

Ecma Experimental TC39 Royalty-Free Patent Policy – (8 March 2013)

E.1 This is an experimental patent policy (“Experimental Policy”) that is based on the Ecma Code of Conduct in Patent Matters (“Code of Conduct”). Under this Experimental Policy, Ecma International may designate certain Task Groups of TC39 (ECMAScript) as “Royalty-Free Task Groups” (“RFTGs”). As to such RFTGs, and only as to such RFTGs, this Experimental Policy shall supplement the Code of Conduct and shall take precedence as to anything in the Code of Conduct to the contrary. References in this Experimental Policy to “Standards” mean Ecma International Standards and Ecma Technical Reports, and references to “Draft Standards” mean drafts of Standards. When used in this Experimental Policy, “Affiliates” shall refer to entities that are related as described in 3.2 of the Ecma By-laws.

E.2 Designation of a Task Group as an RFTG is done by the General Assembly and may only occur prior to formation of such RFTG (in other words, a standards development activity may not retroactively be designated as an RFTG). If work done elsewhere is brought into an RFTG, this Experimental Policy has no effect on any patent-related matters as to that pre-existing work as such. This Experimental Policy applies to that work only to the extent that it is included in a Standard resulting from the RFTG. For Ecma members not participating in any particular RFTG, the Code of Conduct, not this Experimental Policy, applies to such member with respect to the work of that RFTG.

E.3 Participation in RFTGs and Registration Form: Participation in each RFTG shall be limited to those individuals where each entity on whose behalf the individual participates has submitted a “Registration Form” that includes a royalty-free patent license statement that applies to any patent claims owned or controlled by such entity and its Affiliates that are required to implement (are “Essential” to) any Standards that result from the RFTG designated on the Registration Form. The Registration Form shall be subject to the opt-out provisions in this Experimental Policy. The Registration Form shall state that the submitting entity (“RFTG Member Organization”) is prepared to grant licenses free of charge to an unrestricted number of applicants on a worldwide, non-discriminatory basis, and under other reasonable terms and conditions to make, use, sell, and import implementations of all Standards that result from the RFTG designated on the Registration Form. As to future versions of such Standards, the scope of the patent commitment shall be the same as is described in 4.2 of the Code of Conduct. An RFTG Member Organization shall be considered “in” or “a participant in” an RFTG from the time of submission of a Registration Form until withdrawal (see E.7), if any. Submission of a Registration Form shall be via a mechanism provided by Ecma International.

E.4 Opt-Out of Identified Patents: An RFTG Member Organization may exclude from the royalty-free patent license commitment, via an identification mechanism provided by Ecma International (see E.6.), specific patents and/or patent applications that the RFTG Member Organization believes may be or become Essential (“Identified Patents”). This opt-out opportunity must be exercised prior to the end of the corresponding Opt-Out Review Window. The RFTG Member Organization may only exclude Identified Patents to the extent that the Essentiality of the patents is due to material that (a) was added to the Draft Standard since the

version of the Draft Standard for the previous Opt-Out Review Window (if any; see E.5), and (b) was not material that the RFTG Member Organization contributed to the RFTG. In this context, “material” refers to the technical substance of what is being specified of the Draft Standard, not to specific words in a document. In other words, the opt-out of Identified Patents only applies to new material added to the Draft Standard since the previous opt-out opportunity and, for clarity, specifically does not apply to minor revisions or editorial changes.

E.5 Opt-Out Review Windows: Each Opt-Out Review Window shall be initiated by Ecma Secretariat in consultation with the TC and RFTG chairs. An Opt-Out Review Window shall apply to one or more particular Draft Standards. An Opt-Out Review Window shall be at least 60 days long. All RFTG Member Organizations in an RFTG shall be notified of each Opt-Out Review Window prior to the beginning of the period and such notification shall clearly identify the end of the period. Opt-Out Review Windows shall be initiated for each Draft Standard at intervals of no less than 4 months (except with the agreement of all RFTG Member Organizations in the corresponding RFTG) and no longer than 18 months. There shall be an Opt-Out Review Window for each final version of a Draft Standard, and such window shall be timed such that it ends before the Draft Standard becomes a Standard.

E.6 Opt-Out Patent Information: The opt-out identification mechanism (see E.4) shall require: (a) identification of the Identified Patents; (b) identification of the Standard or Draft Standard; and (c) indication of whether, with respect to such Identified Patents and such Standard (or a Standard resulting from such Draft Standard), the RFTG Member Organization (i) is prepared to grant licenses under paragraph 2.2 (RAND terms) of the Code of Conduct, or (ii) is not prepared to grant such licenses.

E.7 Withdrawal from an RFTG: Ecma International shall provide a mechanism by which an RFTG Member Organization in an RFTG can withdraw from the RFTG. No participation in the RFTG on behalf of a withdrawn RFTG Member Organization shall be permitted following such withdrawal (unless the RFTG Member Organization rejoins with a corresponding new Registration Form). The patent commitment in the Registration Form of a withdrawn RFTG Member Organization: (a) shall continue to apply to material in a Draft Standard (i) for which the corresponding Opt-Out Review Window has ended, and (ii) that the RFTG Member Organization has contributed to the RFTG; and (b) shall not apply as to other material in a Draft Standard. In addition, after an RFTG Member Organization withdraws from the RFTG, the Code of Conduct applies to that Ecma member as it does to other non-participating Ecma members.

E.8 Late-Joining and Re-Joining Participants: A Registration Form for an RFTG applies to all Draft Standards for all Opt-Out Review Windows prior to such joining, including those that passed before the RFTG Member Organization began participation in the RFTG. However, an RFTG Member Organization may, immediately prior to beginning participation in an RFTG, use the opt-out mechanism to opt-out Identified Patents, which shall be effective as to material in Draft Standards in Opt-Out Review Windows that passed when the RFTG Member Organization was not a participant in the RFTG. For an RFTG Member Organization that has previously withdrawn, the new opt-out shall only apply to material in Draft Standards in Opt-Out Review

Windows that passed after that prior withdrawal. A party that joins during an Opt-Out Review Window will have the remainder of that Opt-Out Review Window to exclude a patent or patent application.