



## Advanced Media Workflow Association Intellectual Property Rights Fact Sheet

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### 1. Document Overview

The Advanced Media Workflow Association, Inc.<sup>™</sup> (AMWA<sup>™</sup>) has been carefully structured so that:

1. Implementers can easily obtain compensation-free licenses to all necessary intellectual property (IP) related to AMWA technologies;
2. AMWA provides an environment in which Members are encouraged to contribute IP in a way that protects their IP;
3. AMWA technology can be extended over time to support the evolving needs of end-users and Implementers.

To promote and protect these three key goals, the AMWA has put in place a unique organizational structure, reinforced by a set of carefully constructed legal agreements. This document offers a layperson's explanation of the "*Intellectual Property Policy of the Advanced Media Workflow Association, Inc.*" (IP Policy) and associated legal documents. (Note that many of the capitalized terms used throughout this document are defined terms in the AMWA IP Policy.)

*Disclaimer: This AMWA IP Fact Sheet summarizes and illustrates information contained in other documents, including the IP Policy, the Advanced Authoring Format Implementer's Agreement, and the AMWA By-laws. This AMWA IP Fact Sheet has been prepared for the convenience of the reader. If there is any inconsistency between this AMWA IP Fact Sheet and the other documents, then the other documents will control. For more complete information regarding these documents, reference should be made to the complete text of each document.*

### 2. Licensing AAF

One of the most frequently asked questions is, "*If I am not a Member of the AMWA, how do I obtain compensation-free licenses from the AMWA and its Members to implement a Specification or Update?*"

ANSWER:

1. Execute the AAF Implementer's Agreement and submit it to the AMWA; AND
2. Ask the AMWA for any required AMWA Member individual license agreements that may be on file. Execute and submit these license agreements to those AMWA Members providing the licenses. See [www.amwa.tv/licenses](http://www.amwa.tv/licenses) for current declarations and links to these license agreements.
3. Optionally, you may want to download and use the AAF Software Developers Kit (SDK), the definitive reference implementation for the AAF Specification, available at [www.sourceforge.net](http://www.sourceforge.net).

### 3. AMWA IP Policy Overview

The AMWA IP Policy is designed to support ongoing development of Specifications and Updates, while protecting the interests of Implementers, end-users, and IP holders/contributors alike. The AMWA IP Policy is informed by a set of guiding principles, detailed below.

#### Implementers and End-Users

The AMWA strives to create an environment in which the rights of Implementers and end-users are protected through an IP policy based on the following principles:

- **Compensation-Free, Non-Discriminatory IP Licensing.** Contributors are required to provide licenses to their necessary IP (*i.e.*, “Necessary Claims”) without compensation (such as royalties or other fees) and under other Reasonable And Non-Discriminatory (RAND) terms. This aspect of the AMWA IP Policy is based on AMWA’s goal of making Specifications and Updates freely available to developers and end-users without royalties or other fees.
- **IP Contributions Cannot Be Withdrawn.** IP Contributions generally cannot be revoked by contributors, even if the contributor becomes a non-Member in the future. In addition, in order to ensure backwards compatibility with future Updates, any Contribution made during development of a particular version of the Specification must also be licensed compensation-free for future Specifications or Updates, even if the original contributor withdraws from AMWA. This aspect of the AMWA IP Policy protects end-users and Implementers from future revocation of essential components. (An exception could be allowed in cases where drastic subsequent changes are made to the scope of the Specification.)
- **Duty to Disclose and Affirm.** AMWA Members have an ongoing duty to disclose any necessary IP they believe they hold in any required aspects of a Specification or Update. This obligation is triggered based on the actual and personal knowledge of the Member’s Representative(s) in AMWA. Also, when any official document or technology is finalized, a “review period” occurs during which Members have a broader obligation to disclose *all* necessary IP they hold in the Required Portions of the draft Specification, *regardless* of whether such IP is personally known to the Member’s Representatives. These disclosure obligations protect Implementers and end-users by ensuring that no AMWA Member will knowingly withhold information regarding IP that is necessary to implement a Specification or Update.
- **Silence Equals Consent.** All AMWA Members license necessary IP in their own Contributions compensation-free. They also agree that if, by the end of the “review period” described above, they don’t disclose their necessary IP in *other* parties’ Contributions (called “Non-Contributed Necessary Claims” in the IP Policy), they will license this indirect IP Contribution compensation-free by default. The principle behind this aspect of the AMWA IP Policy is that all Members of AMWA proceedings are inherently contributors – the AMWA IP Policy requires all Members to participate and contribute.
- **New Members Must License Necessary IP They Hold in Existing AAF Specifications.** In order to join the AMWA, New Members must agree to license any necessary IP they hold in Required Portions of existing versions of a Specification. This aspect of the AMWA IP Policy protects Implementers and end-users by ensuring that future AMWA Members also license their necessary IP just like existing Members.

