

数字音视频编解码技术标准工作组 Audio Video Coding Standard Workgroup of China

数字音视频编解码技术标准工作组知识产权政策

(2004年9月12日第十次工作会议通过实施)

INTELLECTUAL PROPERTY RIGHTS POLICY

of the Audio Video Coding Standard Working Group of China

数字音视频编解码技术标准工作组

知识产权政策

第一章、总则

第一条 本知识产权政策文件(“知识产权政策”)规定了中国数字音视频编解码技术标准工作组(“工作组”)的与制订 AVS 技术标准的整个过程及其所产生的标准文档相关的知识产权的管理规则。

第二条 通过签署 AVS 会员协议,会员书面承诺该会员及其工作组成员同意并遵守本知识产权政策的条款。

第三条 本知识产权政策是 AVS 会员协议的必要组成部分,并通过引用纳入会员协议。

第二章、定义

第四条 对于在本知识产权政策中使用并且在 AVS 章程、AVS 会员协议和 AVS 章程细则中已有定义的词语,其含义应遵从有关文件中的定义。以下词语在本知识产权政策中定义为以下含义:

AUDIO VIDEO CODING STANDARD
WORKING GROUP OF CHINA

INTELLECTUAL PROPERTY RIGHTS POLICY

CHAPTER I GENERAL

Article 1 This Intellectual Property Rights Policy document (the “IPR Policy”) outlines the policy of the Audio Video Coding Standard Working Group of China (the “Working Group”) regarding intellectual property rights as related to the AVS Standards development effort, and the specifications developed thereof.

Article 2 By signing the AVS Member Agreement, the Members thereby confirm in writing that they and their Working Group Staff agree to and will abide by the terms of this IPR Policy.

Article 3 This IPR Policy is an integral part of the AVS Member Agreement of the Working Group, and is incorporated by reference into the Member Agreement.

CHAPTER II DEFINITIONS

Article 4 Terms used in this IPR Policy and defined in the AVS Constitution, AVS Member Agreement, and AVS Bylaws shall have the meanings defined in those documents. The following terms are defined in this IPR Policy to have the following meanings:

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1、“符合部分”仅指有关产品或服务中实施并符合**最终 AVS 标准**的所有相关规范性要求的特定部分，这些规范性要求应当在**最终 AVS 标准**中明确公开，并且其目的是为了**使产品或服务能够实现该最终 AVS 标准**所定义的解码、编码、发送数字媒体或识别和实施权利管理。

2、“必要权利要求”是指根据授权或公布**专利**的所在国法律，被**最终 AVS 标准**的**符合部分**不可避免地侵权的该**专利**中的某一权利要求，且仅限于该权利要求。

专利的某一权利要求被不可避免地侵权，是指该侵权不可能在实施**最终 AVS 标准**时通过采用另一个技术上可行的不侵权的实施方式予以避免。

必要权利要求不包括，并且许可也不适用于：(1)不符合上文规定的其他权利要求，即使该权利要求包含在同一件**专利**中；(2)在**最终的 AVS 标准**文档中引用或以参考方式包括在内的其他标准中涉及的权利要求；(3)制造或使用符合**最终 AVS 标准**文档的任何产品、服务及其部分时可能必要，但没有明确地在该标准文档中描述的实现技术。

3、“**专利**”是指许可方或其**关联者**拥有的或者在无需向非关联第三方付费的情况下有权许可的，在任何国家授权的任何**专利**、可执行的发明证书、授权的**实用新型**、或公布提请异议的任何可执行的**专利申请**或**实用新型**申请，但不包括外观设计**专利**和外观设计登记。

1 "**Compliant Portion**" means only those specific portions of products or services as applicable that implement and are compliant with all relevant normative requirements of a Final AVS Standard, to the extent specifically disclosed in a Final AVS Standard and where a purpose of such requirements is to enable products or services as applicable to decode, encode or deliver digital media, or to recognize and implement rights management as defined by such Final AVS Standard.

2. "**Necessary Claim**" means a claim, but only such claim, in a Patent which is necessarily infringed by a Compliant Portion of a Final AVS Standard under the laws of the country that issued or published the Patent.

A claim of a Patent is necessarily infringed if such infringement could not have been avoided by another technically feasible non-infringing implementation of such Final AVS Standard.

A Necessary Claim shall not include, and no license shall apply to: (i) a claim other than one set forth above even if contained in the same Patent, (ii) a claim arising from standards which are incorporated by reference or referred to in a Final AVS Standard, or (iii) enabling technologies that may be necessary to make or use any product or service or portion thereof that complies with a Final AVS Standard but are not expressly set forth in such standard.

