

## CA/Browser Forum Patent Advisory Group (PAG) Ballot 182 Conclusion

**Date: April 4, 2017**

**Background:** The CA/Browser Forum (“Forum”) operates subject to an Intellectual Property Rights Policy v 1.2 effective Feb. 15, 2016 (“IPRP”). As stated in Section 2, one goal of the Forum is to seek to issue Guidelines that can be implemented on a Royalty-Free (RF) basis subject to the conditions of the IPRP.

Under IPRP Section 4, Forum members may exclude certain Essential Claims from CAB Forum RF Licenses. If an Exclusion Notice is filed as described in Section 4 of the IPRP, but the Essential Claim is not available under CAB Forum RF Licensing, a PAG is formed to “resolve the conflict”.

The Forum’s Ballot 182 proposed certain domain validation methods be added to Baseline Requirements (BR) Section 3.2.2.4, and generated three Exclusion Notices (including amendments) during the Review Period as shown in the table below. In response, this Ballot 182 PAG was formed in January 2017.

**PAG Meetings:** The PAG met bi-weekly by teleconference call from January 2017 to April 2017. By March, 2017, the three members who had filed Exclusion Notices during the Ballot 182 Review Period all decided to withdraw their Exclusion Notices. See the member Withdrawals for their specific terms. The dates of the Withdrawal of Exclusion Notices are shown in the table below.

<b>Forum member filing Ballot 182 Exclusion Notice</b>	<b>Date Exclusion Notice filed by member</b>	<b>Date Exclusion Notice Withdrawn by member</b>
Symantec	23 December 2016	15 March 2017
GoDaddy	23 December 2016 13 February 2017 (revised)	21 March 2017
GMO GlobalSign	16 December 2016 25 January 2017 (revised) 23 February 2017 (revised)	17 March 2017

The original Ballot 182 Exclusion Notices and the Withdrawal of Exclusion Notices filed by the three members are attached to this Conclusion. This Conclusion will be circulated on the forum’s Public mailing list and also posted to the Forum’s website.

**PAG Conclusion:** Based on the information presented above, and because there are no longer any Exclusion Notices pending in connection with the Forum’s Ballot 182, there is no longer any “conflict” for the PAG to resolve and no other action for the PAG to take. Accordingly, the PAG will hereby dissolve without reaching any Conclusion.

## EXCLUSION NOTICE – BALLOT 182

I hereby provide this Exclusion Notice for the Essential Claim(s) listed below:

Ballot Covered by This Exclusion Notice:    Ballot: 182

CABF Member Name:            Symantec (Organization)

Date Exclusion Notice Sent:    12/23/16

Exclusion Notice provided by: Richard Nordgren (Name)

Provide Exclusion Notice to current CA/Browser Forum Chair: Kirk Hall,  
[kirk.hall@entrustdatacard.com](mailto:kirk.hall@entrustdatacard.com) Exclusion Notices must be provided by deadline stated in  
 related Review Notice.

*(For each Essential Claim covered by this Exclusion Notice, please list “numbered section of the Final Guideline or Final Maintenance Guideline whose implementation makes the excluded claim an Essential Claim for each of the issued patent(s) or pending patent application(s) that a Participant reasonably believes at the time may contain Essential Claims the Participant wishes to exclude from the CAB Forum RF License” and also “make an election, (i) not to grant a license or (ii) to provide a license with all of the requirements of Section 5.1 with the exception of subsection 5.1 f.” See IPR Policy Sections 4.2 and 4.3.)*