#### Intellectual Property Rights Holders

The AMWA strives to create an environment in which IP Contributions are encouraged and protected through an IP policy based on the following principles:

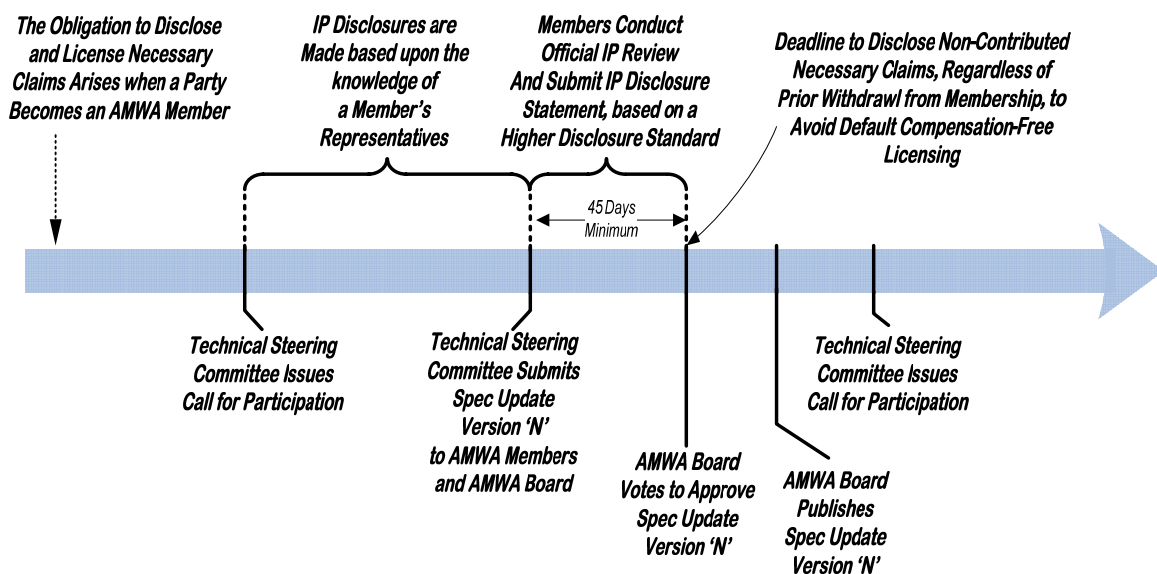
- **IP Contributions Are Controlled.** Contributions can only be made by AMWA Members under the auspices of a sanctioned AMWA proceeding or project. IP Contributions may be made by non-Members if sponsored by an AMWA Member. This aspect of the AMWA IP Policy controls and directs the flow of IP Contributions to ensure that they are visible to AMWA Members and can be captured properly in the Specification.

