



INTELLECTUAL PROPERTY RIGHTS POLICY OF OPEN GIS CONSORTIUM, INC.

9 May 2002

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OVERVIEW OF INTEGRATED INTELLECTUAL PROPERTY PROCESS AND DOCUMENTATION

Board of Directors of the Open GIS Consortium, Inc.
9 May 2002

I. { TC "Overview of Integrated Intellectual Property Process and Implementation" \l 1 \n }{ TC "Introduction" \l 2 }Introduction

The Board of Open GIS Consortium (“OGC”) revamped its intellectual property rights (“IPR”) policies and procedures on 9 May 2002. Its purposes in doing so were threefold: first, the new policy streamlines OGC’s adoption of technology and makes the process more efficient. Second, information about the OGC IPR policy is now available in greater detail and is easier to understand, benefiting both members and potential members alike. Finally, it firmly anchors OGC IPR procedures in the mainstream of current standard setting “best practices.” This is increasingly important as IPR policies have in recent years become a topic of much closer scrutiny on the part not only of companies engaged in standard setting, but also of United States Federal antitrust regulators as well.

OGC is aware of the wide diversity of opinions held by standard setting Voting Members on several terms essential to an IPR program. In settling on the process described in this policy, we have tried to address this reality by choosing those terms which have been most widely adopted by leading standard setting bodies, and which represent a “middle” ground rather than an extreme in either direction. As a result, no term incorporated in the policy should be so far from the desired position of any Member that they cannot live with it, and all Members can be secure in the knowledge that the policy adopted will facilitate the achievement of OGC goals. We, and our counsel, agree that the procedures described below represent the best model for serving our members and achieving the goals of OGC.

This document describes the integrated IPR plan in detail, while the FAQ document accompanying it ([Exhibit F](#)) explains why certain terms have been adopted over other alternative formulations.

II. { TC " Process Description" \l 2 }Process Description

(a) { TC “Introduction” \l 2}Introduction. For the most part, no fundamental changes have been made to the existing OGC process. However, a few changes have been made to conform to prevailing practice, and a new set of documentation is utilized for submitting, disclosing and voting on the adoption of technology, to ensure that all reasonable and necessary ownership rights in contributed technology are obtained.

At the same time, Members and contributors of technology are protected by appropriate disclaimers of liability regarding performance issues or for inadvertent infringement of third party IPR. The general terms of the IPR policy may be found in the *Open GIS Policy Regarding Intellectual Rights*, a copy of which appears as [Exhibit A](#). The detailed procedural rules governing the technical process are governed by Section 5 of the *OGC Technical Committee Policies and Procedures*, the link to which we provide in lieu of a copy in [Exhibit B](#).

Overview of Integrated intellectual Property Process and Documentation
Board of Directors of the Open GIS Consortium, Inc. 9 May 2002

This Overview Document describes the elements of the submission and adoption process that relate to IPR chronologically, and identifies the legal documents that are employed by OGC. Current copies of each such document appear as exhibits to this Overview.

Note that a specification process may begin in one of four ways: (i) the members of an approved Working Group will jointly create a specification, (ii) a specification for existing technology may be spontaneously offered to OGC, (iii) a Request for Proposals (“RFP”) may be issued, with one or more of the resulting submissions being adopted as the building blocks for part or all of the final submission, or (iv) the specification is developed through OGC’s Interoperability Project process, and has been submitted to a wider OGC audience for final consideration and approval.

(b) { TC “Submission Process” \1 3 } **Submission Process.** In the case where actual submissions are made (scenarios ii - iv above), assurances are required at the time of submission that the IPR inherent in the submissions will, if the submission is incorporated into an approved specification, be made available under license to all implementers, members and non-members alike. In accordance with prevailing industry practice, that license must include “reasonable and non-discriminatory (a/k/a RAND) terms”, and need apply only with respect to IPR rights that would be necessarily infringed by the implementation of the required elements of a final specification.