3. "**Patent**" shall mean any issued patent, enforceable invention certificate, or issued utility model of any country, or any enforceable allowed patent application or enforceable allowed utility model application, published for opposition in any country, excluding design patents and design registrations, which a licensing entity or its Affiliates owns, or has the right to grant licenses to without payment to any

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entity other than an Affiliate.

4、“规范性参考文件”是指并非由工作组制定而是通过引用包含在**最终 AVS 标准**中,而且为了遵循包含该**参考文件**的**最终 AVS 标准**就必须符合该引用内容的文档或标准。有助于理解、实施或以其他方式使用**最终 AVS 标准**的文档或标准,如果与其相符合并非为遵循**最终 AVS 标准**所必须要求的,该文档或标准不属于**规范性参考文件**。

第三章、提案

第五条 本工作组意识到,允许会员保留对其**提案**中的知识产权的权益有利于鼓励会员提出**提案**,进而有利于制定先进的技术标准。因此,任何**提案**中的知识产权属于提交**提案**的会员所有。提出**提案**的会员保留申请专利或公开披露有关信息的权利。

第六条 每个会员同意许可所有其他会员和工作组仅限于为了制订 **AVS 标准草案**的目的而使用该会员提交给工作组的任何**提案**中包含的该会员及其关联者的任何著作权、专利、商业秘密或其他非专利知识产权。上述许可应当是非排他性的、不可转让的、不可撤销的、免费的和全球性的许可。

4.“Normative Reference” shall mean a document or standard not developed by the Working Group that is included by reference in a Final AVS Standard and for which compliance is required to claim compliance with the Final AVS Standard that includes the reference. A document or standard that may be useful for understanding, implementing or otherwise using a Final AVS Standard but for which compliance is not required to claim compliance with the Final AVS Standard is not a Normative Reference.

CHAPTER III CONTRIBUTION

Article 5: The Working Group understands that allowing Members to reserve their intellectual property rights in their Contributions will encourage submission of such Contributions and further benefit the drafting of excellent technical specifications. Therefore, the intellectual property rights in any Contribution belong to the contributing Member. The contributing Member reserves the right to apply for patents and/or to publicly disclose such information.

Article 6 Each Member agrees to grant to all other Members and to the Working Group a license under Member’s and its Affiliates’ copyright, patent, trade secret and other non-patent intellectual property rights in any Contribution that Member makes to the Working Group to use such intellectual property for only the limited purpose of developing a Draft AVS Standard. Such license shall be a nonexclusive, nontransferable, irrevocable, royalty-free, worldwide license.

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第七条 会员不应在知晓的情况下提出违反其对其他会员或其关联者、或第三方保密义务的**提案**，或在**提案**中包括其他会员或其**关联者**、或第三方的含有著作权或商业秘密的材料，除非事先得到其他会员或其**关联者**、或第三方的书面同意。就本条款而言，会员是否知晓仅限于该会员的工作组成员和**提案**的作者是否实际知晓。

Article 7 Member shall not knowingly submit a Contribution that either violates a duty of confidentiality to any other Member or Affiliates thereof or a third party, or contains copyrighted or trade secret materials of any other Member or Affiliates thereof or a third party without the prior written consent of such Member, Affiliates or third party. For purposes of this Article, a Member's knowledge shall be limited to the actual knowledge of its Working Group Staff and authors of such a Contribution.

第八条 只有当**规范性参考文件**可以公开获得时，该内容才可以被包含在**AVS 标准草案**或**最终 AVS 标准**中。为了本条目的，只有在以下情况，**规范性参考文件**被认为是可以公开获得：

Article 8 A Normative Reference may be included in a Draft AVS Standard or a Final AVS Standard only if it is publicly available. For the purpose of this Article, Normative Reference is Publicly Available only if:

- 1、任何人都可以通过可公开接触的渠道（付费或免费）获得其中文（或英文）的内容；
- 2、除与有形**规范性参考文件**的复印和分发有关的限制之外，评估该**规范性参考文件**时无须**受到其他**的限制即可以获得该**规范性参考文件**；
- 3、评估该**规范性参考文件**没有受到实施方面的限制可以获得该**规范性参考文件**；并且
- 4、不必要求请求人证明某种资质，例如是某一特定组织的会员，就可以获得该**规范性参考文件**。

- i. it is available to anyone (with or without the payment of a fee) in Chinese (or English) from a publicly accessible source;
- ii. it is available without limitations relating to its evaluation, except for limitations related to copying and redistribution of the physical Normative Reference;
- iii. it is available without limitations relating to its implementation as a condition of evaluation; and
- iv. it may be obtained without requiring the requesting person to demonstrate some qualification such as being a member of a specific organization.

