

## **Standardization Intellectual Property Policy**

The following policy governs the handling of third-party intellectual property in the process of producing FIX Specifications.

### **1. Definitions**

- 1.1. Affiliate: shall mean any person or entity, whether incorporated or not, that directly or indirectly controls, is controlled by, or is under common control with another person or entity, so long as such control exists. "Control" means direct or indirect control of more than 50% of the voting power or power to elect directors of the organization, or the power otherwise to direct management of such entity.
- 1.2. Applicants: shall mean any Member or non-member who utilizes the FIX Specifications.
- 1.3. Contribution: any written material submitted to a Group by a Member in any in-person, electronic, or dial-in meeting for the Group and which is or was proposed for inclusion in a FIX Specification.
- 1.4. Covered Implementation: means the specific portions of a product (software, hardware or combinations thereof) that implements and complies with all Normative Elements of the required parts of the FIX Specification, and would include only those portions of the product that actually implement those Normative Elements of any optional parts of the FIX Specification.
- 1.5. Essential Claims: shall mean all claims in any patent or patent application in any jurisdiction in the world that would necessarily be infringed by implementation of the Contribution in the FIX Specification. A claim is necessarily infringed hereunder only when it is not possible to avoid infringing it because there is no non-infringing alternative for implementing the Normative Elements of the Contribution. Existence of a non-infringing alternative shall be judged based on the state of the art at the time the Contribution becomes a FIX Specification.
- 1.6. FIX Specification: shall mean all published versions of the FIX Application Layer specification, the FIX Technical Standards specifications and published Recommended Practices.
- 1.7. Group: shall mean FIX Trading Community Committees, Subcommittees, and Working Groups.
- 1.8. Invited Participants: shall mean non-FIX Trading Community members invited to participate in FIX Trading Community Committees, Subcommittees, and Working Groups.

- 1.9. Member: shall mean employees of FIX Trading Community member firms, their Affiliates, and Invited Participants.
- 1.10. Normative Elements: shall mean the elements of the FIX Specification that are fully set forth in detail and must be implemented to conform to the FIX Specification (including, if applicable, optional parts of the FIX Specification); no other matters whatsoever are Normative Elements. By way of example only, Normative Elements do not include matters merely referenced in the FIX Specification, such as enabling technologies and other published specifications (even if necessary to make or use a product that conforms to the FIX Specification), reference implementations, or purely optional elements.
- 1.11. Obligated Party: shall mean the Member that has incurred a Mandatory Disclosure Obligation as set out in section 3.2.

## **2. Copyright License**

- 2.1. To the extent that a Member holds a copyright interest in its Contribution, such Member grants to FIX Protocol Ltd. a perpetual, irrevocable, non-exclusive, royalty-free, worldwide copyright license, with the right to directly and indirectly sublicense, copy, publish, and distribute the Contribution in any way, and to prepare derivative works that are based on or incorporate all or part of the Contribution solely for the purpose of developing and promoting a FIX Specification and enabling (subject to the right of the owners of any Essential Claims) the implementation of the same by licensees or beneficiaries.
- 2.2. To the extent that a Contribution is subject to copyright by parties that are not Members, the submitter(s) must disclose the identities of all copyright owners in the Contribution and provide FIX Trading Community with a signed assurance from each such copyright owner whose permission would be required to permit FIX to exercise the rights described in section 2.1.

## **3. Trademark Usage**

- 3.1. Trademarks that are not owned by FIX Protocol Ltd. shall not be used to refer to work conducted at FIX Trading Community, including the use in the name of a FIX Specification or incorporated into the FIX Specification in any way unless the trademark holding Member grants FIX Protocol Ltd. a perpetual, irrevocable, non-exclusive, royalty-free, worldwide trademark license to use the trademark solely in connection with the FIX Specification.
- 3.2. To the extent that a trademark is owned by parties that are not Members, then a signed assurance permitting FIX Protocol Ltd. to exercise the rights described in section 3.1 must be obtained from each such trademark owner whose permission would be required.

