Policy Overview

1. The INCITS patent policy (slides 2 & 3) is exactly the ANSI patent policy as described in the 2008 version of the ANSI Essential Requirements;
2. Early disclosure of patents claims which may be essential for the implementation of standards under development is encouraged;
3. Disclosures made of such patents claims may not be exhaustive of all patents that may be essential for the use of standards under development, and that neither INCITS, the TC/TG, nor the TC/TG Chair ensure the accuracy or completeness of any disclosure or whether any disclosure is of a patent that, in fact, may be essential for the use of standards under development.
4. Patent statements shall be provided to the INCITS Secretariat. The form is available at: (http://www.incits.org/patdec_form.doc)
5. Additional information is available in the "Guidelines for Implementation of the ANSI Patent Policy" (http://publicaa.ansi.org/sites/apdl/Reference%20Documents%20Regarding%20ANSI%20Patent%20Policy/63-Guidelines%20for%20Implementation%20of%20Patent%20Policy%20June%202007%20edited.pdf)
6. Participants should regularly review the INCITS Antitrust Guidelines available from http://www.incits.org/inatrust.htm
7. Participants in projects expecting to become international standards should review the ISO/IEC/ITU Patent Policy information available at: (http://isotc.iso.org/livelink/livelink/fetch/2000/2122/3770791/Common_Policy.htm)

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INCITS Patent Policy

3.0 Normative American National Standards Policies

Every ANSI-Accredited Standards Developer (ASD) shall comply with the normative policies contained in this section. The ASD may choose to: 1) include the text that follows, as appropriate, in its accredited procedures along with any additional information as required; or 2) submit to ANSI a written statement of full compliance with these policies in addition to policy statements that satisfy the requirements set-forth in this section.

3.1 ANSI patent policy - Inclusion of Patents in American National Standards

There is no objection in principle to drafting an American National Standard (ANS) in terms that include the use of an essential patent claim (one whose use would be required for compliance with that standard) if it is considered that technical reasons justify this approach.

If an ANSI-Accredited Standards Developer (ASD) receives a notice that a proposed ANS or an approved ANS may require the use of such a patent claim, the procedures in this clause shall be followed.

3.1.1 Statement from patent holder
The ASD shall receive from the identified party or patent holder either:
(a) assurance in the form of a general disclaimer to the effect that such party does not hold and does not currently intend holding any essential patent claim(s); or
(b) assurance that a license to such essential patent claim(s) will be made available to applicants desiring to utilize the license for the purpose of implementing the standard either:
(i) under reasonable terms and conditions that are demonstrably free of any unfair discrimination; or
(ii) without compensation and under reasonable terms and conditions that are demonstrably free of any unfair discrimination.

Note: In the context of the Patent Policy, references to ANSI-accredited Standards Developer or ASD shall be interpreted to be INCITS.

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3.1.2 Record of statement

A record of the patent holder's statement shall be retained in the files of both the ASD and ANSI.

3.1.3 Notice

When the ASD receives from a patent holder the assurance set forth in 3.1.1 b above, the standard shall include a note substantially as follows:

> NOTE – The user's attention is called to the possibility that compliance with this standard may require use of an invention covered by patent rights.
>
> By publication of this standard, no position is taken with respect to the validity of any such claim(s) or of any patent rights in connection therewith. If a patent holder has filed a statement of willingness to grant a license under these rights on reasonable and nondiscriminatory terms and conditions to applicants desiring to obtain such a license, then details may be obtained from the standards developer.

3.1.4 Responsibility for identifying patents

Neither the ASD nor ANSI is responsible for identifying patents for which a license may be required by an American National Standard or for conducting inquiries into the legal validity or scope of those patents that are brought to their attention.

Note: In the context of the Patent Policy, references to ANSI-accredited Standards Developer or ASD shall be interpreted to be INCITS.