



Director, Radiocommunication Bureau

STATEMENTS OF PATENT HOLDING

In accordance with paragraph 3 of the "Statement on Radiocommunication Bureau Patent Policy" describing a "code of practice" regarding intellectual property rights (patent) contained in Annex 6 of Administrative Circular CA/13 of 23 February 1995 (see Attachment 1), the following were communicated to the Radiocommunication Bureau with respect to the draft new or revised Recommendation in preparation:

- 1 Digital land mobile systems for dispatch traffic
(Reference: Draft new Recommendation ITU-R M.[8A/XB])**
 - a) Motorola, Inc. has provided written statements (dated 18 September 1996) informing that it is the holder of essential intellectual property rights in Project 25, TETRA, IDRA and DIMRS systems. Moreover, Motorola has stated that it is prepared to negotiate licenses in accordance with § 2.2 of the code of practice.
 - b) Industry Canada, on behalf of Motorola, Inc. has provided written statements (24 October 1996) informing that Motorola is holder of essential intellectual property rights (IPR) in DIMRS. Moreover, Motorola has stated that it "is prepared and willing to negotiate licenses with other parties on a non-discriminatory basis on reasonable terms and conditions to the use of the DIMRS essential IPR to anyone who uses the ITU standards based thereon".
 - c) Digital Voice Systems, Inc. (DVSI) has provided written statements (24 October 1996) informing that DVSI "claims certain rights, including patent rights, in the Improved Multi-Band Excitation (IMBE™) voice coding algorithm employed in the APCO Project 25 and ITU land mobile radio standard. DVSI is willing to grant interested parties a worldwide license to use its intellectual property rights for this APCO Project 25 and ITU standard under a set of fair and reasonable conditions. Interested parties should contact DVSI for more information.
 - d) Ericsson, Inc. has provided written statements (dated 4 November 1996) informing that it "is the holder of essential property rights required for compliance with the normative elements in Project 25 systems specified in the referenced draft Recommendation." Based on the current condition of the corresponding draft Recommendation in preparation, "Ericsson is not willing at this time to negotiate licenses in accordance with the code of practice § 2.3 which states 'the patent holder is not willing to comply with the provisions of either § 2.1 or § 2.2; in such case, no Recommendation be established'."

e) Ericsson, Inc. has provided written statements (dated 4 November 1996) informing that it "is the holder of essential property rights required for compliance with the normative elements in Enhanced Digital Access Communications System (EDACS) systems specified in the corresponding draft Recommendation in preparation.

Ericsson stated that it was prepared to negotiate licenses in accordance with the code of practice § 2.2 at the time the draft Recommendation in preparation would incorporate the modifications proposed by Ericsson.

f) The TETRAPOL Forum has provided (13 January 1997) the text of the TETRAPOL system specifications which is being proposed to be added to the corresponding draft Recommendation. It is stated that these specifications are available to the public ("Publicly Available Specifications - PAS") by request to the TETRAPOL Forum or from their Internet server www.tetrapol.com.

2 Radio paging systems

(Reference: Draft revision of Recommendation ITU-R M.539-3)

a) The Association of Radio Industries and Businesses (ARIB) of Japan has provided to the secretariat (4 November 1996) Document RCR-STD-43A entitled "FLEX-TD Radio Paging System ARIB Standard". The document is in the Japanese language, but an English translation, which is in the process of being finalized, was also included. It was informed that the final translation would follow shortly.

b) Motorola, Inc. has provided written statements (24 March 1997) informing that it is a holder of essential intellectual property rights in FLEX-TD systems. Moreover, Motorola has stated that it is prepared to negotiate licenses in accordance with § 2.2 of the code of practice.

c) NTT DoCoMo notified the BR (3 April 1997) that it claims to be a holder of essential intellectual property rights in FLEX-TD. Consistent with § 2.2 of the code of practice, NTT DoCoMo stated it "is not prepared to waive its rights but would be willing to negotiate licenses with other parties on a non-discriminatory basis on reasonable terms and conditions to the use of NTT DoCoMo's claimed FLEX-TD essential intellectual property rights."

3 Shipborne automatic identification systems using TDMA

(Reference: Preliminary draft new Recommendation ITU-R M.[8C/XA])

a) The Swedish administration has informed (14 January 1997) that the corresponding draft Recommendation in preparation describes a systems which technology includes intellectual property rights owned by Sweden. The company owner of these rights has declared that it "will handle these rights in accordance with ITU's code of practice" (§ 2.2).

ATTACHMENT 1 (Annex 6 to BR Administrative Circular CA/13)

Statement on Radiocommunication Bureau patent Policy

The following is a "code of practice" regarding intellectual property rights (patents) covering, in varying degrees, the subject matters of ITU-R Recommendations*. The rules of this "code of practice" are simple and straightforward - Recommendations are drawn up by radiocommunications and not patent experts; thus, they may not necessarily be very familiar with the complex international legal situation of intellectual property rights such as patents, etc.

ITU-R Recommendations are non-binding international documents. Their objective is to ensure the rational, equitable, efficient and economical use of radio-frequency spectrum and satellite orbits or to recommend on various radiocommunication matters. To meet this objective, which is in the common interests of all those participating in radiocommunications (network and service providers, suppliers, users, frequency spectrum managers) it must be ensured that Recommendations, their applications, use, etc. are accessible to everybody. It follows therefore that a commercial (monopolistic) abuse by a holder of a patent embodied fully or partly in a Recommendation must be excluded. To meet this requirement in general is the sole objective of the code of practice. The detailed arrangements arising from patents (licensing, royalties, etc.) are being left to the parties concerned, as these arrangements might differ from case to case.

This code of practice may be summarized as follows (it should be noted that ISO operates in a very similar way):

1 The ITU is not in a position to give authoritative or comprehensive information about evidence, validity or scope of patents or similar rights, but it is desirable that the fullest available information should be disclosed. Therefore, any Radiocommunication Sector member organization putting forward a proposal for Recommendation should, from the outset, draw the attention of the Director of Radiocommunication Bureau to any known patent or to any known pending patent application, either their own or of other organizations, although the Director of Radiocommunication Bureau is unable to verify the validity of any such information.

2 If an ITU-R Recommendation is developed and such information as referred to in §1 has been disclosed, three different situations may arise:

2.1 The patent holder waives his rights; hence, the Recommendation is freely accessible to everybody, subject to no particular conditions, no royalties are due, etc.

2.2 The patent holder is not prepared to waive his rights but would be willing to negotiate licenses with other parties on a non-discriminatory basis on reasonable terms and conditions. Such negotiations are left to the parties concerned and are performed outside the ITU-R.

2.3 The patent holder is not willing to comply with the provisions of either §2.1 or §2.2; in such case, no Recommendation can be established.

3 Whatever case applies (§2.1, 2.2 or 2.3), the patent holder has to provide a written statement to be filed at the Radiocommunication Bureau. This statement must not include additional provisions, conditions, or any other exclusion clauses in excess of what is provided for each case in §2.1, 2.2 and 2.3.

* Formerly CCIR Recommendations.