- IP Contributions Are Reflected in Written Documents.** Any written document (including electronic documentation like email) that is offered for inclusion in a Specification or Update as part of an official AMWA proceeding is considered an IP Contribution. Any oral statement similarly offered during an official AMWA proceeding that is captured in a written document (meeting minutes, for example) and confirmed by the contributor is considered an IP Contribution. This Policy protects IP holders by providing a clear mechanism for reporting activities of the AMWA so that Members can monitor Contributions in which they may hold IP.
- Indirect IP Contributions Can Be Excluded.** It may happen that one AMWA Member makes a Contribution that includes IP belonging to another AMWA Member. The AMWA IP Policy refers to indirect IP Contributions as “Non-Contributed Necessary Claims.” The AMWA IP Policy brings these indirect IP Contributions to light by requiring circulation of written documents, allowing all AMWA Members the opportunity to identify unintentional IP Contributions.

Regardless of who made the Contribution, any AMWA Member who owns necessary patent rights in a Contribution must disclose its position. If it does not wish to support an indirect IP Contribution, the AMWA Member can propose certain aspects of the proposed Specification be excluded, or may declare an intent either not to license the indirect IP Contribution or to license it in exchange for a royalty or other fee. This provision helps protect the patent portfolios of AMWA Members. Without such recourse, AMWA Members would effectively contribute their entire patent portfolios to AMWA just by joining the AMWA. Instead, the AMWA IP Policy makes it possible for AMWA Members to protect their patent portfolios from unintentional Contributions.

The AMWA will strive to adopt Specifications and Updates that will not require payment of a royalty or other compensation in order to create a compliant implementation (though, of course, AMWA cannot guarantee this, because, for example, IP holders that are not Members of AMWA may wish to charge a royalty for their necessary technology that covers a Specification or Update).

- IP Contributions are Subject to a Review Period.** IP Contributions are always made in the context of an official AMWA proceeding or project. Under the AMWA IP Policy, Members must be allowed at least forty-five days to review any final draft Specification or Update for indirect IP Contributions before the AMWA Board votes on it. It is during this interval that AMWA Members must disclose any necessary IP they believe they hold in indirect IP Contributions (beyond necessary IP previously disclosed under the IP Policy’s ongoing disclosure obligation described above) and either explicitly agree to license such necessary IP compensation-free or ask for exclusions for such indirect IP Contributions. The following diagram illustrates the timeline defined by the AMWA IP Policy:



- **IP Contributions are Licensed Only for the Purpose of Implementing AMWA Specifications.** When an AMWA Member makes an IP Contribution, it offers a license to this IP for use in an AMWA Specification or Update. But the AMWA Implementer's Agreement does not permit using AMWA-related IP for any purpose other than for implementing a Specification or Update in the Implementer's product. This helps to encourage IP Contributions by limiting their scope to AMWA Specifications.
- **IP Contributions Remain the Property of the Contributor.** By contributing to a Specification, Members agree to offer compensation-free licenses to any necessary IP they may hold in that Contribution that is required to implement the Specification. Although freely licensed for the purpose of implementations, IP Contributions remain the property of the contributors and may or may not be offered under different licenses for other uses under other terms.
- **IP Licensing is Reciprocal.** To obtain compensation-free licenses, Members and Implementers must also give reciprocal compensation-free licenses to any necessary IP they may hold in Specifications or Updates to all AMWA Members and all Implementers. This aspect of the AMWA IP Policy prevents Members and Implementers from receiving licenses while refusing to license necessary IP they may hold in a Specification or Update.

#### 4. Documents Affecting Intellectual Property Rights

For more complete information regarding these documents, direct reference should be made to the complete text of each document.

##### The AMWA By-laws

The AMWA By-laws authorize the AMWA Board of Directors to adopt policies and procedures regarding all intellectual property, Specifications, guidelines, and any other technology, publications, or assets granted or donated to, or developed or owned by the AMWA.

The Board of Directors on January 19, 2004 adopted an Intellectual Property (IP) Policy for AMWA Members (the "AMWA IP Policy").

The AMWA By-laws define different classes of membership in AMWA. The AMWA IP Policy applies to all Members and certain other participants in AMWA activities.

##### The AMWA Intellectual Property Policy

The AMWA IP Policy sets forth, among other things, Members' rights and obligations with respect to contributing and licensing IP in the Specifications and Updates.

The IP Policy includes an "Advanced Authoring Format Implementer's Agreement" (also called the "AAF Implementer's Agreement").

