

NOTICE OF REVIEW PERIOD – BALLOT 204

This Review Notice is sent pursuant to Section 4.1 of the CA/Browser Forum's Intellectual Property Rights Policy (v1.2). This Review Period is for Final Maintenance Guidelines (30 day Review Period). A complete draft of the Draft Guideline that is the subject of this Review Notice is attached.

Date Review Notice Sent: July 12, 2017

Ballot for Review: Ballot 204 - Forbid DTPs from doing Domain/IP Ownership

Start of Review Period: July 12, 2017 at 15:00 UTC

End of Review Period: August 11, 2017 at 15:00 UTC

Please forward any Exclusion Notice relating to Essential Claims to the Chair by email to kirk.hall@entrustdatacard.com before the end of the Review Period. See current version of CA/Browser Forum Intellectual Property Rights Policy for details.

(Optional form of Exclusion Notice is attached)

Ballot 204: Forbid DTPs from doing Domain/IP Ownership Validation

-- MOTION BEGINS --

This motion modifies the Baseline Requirements.

0) In section 1.6.1, augment the definition of "Delegated Third Party" as follows:

Delegated Third Party: A natural person or Legal Entity that is not the CA, **and whose activities are not within the scope of the appropriate CA audits**, but is authorized by the CA to assist in the Certificate Management Process by performing or fulfilling one or more of the CA requirements found herein.

1) In section 1.3.2, replace the following sentence:

"The CA MAY delegate the performance of all, or any part, of Section 3.2 requirements to a Delegated Third Party, provided that the process as a whole fulfills all of the requirements of Section 3.2."

with:

"With the exception of sections 3.2.2.4 and 3.2.2.5, the CA MAY delegate the performance of all, or any part, of Section 3.2 requirements to a Delegated Third Party, provided that the process as a whole fulfills all of the requirements of Section 3.2."

2) In sections 3.2.2.4, replace the paragraph beginning "The CA SHALL confirm that" with the following:

"The CA SHALL confirm that, as of the date the Certificate issues, the CA has validated each Fully-Qualified Domain Name (FQDN) listed in the Certificate using at least one of the methods listed below, or is within the Domain Namespace of a Fully-Qualified Domain Name (FQDN) that has been validated using at least one of the methods listed below (not including the method defined in section 3.2.2.4.8)."

3) In section 3.2.2.4.6, remove the words "or Delegated Third Party".

4) In section 3.2.2.4.11 (if still present in the text at the time the ballot passes), replace the following text:

"either the CA or a Delegated Third Party"

with:

"the CA"

5) In section 8.4, remove the paragraph beginning: "If a Delegated Third Party is not currently audited...".

6) In section 8.4, replace the following text:

"If the CA is not using one of the above procedures and the Delegated Third Party is not an Enterprise RA, then"

with:

"For Delegated Third Parties which are not Enterprise RAs, "

-- MOTION ENDS --

EXCLUSION NOTICE – BALLOT __

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

Ballot Covered by This Exclusion Notice: Ballot: _____

CABF Member Name: _____ (Organization)

Date Exclusion Notice Sent: _____

Exclusion Notice provided by: _____ (Name)

Provide Exclusion Notice to current CA/Browser Forum Chair: Kirk Hall, 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.			<input type="checkbox"/> (i) no license granted <input type="checkbox"/> (ii) license granted per Sec. 5.1 except Sec. 5.1.f
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/jpr-exclusion-notice/>. ****

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. ****