“Reasonable” in this context means in keeping with general industry practices, so that adoption of an approved specification will not be impeded by unduly restrictive or extortionate terms. “Non-discriminatory” means that all who wish to implement the specification must be provided with a license, and that the terms of that license will be reasonably uniform across all licensees, after taking into account relevant differences in circumstances. The submitter must also state that if its submission is adopted and incorporated into a final specification, that it will make these licenses available without a royalty or other fee.

In order to assure this result, a submitter responding to an RFP (or a member participating in an Interoperability Project process) is required to complete, sign and deliver a ***Submission of Technology Form***, a copy of which is attached as **Exhibit C**. As you will note, this is a high level form that leaves committing to the actual license terms to a later date. The reason for this short-form commitment at the time of submission is because the technology may not be accepted. The commitment made in the Submission of Technology Form cannot be revoked, in order to prevent the Technical Committee, Interoperability Project group and/or the relevant Working Group from wasting its time on a later-withdrawn submission.

(c) { TC “Consideration Process” \1 3 } **Consideration Process.** As is the case with other consortia, OGC believes that it is fair and appropriate for those entitled to vote on the adoption of a specification - i.e., all Strategic, Principal and Technical Committee

members (“Voting Members”) to state whether they, also, will provide a license to those wishing to implement a specification under review if it is adopted. As is the case with submitters, this license would only apply to IPR that would necessarily be infringed by an implementation of the specification in its final form. Again, this license must be on RAND terms, and can be made available with or without cost.

In the case of a Voting Member, however, a second and third choice are available, which is to identify the infringement which the Voting Member believes would result from implementing the specification, and state that it does not agree to provide a license. The second option is to provide a license for a royalty or other fee, while the third option is provided so that a submission by one member could not compel another Voting Member to give up commercially valuable rights purely as a result of its participation in the adoption process. Conversely, since a submitter can decide whether or not it desires to make a submission, and because a submission without a commitment to license would have no value, this third option is provided only to Voting Members. The requirement to identify the infringement that the IPR owner believes would result from an implementation will often permit the Working Group to design around the infringement. The ***IPR Response Form*** that Voting Members are required to sign appears as Exhibit D.

Voting Members are asked to make their assertions at the time that they vote to concur or not concur with a Working Group or Test Bed group recommendation to adopt a specification. In order to permit all Voting Members to perform such internal IPR investigations as they wish, not less than [60] days notice of an impending vote will be given. This notice will be given in the form of a copy of the specification being considered for adoption, and a copy of an IPR Response Form. In responding with this form, Voting Members are also asked to inform OGC if they are aware of any third party IPR that would be infringed if the specification under review were to be adopted.

The same process described above is employed when a recommendation is made to amend an existing specification.

It is important that each Voting Member return a completed IPR Response Form in timely fashion, since a failure to do so will be deemed to be an agreement by that Voting Member to license IPR in the manner specified in the IPR Response Form, either with or without a royalty or other fee.

During the development of a specification, Working Group members will also periodically be asked whether they are aware of any infringement of a third party’s IPR if the specification under review were to be adopted.

(d) { TC “License Process” \1 3} **License Process.** When a specification has been adopted, it is time for any submitters and Voting Members with affected IPR to provide the promised rights to their IPR. Those rights can be provided in one of two ways, at the election of the submitter or Voting Member, as the case may be. The first is by outright conveyance, in which case outright title passes to OGC. If desired, the

conveyor may retain a perpetual, fully paid, irrevocable license to the contributed IPR. The *Bill of Sale and Conveyance* document used to make this technology transfer will be negotiated between OGC and the submitter at the time of transfer.

The second method that can be employed involves the granting of one of two types of license. The first gives OGC the right not only to publish the specification at its website and elsewhere, but also to sublicense implementation rights as well. The *License with Right To Sublicense* will be negotiated between OGC and the submitter at the time of transfer, as would the second type of agreement, the *License without Right to Sublicense*. The latter type of license would only permit OGC to publish the specification, and would direct would-be implementers to the licensor's website to obtain an implementation license. OGC greatly encourages the use of the first type of license, The *License with Right To Sublicense*, in order to permit implementers the convenience of "one stop shopping", and thus facilitate adoption of OGC specifications (especially where the IPR of more than one licensor is involved).

