiative would appreciate your completing and signing the attached Letter of Assurance and returning it to:

Executive Director, SyncML Initiative  
445 Hoes Lane  
Piscataway, NJ 08855 USA  
Fax: +1 509 355 5073

As Expert Group Chair, I would appreciate a copy for my records as well.

All published SyncML Initiative Specifications include the following disclaimer at the beginning:

*"Attention is called to the possibility that implementation of this SPECIFICATION may require use of subject matter covered by patent rights. By publication of this SPECIFICATION, no position is taken with respect to the existence or validity of any patent rights in connection therewith. The SyncML INITIATIVE is not responsible for identifying patents having necessary claims for which a license may be required to implement a SyncML INITIATIVE specification or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention."*

Additionally, when a Letter of Assurance is received from a known patent/application owner prior to publication of the SPECIFICATION, the following language is also included within the specification:

"A patent/application owner has filed a statement of assurance that it will grant licenses under these rights without compensation or under reasonable rates and nondiscriminatory, reasonable terms and conditions to all applicants desiring to obtain such licenses. The SyncML INITIATIVE makes no representation as to the reasonableness of rates and/or terms and conditions of the license agreements offered by patent/application owner. Further information may be obtained from the SyncML INITIATIVE Executive Director."

The SyncML Initiative provides that the terms of a letter of assurance apply from the date a specification is published to the date of its withdrawal and are irrevocable during that period.

Please address questions to:  
SyncML Executive Director  
Tel: +1 732 465 6471  
Fax: +1 509 355 5073  
Email: [admins@syncml.org](mailto:admins@syncml.org)

Sincerely,

Expert Group [\_\_\_\_\_] Chair

Mailing Address  
Phone/Fax/Email

**LETTER OF ASSURANCE FOR NECESSARY CLAIMS**

Please return or FAX to:  
SyncML Executive Director  
Tel: +1 732 465 6471  
Fax: +1 509 355 5073  
Email: admins@syncml.org

*No license is implied by submission of this Letter of Assurance*

**1. PATENT/APPLICATION OWNER :**

Legal Name of Individual or Organization: \_\_\_\_\_

**2. PATENT/APPLICATION OWNER'S CONTACT FOR LICENSE APPLICATION:**

Name & Department: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

**3. SyncML SPECIFICATION OR PROPOSED SPECIFICATION:**

Number: \_\_\_\_\_  
Title: \_\_\_\_\_  
Paragraph Number(s) or other Reference: \_\_\_\_\_

**4. PATENT/APPLICATION INFORMATION AND OWNER'S POSITION REGARDING LICENSING NECESSARY CLAIMS**

If the Patent/Application Owner owns or controls granted patent(s) and/or pending applications that it believes may be infringed by compliance with the Proposed SyncML Specification, please specify the patent number, published application number, relevant claims and/or other information pertinent to the applicability of the NECESSARY CLAIMS to the Specification. (A patent search is not required.)

Patent/Application Number(s) : \_\_\_\_\_

Relevant Claims: \_\_\_\_\_

Other Information:

The Patent/Application Owner states that its position with respect to licensing such patent(s) is as follows (**check one box only**):

- 1. The Patent/Application Owner is prepared to grant a free license to an unrestricted number of applicants on a worldwide, non-discriminatory basis to comply with the [Proposed] SyncML Specification.

2. The Patent/Application Owner is prepared to grant a license to an unrestricted number of applicants on a worldwide, non-discriminatory basis and on reasonable terms and conditions to comply with the [Proposed] SyncML Specification.

3. The Patent/Application Owner is unwilling to grant licenses according to the provisions of either 1 or 2 above.

*Note: The Patent/Application Owner is not deemed to discriminate for denying a license based on pending or ongoing patent litigation with an applicant. It is not deemed unreasonable for the Patent/Application Owner to include a reciprocity requirement within the license.*

4. I am not aware of any patent(s) and/or patent application claim(s) that my company may hold that would be relevant to the subject matter of the [Proposed] Specification

**5. SIGNATURE**

Print name of authorized person: \_\_\_\_\_

Title of authorized person:

\_\_\_\_\_

Signature of authorized person: \_\_\_\_\_ Date: \_\_\_\_\_

Notice to be used in all Specifications:

*"Attention is called to the possibility that implementation of this specification may require use of subject matter covered by patent rights. By publication of this specification, no position is taken with respect to the existence or validity of any patent rights in connection therewith. The SyncML INITIATIVE is not responsible for identifying patents having necessary claims for which a license may be required by a SyncML INITIATIVE specification or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention."*

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*"A patent/application owner has filed a statement of assurance that it will grant licenses under these rights without compensation or under reasonable rates and nondiscriminatory, reasonable terms and conditions to all applicants desiring to obtain such licenses. The SyncML INITIATIVE makes no representation as to the reasonableness of rates and/or terms and conditions of the license agreements offered by patent/application owners . Further information may be obtained from the SyncML INITIATIVE Executive Director."*