如果符合某一**规范性参考文件**要求使用特定的测试套件，该测试套件也必须可以公开获得。

If conformance with a Normative Reference requires the use of specific test suite, the test suite must also be Publicly Available.

第四章、专利技术

CHAPTER IV PATENTED TECHNOLOGY

第九条 工作组原则上不反对在**最终 AVS 标准**中采纳专利技术。但是，在权衡是否在**AVS 标准草案**中采纳某一**提案**时，专题组可以考虑已经提交的对专利的披露声明。为利于**最终 AVS 标准**的商业应用，专题组在权衡技术性能和实施成本实质性相同的竞争性**提案**时将采用以下规则：

Article 9 The Working Group in principle is not opposed to adoption of patented technology in the Final AVS Standards. During the course of evaluating Contributions for incorporation into a Draft AVS Standard, however, a Subgroup may take into consideration the relevant patent disclosures that have been submitted. With a goal of encouraging commercial adoption of the Final AVS Standards, a Subgroup will utilize the following guidelines when considering

- 1、在相关的专利披露中没有包含潜在的**必要权利要求**的**提案**，或者有关

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潜在的必要权利要求适用 RAND-RF 的缺省许可义务的提案一般通常应当得到优先考虑；

- 2、当每个提案都有专利被披露时，专题组将优先考虑承诺提供更优惠许可条件的提案。

在适用上述规则时，专题组应当仅考虑专利披露声明中提供的信息。

第十条 工作组组长需要就提交批准的 AVS 标准草案中可能涉及的专利权利要求的情况向有关的政府标准机构报告。

第十一条 在签署会员协议时，每个会员应该对最终 AVS 标准中采用的任何技术所涉及的该会员的必要权利要求确定缺省许可义务。除非会员根据第十四条（涉及提案中包括的必要权利要求）或第十八条（在“审阅期”）的规定选择了不同于其缺省许可义务的许可承诺，该会员应当按照其缺省许可义务对其必要权利要求提供许可。

第十二条 会员可以从以下缺省许可义务中做出选择：

1、如果在某一专题组制订某一 AVS 标准草案期间会员参加了该专题组，而该 AVS 标准草案其后成为最终 AVS 标准，那么对于与该最终 AVS 标准有关的任何必要权利要求，会员可以选择：

- (1) 按照合理且非歧视性的条款提供免费

competing Contributions that are substantially equivalent in terms of technical merit and implementation cost:

1. Preference should generally be given to the Contribution(s) with no potential Necessary Claims identified in related patent disclosures, or to those Contributions where all potential Necessary Claims are subject to Default Licensing Obligations of RAND-RF; and

2. When patent disclosures have been filed for each of the competing Contributions, the Subgroup should give preference to the Contribution(s) with a more favorable licensing commitment.

When applying these guidelines, the Subgroup shall only consider information supplied in patent disclosure statements.

Article 10 The President of the Working Group shall report to the Authorities on the possible relevance of patent claims in Draft AVS Standards submitted for approval by the Authorities.

Article 11 Upon signing the Member Agreement each Member shall identify Default Licensing Obligations in connection with its Necessary Claims to any technology adopted in any Final AVS Standard. Except for those Necessary Claims for which a Member has chosen a licensing commitment different from its Default Licensing Obligations under Article 14 (with respect to Necessary Claims covering its Contribution) or under Article 18 (during the Review Period), such Member shall license its Necessary Claims in accordance with its Default Licensing Obligations.

Article 12 Member may select from the following Default Licensing Obligations:

(a) For Necessary Claims in connection with any specific Final AVS Standard where Member is a Participant in the applicable Subgroup when that Subgroup adopts the Draft AVS Standard that becomes such Final AVS Standard:

- (i) license royalty free without

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- 许可 (“RAND RF”);
- (2) 参加 AVS 专利池 (“POOL”);
- (3) 按照合理且非歧视性的条款 (“RAND”) 许可。

2、如果在某一专题组制订某一 AVS 标准草案期间会员并未参加该专题组，而该 AVS 标准草案其后成为最终 AVS 标准，那么对于与该特定的最终 AVS 标准有关的任何必要权利要求，会员可以选择：

- (1) 按照 RAND RF 条款许可；
- (2) 参与 AVS 专利池；
- (3) 按照 RAND 条款许可；
- (4) 无许可义务 (“NO LICENSE”)。