Essential Claim No.	Numbered section(s) of Guideline related to Essential Claim [Sec. 4.3]	Patent number for issued patent, title and application number for pending patent, or copy of patent application unpublished patent applications [Sec. 4.3]	License Grant Election Made [Sec. 4.2]
1.	BR 3.2.2.4.4	US 7,003,661	<input type="checkbox"/> (i) no license granted <input checked="" type="checkbox"/> (ii) willing to grant royalty-free license under explicit license agreement ( <b>see Supplement</b> )
2.	BR 3.2.2.4.2, BR 3.2.2.4.4	US 7,120,929	<input type="checkbox"/> (i) no license granted <input checked="" type="checkbox"/> (ii) willing to grant royalty-free license under explicit license agreement ( <b>see Supplement</b> )
3.	BR 3.2.2.4.2, BR 3.2.2.4.3, BR 3.2.2.4.4	US 7,562,212	<input type="checkbox"/> (i) no license granted <input checked="" type="checkbox"/> (ii) willing to grant royalty-free license under explicit license agreement ( <b>see Supplement</b> )
4.	BR 3.2.2.4.4	US 8,028,162	<input type="checkbox"/> (i) no license granted <input checked="" type="checkbox"/> (ii) willing to grant royalty-free license under explicit license agreement ( <b>see Supplement</b> )

*(Continue on page 3)*

### Relevant IPR Policy Excerpts

**4.2 Excluding Patents and/or Patent Applications from Royalty Free Licensing Obligations during Review Period.**

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make an election, (i) not to grant a license or (ii) to provide a license with all of the requirements of Section 5.1 with the exception of subsection 5.1 f.

#### **4.3 Conditions and Procedure for Excluding Patents and/or Patent Applications from CAB Forum RF License.**

A Participant seeking to exclude Essential Claims from the CAB Forum RF License in accordance with Section 4.2 must provide written notice of such intent to the CAB Forum Chair (“Exclusion Notice”) within the Review Period, and the Exclusion Notice shall be effective upon its receipt by the CAB Forum Chair. The Exclusion Notice shall include identification of the numbered section of the Final Guideline or Final Maintenance Guideline whose implementation makes the excluded claim an Essential Claim for each of the issued patent(s) or pending patent application(s) that a Participant reasonably believes at the time may contain Essential Claims the Participant wishes to exclude from the CAB Forum RF License. For issued patents, the Exclusion Notice shall also include the patent number(s). For pending patent applications, the Exclusion Notice shall also include the title and application number(s). If an issued patent or pending patent application that may contain Essential Claims is not set forth in the Exclusion Notice, such Essential Claims shall continue to be subject to the CAB Forum RF License. For unpublished patent applications, the Exclusion Notice shall also include a copy of the patent application. Exclusion Notices shall be published at <https://cabforum.org/jpr-exclusion-notices/>. \*\*\*

#### **8.1. Essential Claims**

“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 any Normative Requirement in a Final Guideline or Final Maintenance Guideline. 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 a Normative Requirement of a Final Guideline or Final Maintenance Guideline. Existence of a non-infringing alternative shall be judged based on the state of the art at the time the guideline is adopted as a Final Guideline or Final Maintenance Guideline. If a Normative Requirement in a Final Guideline or Final Maintenance Guideline may be fulfilled by any of a list of specified alternatives, then for determination of whether a claim is an Essential Claim, each of the specified alternatives should be considered independently as if it were the only method for fulfilling that requirement. \*\*\*

#### **8.3. Other Key Definitions \*\*\***

c. “**Contribution**” means material, including Draft Guidelines, Draft Guideline text, and modifications to other Contributions, made verbally or in a tangible form of expression (including in electronic media) which is provided by a Participant in the process of developing a Draft Guideline for the purpose of incorporating such material into a Draft Guideline or a Final Guideline or Final Maintenance Guideline. For a verbal contribution to be deemed a Contribution hereunder it must be memorialized within approved meeting minutes of the CAB Forum. \*\*\*