The IP Policy provides for the possibility that an AMWA Member may require Implementers to enter into a license agreement with the AMWA Member with respect to that AMWA Member's IP in the Specification. Any such AMWA Member must file a licensing declaration with the AMWA. See [www.amwa.tv/licenses](http://www.amwa.tv/licenses) for current patent declarations and links to license agreements.

##### The AAF Implementer's Agreement

The "AAF Implementer's Agreement" included in the IP Policy sets forth, among other things, Implementers' rights and obligations with respect to licensing IP in the Specifications and Updates.

##### The AAF SDK Public Source License

The AAF Software Developers Kit (SDK) includes software designed to assist Implementers in creating AAF-compliant applications. Source code for the AAF SDK is licensed under the AAF SDK Public Source License (PSL). Contributions to and licenses in IP in the SDK are also governed by the AAF SDK PSL. The AAF SDK PSL does not provide the same rights and obligations as the AMWA Implementer's Agreement. In particular, the PSL may not grant all of the rights in Necessary Claims to implement AAF. Therefore, a developer using the AAF SDK to create an AAF-compliant application also should execute the AMWA Implementer's Agreement and any other licenses made available by AMWA Members. However, an Implementer is not required to use, and may choose not to use, the AAF SDK.

AMWA Members' License Agreements

See [www.amwa.tv/licenses](http://www.amwa.tv/licenses) for current patent declarations and links to license agreements that Implementers may need to sign in order to implement a Specification or Update.

**5. Licensing IP in Specifications and Updates**

A. What are Specifications and Updates?

The Specifications and Updates are those official documents from the AMWA that define the Advanced Authoring Format, including versions of the AAF Specification, Application Specifications, protocols, Updates, and other documents.

B. Who owns the IP in the Specifications and Updates?

The AMWA owns the copyrights in the Specifications and Updates. Copyrights in Contributions made by Members to the Specifications and Updates are owned by those Members and are licensed to the AMWA. The AMWA has the right to sublicense the copyrights in these Contributions for specified purposes described below. Some AMWA Members own patent rights that cover implementations of a Specification or Update. Of course, no assurances can be made that all of the required patents are owned by AMWA Members.

C. Copyright Licenses

How do I obtain a copyright license?

Implementers are granted a copyright license to the Specifications and Updates by executing the AMWA Implementer's Agreement.

Members are granted a copyright license to the Specifications and Updates through the IP Policy to which they agree by becoming a Member.

What rights am I granted by the copyright license?

Generally, you may use the Specifications and Updates solely for the purpose of creating and distributing a Licensee's Product(s) and any accompanying documentation.

What limits are placed on the copyright license?

Generally, you may not sublicense these rights or use the Specifications and Updates for any other purpose, such as creating and distributing products that do not implement all relevant Required Portions of the Specification or Update.

D. Patent Licenses

How am I granted a patent license?

Implementers are granted licenses under patents covering the Specifications and Updates in two ways:

1. By executing and submitting to the AMWA the Implementer's Agreement. This grants you reciprocal licenses from other Implementers that may hold necessary IP covering the Specification or Update.
2. By executing and submitting to an AMWA Member any patent license required by that AMWA Member for its necessary IP covering the Specification or Update.

Members are granted licenses to patents covering the Specification and Updates in three ways:

1. By the commitment by each Member, through the AMWA IP Policy, to grant a license to all AMWA Members.
2. By the reciprocal license grants from other Implementers when they execute the AMWA Implementer's Agreement.
3. By executing and submitting to an AMWA Member any patent license required by that AMWA Member for its necessary IP covering the Specification or Update.

What rights are granted under the patent license provision in the AMWA IP Policy and the AMWA Implementer's Agreement?

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Generally, you may only make, have made, use, import, offer to sell, sell, lease, and otherwise distribute and dispose of Licensee's Products that implement a Specification or Update.

What limits are placed on the patent licenses granted under the AMWA IP Policy and the AMWA Implementer's Agreement?