In both cases, all patent rights remain with the owner. OGC, however, is given ownership of the copyright in the specification itself, as well as the right to make derivative works. And in the case of both an outright transfer of ownership to OGC as well as with either type of license, the submitter is permitted to disclaim any warranty of non-infringement or performance. The submitter is requested, however, to state to the best of its knowledge any infringement issues known to it.

(e) { TC "Implementation Process" \ 3} **Implementation Process.** If an implementer is permitted the right to obtain necessary license rights at the OGC website, it is required to click on an *Implementer License* in the form of Exhibit E. This "click through" license, among other things, disclaims any liability to the implementer for infringement or performance issues.

III. { TC "Summary" \ 2} **Summary**

The documents and process described above are intended to protect the rights of all members while permitting the achievement of OGC goals. At the same time, they are intended to permit the OGC technical process to proceed without violation of applicable law or negative impact on member recruitment and retention.

The OGC IPR process will continue to operate under the supervision of the Board of Directors, and will evolve as necessary as the internal needs of OGC and as external legalities and trade practices change.

If you have any questions about the OGC policy, please feel free to contact Carl Reed, Executive Director Specification Program, at +1 (970) 419-8755 or creed@opengis.org; Kurt Buehler, Vice President and Chief Technical Officer, at +1 (812) 320-1423 or kurt@opengis.org; or Jeff Burnett, Vice President Operations & Finance, at +1 (508) 655-5858 or jburnett@opengis.org.

Exhibit A

OPEN GIS CONSORTIUM, INC.

Policy Regarding Intellectual Property Rights

Adopted 9 May 2002

{ TC "Exhibit A Policy Regarding Intellectual Property Rights" \l 1 \n }This policy covers the issues of patent, patent applications, copyright, trademark, trade secret, and other intellectual property rights (collectively, "IPR") for specifications created by Open GIS Consortium, Inc. ("OGC"). This policy is implemented through the OGC Technical Committee Polices & Procedures document (the "P&P Document"). To the extent of any inconsistency between this document and the P&P Document, the terms of this document shall prevail.

1. { TC "Patents and Other IPR Generally" \l 2 }**Patents and Other IPR Generally**

1.1 { TC "Calls for Patents" \l 3 }**Calls for Patents**

(a) { TC "Overview" \l 4 }**Overview.** In order to lessen the possibility of adopting a specification or other technology which might infringe on a patent or other IPR without permission, OGC will periodically issue calls for Members to disclose patents or other IPR ("patent calls") which are owned by them, or of which they might be aware, which might be infringed by the implementation of a specification proposed for adoption. Such calls for patents shall be generally made as follows:

(i) Those responding to a Requests for Proposal ("RFP") or a Request for Information ("RFI") must agree, at the time of submission, to provide royalty free license rights to all who would desire to implement a specification incorporating their submission.

(ii) All OGC Members who are entitled to vote to recommend specifications to the Board of Directors for adoption ("Voting Members") must indicate, on or before the date that a recommendation to adopt is taken, whether they will provide similar license rights with or without charge, or whether they will refuse to grant needed license rights.

In the event that a Voting Member indicates that it will withhold license rights, OGC will decide whether it is possible to design around the infringement, or will agree upon other appropriate action. The process of responding to patent calls is described in greater detail in Section 1.1(b) below.

(b) { TC "Detailed Process" \l 4 }**Detailed Process.** Each respondent to an RFP or RFI and each Voting Member at the time of a vote to recommend the adoption or amendment of a specification must respond in one of the following three ways when requested, and those parties submitting responses to Requests for Proposals must each respond in the first way at the time of contribution:

(i) by irrevocably agreeing that it will, on request, license all IPR which are owned by it and which might be infringed by an implementation of the proposed specification or amendment, on a perpetual, non-exclusive and worldwide basis, to those (Members and non-Members alike) desiring to use such patented technology or other IPR

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for the purpose of implementing such specification or amendment; provided, however, that such license shall extend only to the extent necessary to implement such specification or amendment and to the extent such implementation would necessarily infringe such patented technology or other IPR, and that such license shall be without charge, and will otherwise be under reasonable terms and conditions which are free of unfair discrimination;

(ii) by irrevocably agreeing that it will, on request, grant a similar license for a royalty or fee.