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5.	BR 3.2.2.4.2, BR 3.2.2.4.3, BR 3.2.2.4.4	2002335062 (Australia)	<input type="checkbox"/> (i) no license granted <input checked="" type="checkbox"/> (ii) willing to grant royalty-free license under explicit license agreement ( <b>see Supplement</b> )
6.	BR 3.2.2.4.2, BR 3.2.2.4.3, BR 3.2.2.4.4	2,463,504 (Canada)	<input type="checkbox"/> (i) no license granted <input checked="" type="checkbox"/> (ii) willing to grant royalty-free license under explicit license agreement ( <b>see Supplement</b> )
7.	BR 3.2.2.4.4	ZL 02824814.7 (China)	<input type="checkbox"/> (i) no license granted <input checked="" type="checkbox"/> (ii) willing to grant royalty-free license under explicit license agreement ( <b>see Supplement</b> )
8.	BR 3.2.2.4.2, BR 3.2.2.4.4	4,608,212 (Japan)	<input type="checkbox"/> (i) no license granted <input checked="" type="checkbox"/> (ii) willing to grant royalty-free license under explicit license agreement ( <b>see Supplement</b> )
9.	BR 3.2.2.4.4	HK1076950 (Hong Kong)	<input type="checkbox"/> (i) no license granted <input checked="" type="checkbox"/> (ii) willing to grant royalty-free license under explicit license agreement ( <b>see Supplement</b> )

### Supplement to Exclusion Notice

Symantec is willing to grant a royalty-free license on these Essential Claims to parties who, to obtain this license, execute a formal licensing agreement with Symantec having terms in accordance with Section 5.1 of the CA/B Forum IPR Policy including 5.1(c), which states that the license “may be conditioned on licensee providing notice to a buyer of its products or services that they implement an Essential Patent” of Symantec and 5.1(e), which states that the license “may be conditioned on grant of a reciprocal RF license” of the licensee’s Essential Claims.

## EXCLUSION NOTICE – BALLOT 182

I hereby provide this Exclusion Notice for the Essential Claim(s) listed below:

Ballot Covered by This Exclusion Notice:      Ballot: 182

CABF Member Name:                      GoDaddy (Organization)

Date Exclusion Notice Sent:                      28 Dec, 2016

Exclusion Notice provided by: Wayne Thayer (Name)

Provide Exclusion Notice to current CA/Browser Forum Chair: Kirk Hall, [kirk.hall@entrustdatacard.com](mailto:kirk.hall@entrustdatacard.com) Exclusion Notices must be provided by deadline stated in related Review Notice.

*(For each Essential Claim covered by this Exclusion Notice, please list “numbered section of the Final Guideline or Final Maintenance Guideline whose implementation makes the excluded claim an Essential Claim for each of the issued patent(s) or pending patent application(s) that a Participant reasonably believes at the time may contain Essential Claims the Participant wishes to exclude from the CAB Forum RF License” and also “make an election, (i) not to grant a license or (ii) to provide a license with all of the requirements of Section 5.1 with the exception of subsection 5.1 f.” See IPR Policy Sections 4.2 and 4.3.)*

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1.	3.2.2.4.7	U.S. Patent 9,183,368 - VALIDATING CONTROL OF DOMAIN ZONE	X (i) no license granted <input type="checkbox"/> (ii) license granted per Sec. 5.1 except Sec. 5.1.f
2.	3.2.2.4.7	U.S. Patent 8,117,439 - ISSUING SECURE CERTIFICATE USING DOMAIN ZONE CONTROL VALIDATION	X (i) no license granted <input type="checkbox"/> (ii) license granted per Sec. 5.1 except Sec. 5.1.f
6.	3.2.2.4.7	U.S. Patent Publication 2016-0087937 - VALIDATING CONTROL OF DOMAIN ZONE	X (i) no license granted <input type="checkbox"/> (ii) license granted per Sec. 5.1 except Sec. 5.1.f

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provide a license with all of the requirements of Section 5.1 with the exception of subsection 5.1 f.