第十三条 会员有权自行决定采用与其确定的缺省许可义务等同或更优惠的条款(优惠程度依本条如下规定)对其部分或所有的必要权利要求进行许可。为了本条的目的，第十二条中规定的缺省许可义务和第十四条中规定的与提案相关的许可义务按照优惠程度从高到低的次序排列如下：

最优惠：按照 RAND RF 条款许可或者参加 AVS 专利池

第二优惠：按照 RAND 条款许可

最不优惠：无许可义务

第十四条 为了方便工作组决定是否采纳一个特定的提案，以及根据第十条准备与 AVS 标准草案相关的专利报告，每个会员在提交任何提案时，应该做出相应披露，并且书面承诺，对于该会员因为该特定提案得到最终 AVS 标准的采纳而获得的与该最终 AVS 标准（以及后继最终 AVS 标准的某些部分，这些后继最终 AVS 标准的部分必须是为了向前兼容采纳该特定提案的最终 AVS 标准

compensation and otherwise under reasonable and non-discriminatory terms (“RAND RF”);

- (ii) participate in the AVS Patent Pool (“POOL”); or
- (iii) license under reasonable and non-discriminatory (“RAND”) terms¹.

(b) For Necessary Claims in connection with any specific Final AVS Standard where Member is not a Participant in the applicable Subgroup when that Subgroup adopts the Draft Standard that becomes such Final Standard:

- (i) license under RAND RF terms;
- (ii) participate in the POOL;
- (iii) license under RAND terms; or
- (iv) no licensing obligation (“NO LICENSE”).

Article 13 A member may in its sole discretion commit to grant licenses to some or all of its Necessary Claims under equally or more favorable licensing terms (as set forth below in this Article) than specified by its Default Licensing Obligation. For purposes of this Article, the Default Licensing Obligations set forth in Article 12 and the licensing commitments for Contributions set forth in Article 14 are ordered from most favorable to least favorable, i.e.,

Most favorable: RAND RF, POOL

Next most favorable: RAND

Least favorable: NO LICENSE

Article 14 To facilitate the Working Group in its consideration of whether to adopt a specific Contribution, and its preparation of the report of Article 10, each Member shall, upon its submission of any Contribution make a disclosure of, and commit in writing to license, any of its Necessary Claims to a Final AVS Standard to which such Contribution was made (and with respect to those portions of subsequent Final AVS Standards required to ensure

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所必需的，也仅限于该**最终AVS标准**要求向前兼容的部分）有关的任何**必要权利要求**，该会员将就**该必要权利要求**提供符合以下条件的许可：

- 1、 对于中华人民共和国授予的专利中包含的必要权利要求，按RAND RF条款或通过AVS专利池进行许可。
- 2、 对于中华人民共和国之外授予的专利中包含的必要权利要求，按RAND RF条款或RAND条款，或通过AVS专利池进行许可。

第十五条 每个会员应该根据诚信原则，在其实际知晓的范围内，就可能包含**必要权利要求**的该会员和其**关联者**的**专利**和公布的专利申请及时向工作组进行披露，该披露义务一直持续到 **AVS 标准草案**被标准化机构批准为止。

没有选择第 12 条第 1 款（1）或（2）或第 12 条第 2 款（1）或（2）规定的**缺省许可义务**的会员还必须在实际知晓的范围内披露该会员或其**关联者**的可能包含**必要权利要求**的未公开的专利申请。

为了本条目的，会员实际知晓应当仅限于其工作组成员和**提案**作者（如果有的话）的实际知晓范围。在任何情况下，本知识产权政策要求的披露义务都不得被解释为要求会员进行专利检索。对本条的解释和应用应当符合诚信原则，会员不得故意对其参与**AVS 标准草案**制定的人员隐瞒有关事实以规避本条规定的披露义务。

第十六条 就第十四条和第十五条规定的披露而言，会员必须披露以下最低限度的信息：

backwards compatibility with such Final AVS Standard, but only to the extent that backwards compatibility is required by such Final AVS Standard) that are Necessary Claims to such Final AVS Standard because such Contribution is included in such Final AVS Standard:

(a) if included in a Patent issued by the People's Republic of China, under either RAND RF terms or through the POOL, and

(b) if included in a Patent not issued by the People's Republic of China, under either RAND RF or RAND terms or through the POOL.

Article 15 On an ongoing basis, continuing throughout approval of a Draft AVS Standard by the Authorities, each Member shall make a good faith effort to promptly disclose to the Working Group the existence of Patents and published patent applications of such Member or its Affiliates that may contain Necessary Claims to the extent of such Member's actual knowledge. Members that have not elected a Default Licensing Obligation pursuant to Article 12 (a)(i) or (ii) or 12(b)(i) or (ii) must also disclose the existence of unpublished patent applications of such Member or its Affiliates that may contain Necessary Claims to the extent of such Member's actual knowledge.

