

December 14, 2004

Dr. Kyu-Jin Wee
Adrian Scrase

Chairman, 3GPP Project Coordination Group
Secretary, 3GPP Project Coordination Group

Subject: OMA IPR Policy practical execution

Dear Dr. Wee,

With regards to your letter received on 15 November regarding practical implementation of the new OMA IPR Policy, I would like to inform you on the recent developments of the matter in OMA.

Based on your feedback, additional discussions with the OMA Technical Plenary and subsequent legal analysis, the Board has concluded that it would be in the interests of the OMA members if all of the existing Specifications were re-approved so that they would be governed by the new IPR policy.

The OMA membership has been notified about the OMA Board's decision (see included copy of the notice in the next page) and practical implementation is on the way, working out the process details and creation of the inventory for specifications subject to the re-approval. We understand that the list of specifications subject to this process would be important information for you and OMA will provide this list to you in due course. It is expected that OMA should be able to complete the specification re-approval process during 1Q2005.

It is our hope that this will address your concerns regarding the new OMA IPR Policy applicability to all OMA specifications, and we can continue our good cooperation in the technical front; not forgetting our on-going discussions around a Cooperation Framework to better facilitate our collaboration in the near future.

Sincerely,

Jari Alvinen
Chairman of the Board
Open Mobile Alliance Ltd

Copy of the notice sent to OMA membership

December 13, 2004

To: OMA Members

Subject: Membership Notice: New OMA IPR Policy and Specifications

Dear OMA members,

As you have been previously notified in the September 2, 2004 notice to members (reprinted below), OMA is introducing a change to its IPR policy which calls for licensing not just to OMA members, but to non-OMA members also. The new IPR policy will take effect on January 1, 2005.

With guidance from the Board Legal, Trademark and Regulatory Committee and the Technical Plenary Release Planning Committee, the Board has concluded that it would be in the interests of the OMA members if all of the existing Specifications were re-approved so that they would be governed by the new IPR policy.

The purpose of this notice is to draw your attention to the fact that if Essential IPR belonging to you has been incorporated in an existing Specification - governed by the old IPR licensing policy - and if this existing Specification is re-approved then your Essential IPR will, from that time on, be governed by the new IPR licensing policy unless you terminate your membership before January 1, 2005. If you choose not to have your Essential IPR under the new IPR policy, then you must actively terminate your membership by sending notice to OMA's General Manager of Operations before January 1, 2005, rather than, for example, choosing simply not to renew.

Jari Alvinen
Chairman of Board of Directors

September 2, 2004

To: OMA Members

Re: Change in OMA's IPR Policy

Decision by the OMA Board of Directors

Dear Members,

In accordance with OMA's constitutional documents, OMA's Board of Directors has decided by unanimous written consent to revise the OMA provisions governing the licensing of intellectual property rights ("IPR") in order to allow reciprocal licensing of Essential IPR's to non-OMA members and not just to OMA members. The specific amendments to the OMA IPR policy are as indicated on the marked-up Application Form (a copy of which is attached to this note). These amendments to the Application Form will be effective as of January 1st, 2005. From that date, all OMA members will be subject to these revised provisions governing the licensing of Essential IPR's.

The Board decided to make this change in order to bring OMA's IPR policy more in line with the IPR policies of other comparable organizations. These policies primarily provide for reciprocal licensing to both members and non-members. OMA received a number of requests from organizations such as 3GPP and 3GPP2 to consider this type of revision to its IPR policy, to facilitate better working relationships with such organizations.

Existing OMA Specifications



The OMA Specifications in existence prior to January 1st, 2005 will remain under the existing IPR policy, which is as set out in the existing Application Form and among other points states that the reciprocal licensing provisions governing Essential IPR's apply only to OMA members and not to non-OMA members.

Revised and Future OMA Specifications

The revised OMA IPR policy will apply to all Specifications approved after December 31st, 2004. This will encompass two types of Specification:

- (i) all new versions of existing OMA Specifications; and
- (ii) all new OMA Specifications.

To recap, as from January 1st, 2005, the IPR licensing provisions will be amended in line with the revised IPR policy and thus OMA members will be governed by this revised IPR policy, which provides for reciprocal licensing of Essential IPR to non-OMA members as well as to OMA members.

Membership Provisions

The Board of Directors would like to point out that if an OMA member decides it does not want to fall under the revised IPR policy, then this member may elect to terminate its membership, provided it does so prior to January 1st, 2005. In such circumstances paragraph 11 of the Schedule to the Application Form provides that if a member does leave OMA, then its obligations regarding the licensing of its IPR shall survive termination of membership but only to the extent that such obligations relate to IPR which is in existence during its membership and which is Essential IPR for a Specification or Standard in existence at any time during its membership. Accordingly, a member is not compelled to have its IPR governed by the revised IPR policy if it elects to terminate its membership prior to January 1st, 2005.

Defined Terms

The terms capitalized in this notice are defined in OMA's Application Form (and the Schedule thereto) or in OMA's Articles of Association.

Jari Alvinen
Chairman of Board of Directors