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## EXCLUSION NOTICE – BALLOT 182

I hereby provide this Exclusion Notice for the Essential Claim(s) listed below:

Ballot Covered by This Exclusion Notice:      Ballot: 182

CABF Member Name:                      GoDaddy                      (Organization)

Date Exclusion Notice Sent:              13 Feb 2017

Exclusion Notice provided by: Wayne Thayer              (Name)

Provide Exclusion Notice to current CA/Browser Forum Chair: Kirk Hall,  
[kirk.hall@entrustdatacard.com](mailto:kirk.hall@entrustdatacard.com) Exclusion Notices must be provided by deadline stated in related Review Notice.

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## **Supplement**

Notwithstanding the election to grant a license under Section 5.1 of the CA/B Forum IPR Policy except 5.1(f), GoDaddy is willing to grant the CAB Forum Royalty-Free ("RF") License as contemplated by the IPR Policy (i.e. without payment of any royalty) on these Essential Claims, conditioned upon a grant to GoDaddy of a reciprocal RF license to all Essential Claims owned or controlled by the licensee or its Affiliates without such licensee or its Affiliates requiring the execution of any formal license agreement on the part of GoDaddy. For any party that requires the execution of any formal license agreement or payment of any royalty by GoDaddy for any Essential Claims owned or controlled by the licensee or its Affiliates, GoDaddy conditions the grant of a license to the designated Essential Claims under Section 5.1 of the CA/B Forum IPR Policy on the execution of a formal license agreement by both parties.

## EXCLUSION NOTICE – BALLOT 182

I hereby provide this Exclusion Notice for the Essential Claim(s) listed below:

Ballot Covered by This Exclusion Notice:     Ballot: 182

CABF Member Name:             GMO GlobalSign (Organization)

Date Exclusion Notice Sent:    December 16, 2016

Exclusion Notice provided by: Carolyn Oldenburg (Name)

Provide Exclusion Notice to current CA/Browser Forum Chair: Kirk Hall,  
[kirk.hall@entrustdatacard.com](mailto:kirk.hall@entrustdatacard.com) Exclusion Notices must be provided by deadline stated in  
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1.	3.2.2.4.9 Test Certificate	Server certificate issuing system and person authentication method  JP4252620 US 8,250,361 B2 ZL 200980102852.9 EP 2320375 (pending)	<input checked="" type="checkbox"/> (i) no license granted <input type="checkbox"/> (ii) license granted per Sec. 5.1 except Sec. 5.1.f
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Ballot Covered by This Exclusion Notice:     Ballot: 182

CABF Member Name:                    GMO GlobalSign (Organization)

Date Exclusion Notice Sent:    January 25, 2017

Exclusion Notice provided by: Carolyn Oldenburg (Name)

Provide Exclusion Notice to current CA/Browser Forum Chair: Kirk Hall,  
[kirk.hall@entrustdatacard.com](mailto:kirk.hall@entrustdatacard.com) Exclusion Notices must be provided by deadline stated in  
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CAB Forum RF License. For unpublished patent applications, the Exclusion Notice shall also include a copy of the patent application. Exclusion Notices shall be published at <https://cabforum.org/ipr-exclusion-notices/>. \*\*\*

#### **8.1. Essential Claims**

"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 any Normative Requirement in a Final Guideline or Final Maintenance Guideline. 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 a Normative Requirement of a Final Guideline or Final Maintenance Guideline. Existence of a non-infringing alternative shall be judged based on the state of the art at the time the guideline is adopted as a Final Guideline or Final Maintenance Guideline. If a Normative Requirement in a Final Guideline or Final Maintenance Guideline may be fulfilled by any of a list of specified alternatives, then for determination of whether a claim is an Essential Claim, each of the specified alternatives should be considered independently as if it were the only method for fulfilling that requirement. \*\*\*