For the purpose of this Article, Member's actual knowledge shall be limited to the actual knowledge of its Working Group Staff and authors of its Contributions, if any. In no way shall any disclosure duty arising under this IPR Policy be interpreted as requiring Members to conduct a patent search. Interpretation and application of this Article shall follow the principle of good faith, and the Member shall not intentionally isolate its staff participating in the development of the Draft AVS Standards from the relevant facts for the purpose of avoiding a disclosure duty under this Article.

Article 16 For the disclosures required under Articles 14 and 15 the Member must disclose the

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1、对于已批准的专利及已公布的专利申请的披露，必须包含：

- (1) 专利权人和/或申请人的身份；以及，
- (2) 专利号或专利申请号。

2、对于会员未负有对第三方的在先保密义务的未公布的专利申请的披露

(1) 应当说明存在可能包含潜在**必要权利要求**的专利申请，并且

(2) 由会员自行决定，可以标明相关的**AVS标准草案**的部分。

本款规定不禁止基于自愿对未公布的尚未授权专利申请做出更广泛的披露。

在一项已被披露的未公布的专利申请得到公开时，会员必须对上文所述与已公布的专利申请相关的其他辨别信息进行披露。

第十七条 除了根据第六条提供的许可，根据本知识产权政策提供专利许可的所有承诺应当适用于所有会员及其**关联者**，以及所有**实施符合部分**的第三方（以下合称“**被许可人**”），并且应当就提供许可的会员所拥有的**必要权利要求**向**被许可人**提供非排他性的、不可转让的、不可分许可的、全球性的许可，以制造、委托仅以被许可人的名义制造、使用、进口、许诺销售、租赁、销售或以其他方式分发**符合部分**。

会员及其关联者（“**许可人**”）没有义务就其**必要权利要求**向**被许可人**提供许可，如果该**被许可人**没有在事实上承诺就自己的**必要权利要求**按照 RAND RF，AVS 专利池或者 RAND 的条件向该会员或其关联者提供许可。

如果**许可人**选择按照 RAND RF 或者 AVS 专利池的条件对其**必要权利要求**提供许可，而**被许可人**仅仅愿意按照 RAND 的条件许可

following minimum information:

1. With respect to issued patents and published patent applications, disclosure must include:

- (i) the identity of the patent rights holder and/or applicant; and
- (ii) the relevant patent number(s) or application number(s).

2. With respect to unpublished pending patent applications for which the Member is not subject to a preexisting obligation of confidentiality with a third-party, such disclosure:

- (i) Must include the existence of applications that may contain the potential Necessary Claims.
- (ii) at the sole discretion of such a Member, may include an identification of an applicable section of a Draft AVS Standard.

Nothing herein precludes broader disclosure of unpublished pending patent applications on a voluntary basis.

Once an unpublished pending patent application that has been disclosed is published, the Member must disclose the additional identifying information about the published application.

Article 17 All commitments to grant patent licenses under this IPR Policy, except for those in Article 6, shall extend to all Members and their Affiliates and all third party implementers of Compliant Portions (collectively “Licensees”), and shall provide all such Licensees a non-exclusive, non-transferable, non-sublicensable, worldwide license under the licensor Member's Necessary Claims to make, have made solely on behalf of the Licensee, use, import, offer to sell, lease, sell and otherwise distribute Compliant Portions.

A Member and its Affiliates (“Licensor”) have no obligation to offer to license their Necessary Claims to any Licensee that does not in fact and practice make a commitment to license their Necessary Claims to such Member and Member's Affiliates under either RAND RF, POOL, or RAND terms.

In the event that a Licensor elects to license its Necessary Claims on either a RAND RF or

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自己的**必要权利要求**，那么许可人有义务向被许可人提供其**必要权利要求**的许可，但是该义务可以通过按照 RAND 的条件提供许可而得到满足。

根据本协议提供的许可条款可以包括防御性中止许可的权利。

第十八条 工作组在将 AVS 标准草案提交标准化机构批准之前，应给予所有会员不少于 90 天的“**审阅期**”，以便会员审阅有关知识产权方面的事项。

除会员已经根据本知识产权政策第十四条的规定承诺了许可义务的**必要权利要求**外，如果会员在“**审阅期**”期间或结束前披露一个或多个特定专利，会员可以就上述专利中包含的**必要权利要求**声明承诺其许可义务为第十二条第 2 款规定的四个选项之一。如果会员在“**审阅期**”结束时没有做出声明，将适用会员的**缺省许可义务**。