(iii) by identifying any patent(s), patent applications, and/or other IPR which are owned by it which it asserts would be infringed by an implementation of the Specification and the portion of the specification or amendment which would result in the infringement, and indicating that no guarantee of license rights is being made (or that such rights will in fact be denied). In the case of a published patent application, the application shall be identified. In the case of an unpublished application, the respondent shall indicate such information as possible to identify the nature of the asserted infringement without jeopardizing any of its trade secrets in the event the patent application is not granted in whole or in part.

(c) { TC “Third Party Adopter Claims of Infringement” \l 4} **Third Party Adopter Claims of Infringement.** In the event that any implementer of a specification or amendment of a specification asserts that it is the owner of a patent or other IPR which would necessarily be infringed by the implementation of any required portion of such specification or amendment, and refuses to license such patent or other IPR to all Members and non-Members alike wishing to implement such specification or amendment, on reasonable and non-discriminatory terms, then no Member shall be bound by any commitment made by it under Subsections 1.1(b)(i) or (ii) above as to such asserter, and any license rights relating to such specification or amendment which such Member may have previously granted to such asserter may be revoked.

(d) { TC “Failures to Respond to Calls” \l 4} **Failures to Respond to Calls.** In the event that any Voting Member (i) fails to respond to a patent call, (ii) fails to complete and return an Assertion Form, or (iii) returns such a form and indicates that it will not guarantee to provide necessary license rights, but does not specify, in the manner required, the IPR owned by it which it asserts would necessarily be infringed by implementation of the specification or amendment under review, then such Voting Member shall be deemed to have elected to license its IPR as set forth in Section 1.1(b)(i) or (ii) above.

1.2 { TC “Documentation Notations” \l 3} Document Notations

All OGC draft specifications that are subject to member comment and all finally adopted specifications shall include the following introductory language:

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"Recipients of this document are invited to submit, with their comments, notification of any relevant patent rights or other intellectual property rights of which they may be aware which might be infringed by the implementation of the specification set forth in this document, and to provide supporting documentation."

1.2.1 { TC "Notation When Patents are Identified" \l 4}Notation When Patents are Identified

When patents or other IPR have been identified for draft specifications subject to member comment, or thereafter with respect to already published final specifications, the following notice shall be included in the introduction:

"OGC draws attention to the fact that it is claimed that compliance with this specification may involve the use of a patent or other intellectual property right (collectively, "IPR") concerning (..subject matter..) given in (..sub clause..). OGC takes no position concerning the evidence, validity and scope of this IPR.

The holder of this IPR has assured OGC that it is willing to [refer to 1.1 b(i) and (ii) from above as applicable]. In this respect, the statement of the holder of this IPR is registered with OGC. Information may be obtained from:

[..name of holder of right..]
[..address..]

Attention is drawn to the possibility that some of the elements of this OGC Specification may be the subject of IPR other than those identified above. OGC shall not be held responsible for identifying any or all such IPR, and has made no inquiry into the possible existence of any such IPR.

THIS SPECIFICATION IS BEING OFFERED WITHOUT ANY WARRANTY WHATSOEVER, AND IN PARTICULAR, ANY WARRANTY OF NON-INFRINGEMENT IS EXPRESSLY DISCLAIMED. ANY IMPLEMENTATION OF THIS SPECIFICATION SHALL BE MADE ENTIRELY AT THE IMPLEMENTER'S OWN RISK, AND NEITHER OGC, NOR ANY OF ITS MEMBERS OR SUBMITTERS, SHALL HAVE ANY LIABILITY WHATSOEVER TO ANY IMPLEMENTER OR THIRD PARTY FOR ANY DAMAGES OF ANY NATURE WHATSOEVER DIRECTLY OR INDIRECTLY ARISING FROM THE IMPLEMENTATION OF THIS SPECIFICATION."