#### **8.3. Other Key Definitions \*\*\***

c. "**Contribution**" means material, including Draft Guidelines, Draft Guideline text, and modifications to other Contributions, made verbally or in a tangible form of expression (including in electronic media) which is provided by a Participant in the process of developing a Draft Guideline for the purpose of incorporating such material into a Draft Guideline or a Final Guideline or Final Maintenance Guideline. For a verbal contribution to be deemed a Contribution hereunder it must be memorialized within approved meeting minutes of the CAB Forum. \*\*\*

## EXCLUSION NOTICE – BALLOT 182

I hereby provide this Exclusion Notice for the Essential Claim(s) listed below:

Ballot Covered by This Exclusion Notice:     Ballot: 182

CABF Member Name:             GMO GlobalSign (Organization)

Date Exclusion Notice Sent:    February 23, 2017

Exclusion Notice provided by: Carolyn Oldenburg (Name)

Provide Exclusion Notice to current CA/Browser Forum Chair: Kirk Hall,  
[kirk.hall@entrustdatacard.com](mailto:kirk.hall@entrustdatacard.com) Exclusion Notices must be provided by deadline stated in  
related Review Notice.

*(For each Essential Claim covered by this Exclusion Notice, please list “numbered section of the Final Guideline or Final Maintenance Guideline whose implementation makes the excluded claim an Essential Claim for each of the issued patent(s) or pending patent application(s) that a Participant reasonably believes at the time may contain Essential Claims the Participant wishes to exclude from the CAB Forum RF License” and also “make an election, (i) not to grant a license or (ii) to provide a license with all of the requirements of Section 5.1 with the exception of subsection 5.1 f.” See IPR Policy Sections 4.2 and 4.3.)*

Essential Claim No.	Numbered section(s) of Guideline related to Essential Claim [Sec. 4.3]	Patent number for issued patent, title and application number for pending patent, or copy of patent application unpublished patent applications [Sec. 4.3]	License Grant Election Made [Sec. 4.2]
1.	3.2.2.4.9 Test Certificate	Server certificate issuing system and person authentication method  JP4252620 US 8,250,361 B2 ZL 200980102852.9 EP 2320375 (pending)	<input type="checkbox"/> (i) no license granted <input checked="" type="checkbox"/> (ii) royalty-free license granted per Sec. 5.1 subject to attached conditions
2.			<input type="checkbox"/> (i) no license granted <input type="checkbox"/> (ii) license granted per Sec. 5.1 except Sec. 5.1.f
3.			<input type="checkbox"/> (i) no license granted <input type="checkbox"/> (ii) license granted per Sec. 5.1 except Sec. 5.1.f
4.			<input type="checkbox"/> (i) no license granted <input type="checkbox"/> (ii) license granted per Sec. 5.1 except Sec. 5.1.f

*(Continue on second page if necessary)*



## **Relevant IPR Policy Excerpts**

### **4.2 Excluding Patents and/or Patent Applications from Royalty Free Licensing Obligations during Review Period.**

*Except for Essential Claims encompassed by a Participant's Contributions that are actually incorporated into a Final Guideline or Final Maintenance Guideline approved in accordance with the CAB Forum Guideline approval process, Participants may within the Review Period exclude Essential Claims from the CAB Forum RF License. In such case, Participant shall be permitted to either make an election, (i) not to grant a license or (ii) to provide a license with all of the requirements of Section 5.1 with the exception of subsection 5.1 f.*

### **4.3 Conditions and Procedure for Excluding Patents and/or Patent Applications from CAB Forum RF License.**

*A Participant seeking to exclude Essential Claims from the CAB Forum RF License in accordance with Section 4.2 must provide written notice of such intent to the CAB Forum Chair ("Exclusion Notice") within the Review Period, and the Exclusion Notice shall be effective upon its receipt by the CAB Forum Chair. The Exclusion Notice shall include identification of the numbered section of the Final Guideline or Final Maintenance Guideline whose implementation makes the excluded claim an Essential Claim for each of the issued patent(s) or pending patent application(s) that a Participant reasonably believes at the time may contain Essential Claims the Participant wishes to exclude from the CAB Forum RF License. For issued patents, the Exclusion Notice shall also include the patent number(s). For pending patent applications, the Exclusion Notice shall also include the title and application number(s). If an issued patent or pending patent application that may contain Essential Claims is not set forth in the Exclusion Notice, such Essential Claims shall continue to be subject to the*