第十九条 在向标准化机构提交 AVS 标准草案以供批准之前，AVS 总体组应当就其已经知晓的该 AVS 标准草案中可能涉及的**必要权利要求**向第三方专利权人征集其许可意向。如果工作组无法就上述专利权利要求取得合理的许可承诺，工作组应当对该 AVS 标准草案进行相应修改。

第二十条 在承担本知识产权政策下的许可义务之外，会员有权按照其自行确定的条款，独立的向公众提供其**必要权利要求**的许可。

第二十一条 所有会员同意，除了同意按照本知识产权政策的明文规定提供许可外，任何会员或其关联者在本知识产权政策下没有以直接或暗示、禁止反言或其他方式向其他

POOL basis and the Licensee is only willing to offer to license its Necessary Claims under RAND terms, the Licensor shall be obligated to license its Necessary Claims to that Licensee, but such obligation may be fully satisfied by offering to license under RAND terms.

The terms of any licenses granted pursuant to this Agreement may include defensive suspension rights.

Article 18 The Working Group shall provide all Members a “Review Period” of no less than 90 days prior to submission of a Draft AVS Standard to the Authorities for approval, in order to review IPR issues. Except for the Necessary Claims subject to a licensing commitment made under any provision of Article 14 of this IPR Policy, in the event a Member discloses one or more specific Patents on or before the end of the Review Period, such Member may declare its licensing commitment with respect to any Necessary Claims contained in such Patents to be any one of the four options set forth in Article 12(b). If no such declaration is made by the end of the Review Period, Member's Default Licensing Obligation shall apply.

Article 19 Before submission of a Draft AVS Standard to the Authorities for approval, the AVS Management Council shall contact, to the extent of the Working Group's actual knowledge, potential third party patent holders of Necessary Claims to such Draft AVS Standard regarding the licensing intent of such third parties. If the Working Group cannot obtain a reasonable licensing commitment for the related patent claims, the Working Group must make appropriate revisions to such Draft AVS Standard.

Article 20 In addition to its licensing obligations under this IPR Policy, a Member may independently license its Necessary Claims under terms of its choosing.

Article 21 The Members agree that no intellectual property license, immunity or other right is granted, or agreement to grant licenses is made, under this IPR Policy by any Member or its Affiliates to any other party or their Affiliates,

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方或其关联者提供或同意提供任何知识产权的许可、豁免或其他权利。

第二十二条 会员同意，其现在没有，将来也不会为规避本知识产权政策下的许可义务而转让包含**必要权利要求**的**专利**。会员向第三方转让含有**必要权利要求**的**专利**时，该转让应受到该会员在本知识产权政策下已经承担的许可义务（如果有的话）的约束。

会员可以选择遵守本条的具体方式。在转让**必要权利要求**的协议中包含相应条款，规定该转让应受到已有许可协议和该会员在标准机构、标准起草组织或类似组织中所承担的许可义务的约束（或类似作用或效果的语言），此种方式足以符合本条要求。

第五章 AVS 专利池

第二十三条 为便利产业界对 AVS 技术标准的采用，工作组支持 AVS 专利池的建立。经过独立评估确认为**必要权利要求**的可以加入 AVS 专利池，参与打包许可与专利许可费的分配。

第二十四条 AVS 专利池的管理应采用“一站式”的许可方式，其目的在于遵循以下原则，实现从一个渠道对加入专利池的**必要权利要求**进行许可的目标：（1）最大程度的将所有包含**必要权利要求**的**专利**吸收在内的原则、（2）诚实信用原则、（3）自愿参与原则和（4）非排他性原则，以及（5）非歧视性的管理原则。

第二十五条 AVS 专利池提供的专利许可及其管理应当遵循以下原则：（1）公平非歧视性原则、（2）专利许可模式简易可行的原则；（3）有竞争力的许可费用原则。

either directly or by implication, estoppel or otherwise, other than the agreements to grant licenses expressly set forth in this IPR Policy.

Article 22 Member agrees that it has not and will not transfer Patents having Necessary Claims for the purpose of circumventing its licensing obligations under this IPR Policy. Any transfer by Member to a third party of a Patent having Necessary Claims shall be subject to the Member's existing obligations, if any, under this IPR Policy.

Member may choose the manner in which it complies with this Article. The inclusion in any agreement for assigning a Necessary Claim(s), of a provision that such assignment is subject to existing licenses and obligations to license imposed on the Member by standards bodies, specification development organizations, or similar organizations (or language of similar import or effect) shall be sufficient to comply with this Article.