1.2.2 { TC "Notation When Infringement is Alleged" \l 4}Notation When Infringement is Alleged

In the event that the owner of any IPR has asserted that infringement would result from the implementation of a specification, and such owner has refused to grant a license

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pursuant to 1.1a or b above, then the second paragraph of the above notice shall be replaced or supplemented, as appropriate, with the following:

"The holder of such IPR has refused a request by OGC that it agree to make a license available for the purpose of implementing this specification. Information may be obtained from:

[.name of holder of right..]
[.address..]"

1.3 { TC "Patent Searches" \l 3}Patent Searches

In no case shall OGC be obligated to conduct searches for patents or other IPR that would be infringed by the implementation of an OGC specification.

1.4 { TC "Patents Revealed after Publication" \l 4}Patents Revealed after Publication

In the case where IPR is revealed following publication of an OGC specification, and the holder of such IPR claims that it covers items included in the specification, such holder will be asked to license the necessary IPR in the manner outlined in 1.1(b)(i) or (ii) above. If such a license cannot be obtained, the OGC specification shall be referred back to the relevant Working Group for further consideration, as appropriate.

2. { TC "Copyrights" \l 2}Copyrights

The copyright for all OGC draft and published specifications shall belong to OGC.

2.1 { TC "Contributions of Copyrighted Materials" \l 3}Contributions of Copyrighted Materials

Those who contribute their copyrighted materials to OGC shall retain copyright ownership of their original work, while at the same time granting OGC and all implementers of OGC specifications full rights to revise, modify, and create derivative works based on that original work, under OGC's own copyright.

3. { TC "Trade Secrets" \l 2}Trade Secrets

OGC members will not be expected to reveal trade secret information to OGC, nor will they be asked to sign non-disclosure agreements by OGC.

OGC cannot be held responsible for the disclosure of any Member or non-Member's trade secret regardless of the circumstances.

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Adopted 9 May 2002

4. { TC “Trademarks” \l 2}Trademarks

4.1 { TC “OGC Trademarks” \l 3}OGC Trademarks

OGC trademarks, registered or otherwise, are the property of OGC. Their use shall be governed by such policies, procedures and guidelines as shall be approved by OGC from time to time, and applicable law.

4.2 { TC “Non-OGC Trademarks” \l 3}Non-OGC Trademarks

The use of trademarks not owned by OGC shall be in accordance with applicable law and such contractual requirements as may be imposed by the owners of such trademarks.

5. { TC “Submissions and Responses to Calls” \l 2}Submissions and Responses to Calls

All submissions of technology for adoption consideration, and all responses to calls for patents, shall be on such forms implementing the rules set forth in this Policy as OGC shall from time to time choose to employ. This policy may be supplemented at any time by such additional rules as the Board of Directors may elect or approve, including with respect to determining those who shall be required to answer a call for patents, and the consequences, if any, for any failure to use such form, or to answer a call.

Exhibit B

OPEN GIS CONSORTIUM, INC.

OGC Technical Committee Policies & Procedures

{ TC “Exhibit B OGC Technical Committee Policies & Procedures” \1 1 \n }This document outlines the policies and procedures used by the Technical Committee of the Open GIS Consortium, Inc. These policies and procedures may change by vote of the Technical Committee or by action of the Open GIS Consortium Planning Committee as the needs and purpose of the Technical Committee change.

The current version of The OGC Technical Committee Polices & Procedures may be downloaded from <http://www.opengis.org/ogcSpecsPrg.htm> by selecting “Specification Development Process (.pdf).” If you prefer, you may request a hard copy from OGC by calling +1 (508) 655-5858 or sending an email to info@opengis.org that includes your name, mailing address and phone number.

Exhibit C

OPEN GIS CONSORTIUM, INC.

Submission of Technology Form

9 May 2002

{ TC "Exhibit C Submission of Technology Form" \l 1 \n }**NOTE:** All blanks must be completed in order for this submission to be given consideration. This submission is subject to all such guidelines, policies and procedures of Open GIS Consortium, Inc. ("OGC") as may currently be in force.

