FAQ

The FIDO Alliance has changed its Patent Policy, effective January 1, 2020. This FAQ provides answers to some common questions.

1. Q. What changed?

   A. Going forward, the Promise is only granted by Technical Working Group Members and Members Contributing to Specifications

2. Q. What Specifications are affected?

   A. Only Specifications that become Proposed Standard after January 1, 2020. Any Specifications that were at Proposed Standard on December 31, 2019 remain under the prior FIDO Alliance Patent Policy, so that any FIDO Alliance Members on December 31, 2019 continue to grant the Promise on those Specifications.

3. Q. Who agrees to grant rights, i.e., the Promise?

   A. Only Technical Working Group Members and Members Contributing to Specifications

4. Q. Who receives the Promise?

   A. The entire world

5. Q. What rights do non-Technical Working Group, non-Contributing Members grant?

   A. None – no commitment at all

6. Q. Has the Promise changed?

   A. Yes. Now the Promise is a commitment to grant a royalty free license. Previously the Promise was a commitment not to sue

7. Q. What is the difference?

   A. In most practical situations and daily application, nothing, but there are a number of details that the lawyers argue about and might matter in certain circumstances

8. Q. What happened to Implementation Drafts?

   A. Implementation Drafts no longer exist. Specifications now go directly from Review Draft to Proposed Standard when they are ready

USAA-1051
USAA v. PACid Technologies
IPR2025-00697

9. Q. But how do we test a Specification?

   A. A Technical Working Group License is present between TWG Members where the Promise is applied to Working Draft and Review Draft Specifications to allow testing to make sure everything functions correctly in a Proposed Standard Specification

10. Q. How is the Technical Working Group License different from the Promise that went with Implementation Drafts?

    A. Implementations under the Technical Working Group License cannot be sold or offered for sale, i.e. they cannot be publicly distributed, even for free.

11. Q. What is this about Exclusions?

    A. A Technical Working Group Member has 90 days from a Call for Exclusion, when a Review Draft is circulated to the Membership, to exclude an Essential Claim from the Promise. If an Exclusion is received, a Patent Advisory Group is automatically convened

12. Q. What is a Patent Advisory Group?

    A. A PAG is the group that tries to address the fact that an Essential Claim may not be offered royalty-free, because of an Exclusion or otherwise

13. Q. What happens at the next revision an existing Specification?

    A. The existing Promise from all current Members remains for the existing Specification. Current Members in the Technical Working Group make the new Promise for the revision. A new FIDO Member in the Technical Working Group would also make the new Promise for the revision. In practice, as the revision will contain the entire existing Specification, the new FIDO Member will also then be making the new Promise on the existing Specification.

14. Q. How will Technical Working Group Membership be determined?

    A. A more formal procedure is now required to limit the chances of an Essential Claim being included in a Specification that is not covered by the Promise.

15. Q. Will substitutes be allowed in the Technical Working Group?

    A. As Technical Working Group Membership is defined at the corporate level and not the individual level, then yes, substitutes are allowed.

16. Q. At a plenary meeting, will the Technical Working Group meetings continue to be open to all Members?

    A. No. The issue is potential inclusion of an Essential Claim from a Contribution from a non-Technical Working Group Member. There will be time in the general plenary sessions for each Technical Working Group to present to the membership. Then individual Technical Working Group sessions will be closed to non-Technical Working Group Members.

17. Q. Is there a patent disclosure requirement for cases other than Exclusion?

    A. Yes, to address issues of non-Technical Working Group Member and non-Member patents. For Members, subject to the specifics of the disclosure requirements, disclosure is mandatory unless a royalty-free license commitment is made. Non-Member disclosure is voluntary.

18. Q. Are the Board Members part of each Technical Working Group as they review each Specification?

    A. No. There are now specific requirements to be a Technical Working Group and the Board does not meet those requirements.