*CAB Forum RF License. For unpublished patent applications, the Exclusion Notice shall also include a copy of the patent application. Exclusion Notices shall be published at <https://cabforum.org/ipr-exclusion-notices/>. \*\*\**

### **8.1. Essential Claims**

*"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 any Normative Requirement in a Final Guideline or Final Maintenance Guideline. 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 a Normative Requirement of a Final Guideline or Final Maintenance Guideline. Existence of a non-infringing alternative shall be judged based on the state of the art at the time the guideline is adopted as a Final Guideline or Final Maintenance Guideline. If a Normative Requirement in a Final Guideline or Final Maintenance Guideline may be fulfilled by any of a list of specified alternatives, then for determination of whether a claim is an Essential Claim, each of the specified alternatives should be considered independently as if it were the only method for fulfilling that requirement. \*\*\**

### **8.3. Other Key Definitions \*\*\***

*c. "Contribution" means material, including Draft Guidelines, Draft Guideline text, and modifications to other Contributions, made verbally or in a tangible form of expression (including in electronic media) which is provided by a Participant in the process of developing a Draft Guideline for the purpose of incorporating such material into a Draft Guideline or a Final Guideline or Final Maintenance Guideline. For a verbal contribution to be deemed a Contribution hereunder it must be memorialized within approved meeting minutes of the CAB Forum. \*\*\**



## Conditions

GlobalSign is willing to grant a royalty-free license to these Essential Claims to parties who, to obtain this license, agree to a written agreement with GlobalSign having terms in accordance with Section 5.1 of the CA/B Forum IPR Policy including 5.1(d), which states that the license “may be limited to implementations of the Final Guideline and Final Maintenance Guideline, and to what is required by the Final Guideline and Final Maintenance Guideline, 5.1(e), which states that the license “may be conditioned on grant of a reciprocal RF license” of the licensee’s Essential Claims, and 5.1(g) which states the license “may be suspended with respect to any licensee when licensor is sued by licensee for infringement of claims essential to implement any CAB Forum Final Guideline or Final Maintenance Guideline.”

## **WITHDRAWAL OF EXCLUSION NOTICE**

March 15, 2017

Symantec hereby withdraws its Exclusion Notice that was filed on December 23, 2016 in response to the CA/Browser Forum's Review Notice for Ballot 182. In the event Symantec currently owns any Essential Claims as defined in the CA/Browser Forum IPR Policy Version 1.2, those claims are subject to the CAB Forum Royalty-Free License in accordance with Section 5 of the IPR Policy.

## WITHDRAWAL OF EXCLUSION NOTICE

GoDaddy hereby withdraws its Exclusion Notice that was filed on December 28, 2016 in response to the CA/Browser Forum's Review Notice for Ballot 182. In the event GoDaddy currently owns any Essential Claims as defined in the CA/Browser Forum IPR Policy Version 1.2, those claims are subject to the CAB Forum Royalty-Free License in accordance with Section 5 of the IPR Policy.

## **WITHDRAWAL OF EXCLUSION NOTICE**

March 17, 2017

GlobalSign hereby withdraws its Exclusion Notice that was filed on December 15, 2016, Amended Exclusion Notice filed on December 16, 2016, Amended Exclusion Notice filed on January 25, 2017 and Amended Exclusion Notice filed on February 23, 2017 in response to the CA/Browser Forum's Review Notice for Ballot 182. In the event GlobalSign currently owns any Essential Claims as defined in the CA/Browser Forum IPR Policy Version 1.2, those claims are subject to the CAB Forum Royalty-Free License in accordance with Section 5 of the IPR Policy.