Name of Submitting

Organization ("Submitter"): ...

Name of Person Completing this

**Form on Behalf of Submitter
("Representative"):** ...

Mailing Address of Representative: ...

Email Address of Representative: ...

Request for Proposal or request for

**Information to which this submission
relates, if any (the "RFP/RFI"):** ...

A. The Representative hereby represents the following on behalf of him/herself and the Submitter, as the context requires:

1. The Representative is authorized to make the submission attached hereto as Exhibit A on behalf of the Submitter, and to make the following representations and warranties.

2. The Submitter has reviewed the current Policy Regarding Intellectual Property Rights of OGC and agrees that its submission is being made in full compliance with those Policies.

3. The Submitter hereby irrevocably agrees that, if its submission is finally approved by OGC for incorporation into a specification or amendment, that it will, on request, license all patented technology, patent applications, and other intellectual property ("IPR") which are owned by it and which might be infringed by an implementation of the proposed specification or amendment, on a perpetual, non-exclusive and worldwide basis, to those (Members and non-Members alike) desiring to use such patented technology or other IPR for the purpose of implementing such specification or amendment; provided, however, that such license shall extend only to the extent necessary to implement such specification or amendment and to the extent such implementation would necessarily infringe such patented technology or other IPR, and that such license shall be without charge, and will otherwise be under reasonable terms and conditions which are demonstrably free of unfair discrimination.

Open GIS Consortium, Inc.
Submission of Technology Form
9 May 2002

4. The Submitter hereby agrees that OGC may copy, distribute and otherwise make available this submission for the purpose of evaluation, and that in the event that the submission is accepted, that OGC will own the copyright in the resulting specification or amendment and all rights therein, including the rights of distribution. This agreement shall not in any way deprive the Submitter of any patent or other IPR relating to the technology to which its submission relates.

5. The Submitter is not aware of any patent or other IPR of any third party which might be infringed by the implementation of the specification or amendment as a result of the incorporation of the Submitter's submission therein, whether in whole or in part. If the Submitter is aware of any such potential infringement, then the Submitter has described such patent or other IPR in Exhibit B hereto, together with any supporting documentation that may be readily available to the Submitter.

B. OGC, in accepting this submission, acknowledges the following:

EXCEPT AS SPECIFICALLY PROVIDED FOR ABOVE, THIS SUBMISSION IS BEING OFFERED WITHOUT ANY WARRANTY WHATSOEVER, AND IN PARTICULAR, ANY WARRANTY OF NON-INFRINGEMENT IS EXPRESSLY DISCLAIMED, EXCEPT TO THE EXTENT OF KNOWING FALSITY IN ANY STATEMENT MADE ABOVE. ANY IMPLEMENTATION OF ANY SPECIFICATION OR AMENDMENT INCORPORATING THIS SUBMISSION IN WHOLE OR IN PART SHALL BE MADE ENTIRELY AT THE IMPLEMENTER'S OWN RISK, AND THE SUBMITTER SHALL HAVE NO LIABILITY WHATSOEVER TO ANY IMPLEMENTER OR THIRD PARTY FOR ANY DAMAGES OF ANY NATURE WHATSOEVER DIRECTLY OR INDIRECTLY ARISING FROM SUCH IMPLEMENTATION, EXCEPT AS A RESULT OF ANY KNOWING FALSITY IN ANY STATEMENT MADE ABOVE.

This submission has been made on [day month] 200[y].

[Name of Submitter]

By: _____
(Signature of Representative)

Open GIS Consortium, Inc.
Submission of Technology Form
9 May 2002

Submission of Technology Form

EXHIBIT A
SUBMISSION

Open GIS Consortium, Inc.
Submission of Technology Form
9 May 2002

Submission of Technology Form

EXHIBIT B

POTENTIALLY INFRINGED INTELLECTUAL PROPERTY

[Please identify patents by file number and relevant claim(s) where possible]

Exhibit D

OPEN GIS CONSORTIUM, INC.