CHAPTER V AVS PATENT POOL

Article 23 To facilitate industry adoption of the AVS Standards, the Working Group will work toward establishment of an AVS Patent Pool. Patent claims recognized as Necessary Claims after independent evaluation may be placed in the AVS Patent Pool to participate in the blanket licensing arrangement and the distribution of relevant license fees.

Article 24 The administration of the AVS Patent Pool shall adopt the approach of “One-Stop-Shop”, for which the goal is to enable licensing of Necessary Claims included in the Pool from one source under principles of: (1) maximum inclusion of Patents having Necessary Claims, (2) good faith, (3) voluntary participation, (4) non-exclusiveness, and (5) non discriminatory administration.

Article 25 The license to be provided through the AVS Patent Pool and the administration thereof shall comply with the following principles: (1) reasonable and non-discriminatory, (2) with a simple and practicable licensing structure, and (3) under a

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第二十六条 AVS 工作组将就 AVS 专利池的管理和其专利许可的原则另行作出建议性的规定。

第六章、商标

第二十七条 如果工作组需要以任何名称或标志作为商品商标，服务商标或商号（总称为“商标”），工作组应根据章程细则的规定行事。

如果工作组选择任何商标作为指明某一产品或服务与其他所有采用相同商标的产品或服务相兼容的标志，该商标的使用应当由工作组或其指定的实体按照合理和非歧视性的条款进行许可，许可方式应当保证产品或服务与**最终的 AVS 标准**相符合。

第七章、著作权

第二十八条 工作组拥有 **AVS 标准草案**的著作权，但要受提出**提案**的会员和其他著作权所有者所享有的权利的约束。除非已事先得到工作组的明确的书面许可，任何会员均不得出版或发行 **AVS 标准草案**或**最终 AVS 标准**的全部或部分内容，或其他任何演绎作品。

第二十九条 由**标准化机构**批准颁布的**最终 AVS 标准**著作权属于国家。其使用、修改和发行应遵守有关法律法规的规定。

第三十条 会员就任一 **AVS 最终标准**提出软件作为参考实施方案（即提出作为如何实施某一标准的范例的符合性实施方案）的全部或部分的，会员应当向用户提供一份免费的著作权许可，允许其在任何符合**最终 AVS 标准**的实施方案中使用该软件。该会员没有

competitive license fee.²

Article 26 The Working Group will set up advisory Guidelines concerning administration of the AVS Patent Pool and patent licenses thereof.

CHAPTER VI TRADE MARK

Article 27 In the event that the Working Group proposes to adopt any name or logo as a trademark, service mark or trade name (“Trademark”), the Working Group shall act in accordance with the procedures set forth in the Bylaws.

To the extent that any Trademark is selected by the Working Group as an indicator that a product or service is compatible with all products or services so marked, such Trademark shall be licensed under reasonable and nondiscriminatory terms by the Working Group or an entity designated by the Working Group in a manner to ensure compliance with a Final AVS Standard.

CHAPTER VII COPYRIGHT

Article 28 The Working Group shall own the copyright in Draft AVS Standards, subject to the underlying copyright rights of the contributing Members and other copyright owners. No Member shall publish or distribute a Draft or Final AVS Standard or any part thereof or any derivative work thereof, except with the express prior written consent of the Working Group.

Article 29 The copyright for the Final AVS Standards as approved and released by the Authorities belongs to the State. Any use, modification or distribution of Final AVS Standards shall be in conformity to applicable laws and regulations.

Article 30 A Member contributing software to serve as all or a portion of a reference implementation (i.e., a compliant implementation of a standard offered as an example for how to implement such standard) for any Final AVS Standard shall give users a royalty free copyright license to use the software in any implementation

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默示提供任何其他著作权许可。工作组，其会员或其他任何实施者都没有义务在本知识产权政策下或者为了制造符合部分使用上述软件。

第八章、许可义务的存续

第三十一条

1、会员根据第六条、第十一条、第十二条、第十四条、第十七条和第十八条提供许可的承诺在会员终止或撤销其在工作组的会员资格之后对于下列**必要权利要求**仍应继续有效：

(1) 与该会员就并入某一**最终 AVS 标准**的任何版本的 **AVS 标准草案**提出的**提案**有关的任何**必要权利要求**，条件是提供许可的承诺仅限于该 **AVS 标准草案**，以及**最终 AVS 标准**中为了向前兼容该 **AVS 标准草案**所必需的部分；