#### **4. Patent Obligations**

- 4.1. Voluntary Disclosure Members are encouraged to identify patents that they believe contain Essential Claims with respect to the FIX Specification that they review.
- 4.2. Mandatory Disclosure
  - 4.2.1. Contributors: Anyone who makes a Contribution to a FIX Specification must identify patents containing Essential Claims they believe will be infringed if the Contribution is included in the implemented FIX Specification. Disclosures under this section should be made contemporaneous with or as soon as possible following the Contribution.
  - 4.2.2. Participants: Any individual who is listed as a participant in a FIX Trading Community Group regarding a FIX Specification must identify patents containing Essential Claims they believe will be infringed by implementations of the FIX Specification. Disclosures made under this section should be made promptly following a review of the FIX Specification.
- 4.3. Knowledge: The obligations set forth in this under these obligations are personal, not corporate, and extend only to the personal knowledge of the individual involved directly in the participation. No patent search, investigation, review, or due diligence is required.
- 4.4. Unpublished Patents: For unpublished pending patents, the disclosure obligation is satisfied by identifying portions of the FIX Specification that the individual believes would infringe the unpublished pending patents.
- 4.5. Form: Disclosures must be made in writing by the Member to the FIX Program Office.
- 4.6. Identifying Patents: FIX Protocol Ltd. is not responsible for identifying patents for which a license may be required by an FIX Specification or for conducting inquiries into the legal validity or scope of those patents that are disclosed under this policy.

#### **5. Limited Patent Covenant**

- 5.1. To permit the development of implementations of a FIX Specification each Member, at such time that the Member joins the Group, grants to each other Member in that Group automatically and without further action on its part, and on an ongoing basis, a limited covenant not to assert any Essential Claims required to implement such FIX Specification and covering making or using (but not selling or otherwise distributing) an implementation of such FIX Specification, solely for the purpose of testing and

developing such deliverable and only until either the FIX Specification is approved or the Group is closed.

## **6. Licensing Requirements**

Any patent holder or a party authorized to make assurances on its behalf, must provide in writing either:

- 6.1. assurance in the form of a general disclaimer to the effect that such party does not hold and does not currently intend holding any patent to Essential Claims; or
- 6.2. assurance that a license to such patent for an Essential Claims will be made available to Applicants desiring to utilize the license for the purpose of implementing the FIX Specification under either of the following License Models:

6.2.1. RAND Royalty Free (RF) Limited Model: Except where there is a separate, signed agreement under which the Essential Claims are licensed on more favorable terms and conditions than set forth in this section, in which case such separate signed agreement shall supersede this license, each Obligated Party hereby covenants that it will grant to an unrestricted number of Applicants a royalty and fee free, nonexclusive, worldwide, non-sublicensable, perpetual patent license to its Essential Claims to make, have made, use, market, import, offer to sell, sell, and otherwise directly or indirectly distribute any implementations of such FIX Specification. Such license need not extend to features of a product that are not required to comply with the Normative Elements of the FIX Specification. The rights set forth herein include the right to directly or indirectly authorize a third-party to make unmodified copies of the FIX Specifications and to license the product within the scope of and subject to the terms of the Obligated Party's licenses.

The license may not impose any further conditions or restrictions beyond those specifically mentioned herein on the use of any technology or intellectual property rights or the behaviour of the Licensee, but may include reasonable, customary terms relating to operation or maintenance of the license relationship, including choice of law and dispute resolution.

6.2.2. Non-Assertion Covenant Model: Each Obligated Party hereby irrevocably covenants not to assert any of its Essential Claims against any Applicants for making, having made, using, marketing, importing, offering to sell, selling, and otherwise directly or indirectly distributing any Covered Implementations that implement any FIX Specification.

No rights, grants, or promises are made under this Non-Assertion Covenant as to any party that first files, maintains, or voluntarily joins any lawsuit asserting that an implementation of the FIX Specification infringes any Essential Claims.