IPR Response Form

9 May 2002

{ TC "Exhibit D IPR Response Form" \l 1 \n }**NOTE:** All blanks must be completed in order for this response to be given consideration. This response submission is subject to all such guidelines, policies and procedures of Open GIS Consortium, Inc. ("OGC") as may currently be in force. This form is to be completed on behalf of each Member that is entitled to vote to recommend a specification to the Board of Directors for adoption.

Name of Member: ...

Name of Person Completing this Form on Behalf of Member ("Representative"): ...

Mailing Address of Representative: ...

Email Address of Representative: ...

Specification or Amendment to which this vote relates (the "Specification"): ...

A. The Representative hereby represents the following on behalf of him/herself and the Member, as the context requires:

1. The Representative is authorized on behalf of the Member to make the following representations and warranties.

2. The Member has reviewed the current Policy Regarding Intellectual Property Rights of OGC and agrees that it will fully comply with those Policies.

3. The Member hereby irrevocably agrees that if the specification to which this IPR Response Form relates (the "Specification") is finally approved by, that it will do one of the following (please check one blank):

_____ The Member hereby irrevocably agrees that it will, on request, license all patented technology, patent applications, and other intellectual property ("IPR") which are owned by it and which might be infringed by an implementation of the proposed specification or amendment, on a perpetual, non-exclusive and worldwide basis, to those (Members and non-Members alike) desiring to use such patented technology or other IPR for the purpose of implementing such specification or amendment; provided, however, that such license shall extend only to the extent necessary to implement such specification or amendment and to the extent such implementation would necessarily infringe such patented technology or other IPR, and that such license shall be (please check one blank):

Open GIS Consortium, Inc.
IPR Response Form
9 May 2002

_____ without charge, and will otherwise be under reasonable terms and conditions which are demonstrably free of unfair discrimination; or

_____ under reasonable terms and conditions that are demonstrably free of unfair discrimination.

_____ The Member identifies on Exhibit A any patent(s) and/or other IPR which is owned by it which it asserts would be infringed by an implementation of the Specification and the portion of the Specification which would result in the infringement, and indicates that no guarantee of license rights is being made (or that such rights will in fact be denied in all cases).

4. The Member is not aware of any patent or other IPR of any third party that might be infringed by the implementation of the Specification. If the Member is aware of any such potential infringement, then the Member has described such patent or other IPR in on Exhibit B, together with any supporting documentation that may be readily available to the Member.

B. OGC, in accepting this form, acknowledges that the representation required in paragraph A.4 above is being solicited purely for informational purposes, and that OGC will not be relying on such representation or otherwise holding the Member responsible for its accuracy.

This submission has been made on [**day month**] 200[**y**].

[Name of Member]

By: _____
(Signature of Representative)

Open GIS Consortium, Inc.
IPR Response Form
9 May 2002

IPR Response Form

EXHIBIT A

RESERVED INTELLECTUAL PROPERTY

[Please identify patents by file number and relevant claim(s)]

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IPR Response Form

EXHIBIT B

POTENTIALLY INFRINGED INTELLECTUAL PROPERTY

[Please identify patents by file number and relevant claim(s) where possible]

Exhibit E

OPEN GIS CONSORTIUM, INC.

License Agreement

9 May 2002

{ TC "Exhibit E Sample License Agreement" \l 1 \n }SAMPLE LICENSE AGREEMENT

[Note: This form requires customization before posting to the website in order to address the facts relating to a given specification]

BEFORE YOU CLICK ON THE ACCEPT BUTTON AT THE END OF THIS DOCUMENT, CAREFULLY READ ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT. BY CLICKING ON THE ACCEPT BUTTON, YOU ARE CONSENTING TO BE BOUND BY AND ARE BECOMING A PARTY TO THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CLICK THE "DO NOT ACCEPT" BUTTON AND DO NOT DOWNLOAD THIS INTELLECTUAL PROPERTY.

Readers of this document are requested to submit to Open GIS Consortium, Inc. ("Licensor"), with their comments, notification of any relevant patent rights or other intellectual property rights of which they may be aware which might be infringed by any use of this [Intellectual Property product or][specification] the "Intellectual Property"), as appropriate, and to provide supporting documentation.