(2) 该会员的与并入某一**最终 AVS 标准**的任何版本的 **AVS 标准草案**有关的其**提案**之外的任何**必要权利要求**，如果该 **AVS 标准草案**在该会员的工作组会员资格存续期间可供其审阅，条件是該会员或前会员应有权在该 **AVS 标准草案**可供审阅之日起 90 天内根据第十八条的规定做出声明，并且提供许可的承诺仅限于该 **AVS 标准草案**，以及**最终 AVS 标准**中为了向前兼容该 **AVS 标准草案**所必需的部分。

2、如果工作组解散，会员同意在解散后（根据第六条、第十一条、第十二条、第十四条、第十七条和第十八条的规定）就**必要权利要求**提供许可，但仅限于该会员在解散之前有义务提供许可的**最终 AVS 标准**；以及

3、与某一后继**最终 AVS 标准**有关的**必要权利要求**，但仅限于与该**最终 AVS 标准**以下部分有关的**必要权利要求**：(1) 该部分是为了向前兼容在该会员的工作组会员资格存续期间被采纳的某一**最终 AVS 标准**所必需的；并且 (2) 该会员就该在先采纳的**最终 AVS**

conforming to this Final AVS Standard. No other copyright license from such Member shall be implied. None of the Working Group, its Members or any other implementer shall have any obligation to use such software under this IPR Policy or in order to create a Compliant Portion.

CHAPTER VIII SURVIVAL

Article 31

(a). Member's agreement to grant licenses as provided in Articles 6, 11, 12, 14, 17 and 18 shall remain in full force and effect after Member's termination or withdrawal of its membership in the Working Group, for:

(i) any Necessary Claim to a Contribution made by such Member to any version Draft AVS Standard that is incorporated into a Final AVS Standard, provided that the agreement to grant licenses is limited to only such Draft AVS Standard(s) and portions of the Final AVS Standard required for backward compatibility with such Draft AVS Standard(s); and

(ii) any Necessary Claim of such Member, which is not a Contribution, to any version Draft AVS Standard that is incorporated into a Final AVS Standard, where such Draft AVS Standard(s) was made available for review during such Member's membership in the Working Group, provided that the Member or former Member shall be entitled to furnish a declaration in accordance with Article 18 within 90 days of availability of the Draft AVS Standard(s) and provided further that the agreement to grant licenses is limited to only such Draft AVS Standard(s) and portions of the Final AVS Standard required for backward compatibility with such Draft AVS Standard(s).

(b). In the event of dissolution of the Working Group (if any), each Member agrees to grant licenses (as provided in Articles 6, 11, 12, 14, 17 and 18) after dissolution for Necessary Claims but only in connection with Final AVS Standards for which such Member was committed to grant licenses before dissolution; and

(c) any Necessary Claim to a later Final AVS Standard, but only to the extent that such claim is

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标准对该**必要权利要求**已经承诺了许可义务。

除本条明确规定之外，撤销或终止会员资格的会员没有义务许可任何其他**必要权利要求**。

所有有义务根据本条规定对一个或更多的**必要权利要求**提供许可的会员仍然有权享有第十七条规定的互惠性权利。

第九章、其他

第三十二条 对本知识产权政策的任何修改必须遵循工作组章程细则的有关规定。会员应当有至少 30 天时间以决定是否接受有关修改（“**接受期间**”），该期间自会员接到有关修改的书面通知之日起算（可以通过电子邮件通知）。如果在**接受期间**内，会员的授权代表没有书面确认接受修改后的知识产权政策，该会员将被视为自动撤出工作组。在**接受期间**结束之前撤出工作组，或者在**接受期间**结束时自动撤出的任何会员不受修改后的知识产权政策的约束。

a Necessary Claim to the portion of such Final AVS Standard that: (i) is required to be backwards compatible with a Final AVS Standard adopted during such Member's membership in the Working Group, and (ii) such Member is already obligated to license such claim with respect to such earlier adopted Final AVS Standard.

In no event is a withdrawn or terminated Member obligated to license any additional Necessary Claims except as specified in this Article.

All Members that are obligated to license one or more Necessary Claims under this Article shall remain entitled to the reciprocity under Article 17 for Necessary Claims.

CHAPTER IX MISCELLANEOUS

Article 32 Any revisions to this IPR Policy must be approved pursuant to the requirements of the Bylaws of the Working Group. Members shall be afforded at least thirty (30) days from the date of receiving written notice of such revisions (“Acceptance Period”) (notice in email form will suffice) to accept such revisions. A Member will be automatically withdrawn from the Working Group if an authorized representative of Member does not confirm their acceptance in writing of the revised IPR Policy within the Acceptance Period. Any Member that withdraws from the Working Group prior to the end of the Acceptance Period or is automatically withdrawn at the end of the Acceptance Period will not be subject to the revised IPR Policy.