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Exhibit F
OPEN GIS CONSORTIUM, INC.
IPR Policy Frequently Asked Questions
9 May 2002

{ TC “Exhibit F IPR Frequently Asked Questions” \l 1 \n } This FAQ document relates to the intellectual property rights (“IPR”) program administered by the Open GIS Consortium, Inc. (“OGC”).

Q. What is the OGC IPR program?

A. The OGC IPR program is the legal rights administration process under which OGC’s technology adoption process operates. For an *Overview* of the program, click <link>.

Q: Under what rules does the OGC IPR program operate?

A. The OGC IPR program operates under the *OGC Policy Regarding Intellectual Property Rights* <link>, and is implemented through *The OGC Technical Committee Policies and Procedures* <link>. Both documents have been adopted by the OGC Board of Directors, which oversees the OGC IPR program.

Q: What rights does OGC ask for from contributors?

A. Like all other consortia, OGC will only accept technology that may be made available to members and non-members on terms that are “reasonable and non-discriminatory” (or “RAND” terms, as they are usually referred to). OGC also requires all contributors to license on a royalty-free basis, in order to make the implementation of OGC specifications as easy as possible.

Q. If I join OGC, would I be required to license my IPR?

A. No. OGC does not require members to license, but also does not wish to knowingly adopt a specification that a member could block from implementation. As a result, before finally adopting a specification, it asks each OGC member that is entitled to vote to state whether it will make needed license rights available to all implementers to the extent that an implementation of an OGC specification would necessarily result in the infringement of any IPR owned by that member. The member must respond, stating whether it will or will not make such license rights available. All such licenses must be on a RAND basis.

Q. Why would I want to license my IPR?

A. A very large number of companies, including many of the world’s largest, have decided that the benefits which they derive from employing the many standards which have been adopted in the technology industry far outweigh any inconvenience relating to the need to license their own IPR to others. These companies join and participate in many bodies such as OGC deciding in advance that if any of their IPR would be infringed by an adopted standard or specification, that they will gladly make any required rights available, usually without cost. Often, companies receive collateral benefits when specifications incorporate their IPR.

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Q. Do members have to provide free licenses as well?

A. No. OGC does not want to discourage companies with valuable IPR from becoming members. Hence, while it strongly encourages its members to provide license rights on a royalty free basis in order to facilitate wide implementation, a member may indicate whether it will or will not require a royalty with regard to any of its IPR which would be infringed by the implementation of an OGC specification.

Q. What about third party IPR?

A. OGC would not knowingly adopt a specification that it believed would require the infringement of third party IPR unless the owner of that IPR had agreed to provide license rights on a RAND basis. However, due to cost and other reasons, OGC does not perform patent searches prior to adopting a specification, and thus it is possible that a third party may assert infringement after a specification has been adopted. Further, there may be allegations before or after adoption that a specification would infringe third party rights, which OGC and its members believe are groundless. If OGC becomes aware of any allegations of infringement, it will place a notice to such affect at its website. However, OGC assumes no duty to learn of such allegations, and implementers of specifications and purchasers of products based on OGC specifications do so at their own risk.

Q. How do I secure the right to review an OGC specification?

A. All OGC specifications are available through this page of the OGC website: <link>. In order to download a specification, and in order to implement the specification, you must agree to the terms of the “click wrap” license agreement that you will find there. Depending on the specification, you may also need to click through to the website(s) of other IPR owner(s) and agree to additional license terms.

Q. Are non-member implementers required to license their IPR?

A. No. As with members, OGC does not have the desire or the ability to compel anyone to make its IPR available, either against its will or to avoid being disadvantaged in the marketplace. However, in the event that a non-member implementer of an OGC specification asserts that its IPR would be infringed by the implementation by others of the same specification, then the IPR holder’s license may be revoked by the original technology submitter and/or any OGC members that had earlier agreed to make license rights available. This “levels” the playing field between the parties involved.