Generally, the patent license granted under the AMWA IP Policy is expressly conditioned upon an Implementer's execution of the AMWA Implementer's Agreement and upon an AMWA Member's agreement to grant a reciprocal compensation-free patent license. Also, the license does not apply to products that are not "Licensee Products," such as a product that does not implement all relevant Required Portions of a Specification or Update. The patent rights that are licensed are limited to Necessary Claims.

### For the Legally Inclined . . .

The patent license grants are defined by Section 3 of the AMWA IP Policy and Section 2 of the AMWA Implementer's Agreement. "Licensee's Products" and "Necessary Claims" are defined terms in Section 2 of the AMWA IP Policy and are used throughout the AMWA IP Policy. The copyright license grants are covered in Section 7 of the AMWA IP Policy and Section 2 of the AMWA Implementer's Agreement. Use of the terms "AAF" and "Advanced Authoring Format" is governed by Section 6 of the AMWA IP Policy (and the AMWA Conformance Statement referenced in this section) and Section 5 of the AMWA Implementer's Agreement.

## **6. Other Frequently Asked Questions.**

1. What is the difference between Required Portions of a Specification and an optional portion?

A Required Portion of the Specification is any portion of the Specification that is required for an implementation to comply with the Specification. The AMWA endeavors to follow the conventions set out in [RFC 2119](#), such that the Specification will use words such as "must" to indicate a requirement. A word such as "may" will indicate an optional element. Notably, where a set of optional elements is provided, but the Specification requires use of any one of them, then each of the elements is considered to be a Required Portion. The AMWA has created a Conformance Statement to further define and clarify when an element of a Specification or Update is optional or required.

2. How does the AMWA IP Policy address the problem of Members that withdraw and later obtain patent rights covering a Specification?

All Members have obligations to disclose and license Necessary Claims. "Necessary Claims" include "claims of an issued patent or patent application that . . . are owned or controlled by a Member . . . *now or at any future time*" (emphasis added). Therefore, whether a claim is a Necessary Claim is not affected by the Member's withdrawal. Thus, when a Member withdraws, its licensing obligation (which first arose with respect to a Specification or Update when the party became an AMWA Member) continues for the particular Specification(s) or Update(s) that was/were adopted or in development during its membership. Specifically, a Member's withdrawal does not cut off its licensing obligation for any Necessary Claims covering its own Contributions to a particular Specification or Update. Moreover, with respect to any of the withdrawn Member's Necessary Claims relating to such Specification or Update that are covered by the Contributions of *other* parties, such withdrawn Member can only cut off its licensing obligation for such "Non-Contributed Necessary Claims" if it discloses them to AMWA *prior to the end of the review period for the particular Specification or Update*, thereby affording the AMWA working group an opportunity to work around the asserted Necessary Claims, if need be, prior to final adoption of such Specification or Update by the AMWA Board. If a withdrawn Member fails to disclose its Non-Contributed Necessary Claims to AMWA prior to the end of the review period, such Necessary Claims will be subject to the compensation-free licensing obligation of the IP Policy, even if those Necessary Claims were added to a patent application *after* the Member withdrew. Through these provisions, the IP Policy protects against parties participating in AMWA simply to gain important knowledge about the direction of a particular Specification or Update and then withdrawing and attempting to secure patent rights that cover such Specification or Update that are not subject to the IP Policy's licensing obligations.

3. The IP Policy states that a Member may declare an intent to license only with compensation. How can AAF be compensation-free?

The AMWA's goal is to adopt Specifications and Updates that will not require payment of a royalty or other compensation by Implementers or end-users. Although a Member may declare an intent to grant a license requiring compensation, this option is not available to a Member for any of the Member's Necessary Claims:

1. In Contributions made by that Member;
2. In Specifications or Updates adopted before the Member joined the AMWA;
3. That are not disclosed by the Member prior to adoption of an Specification or Update.

By requiring patent disclosures and licensing declarations, the AMWA can identify blocking patents owned by its Members prior to adoption of a Specification or Update, which permits the Specification or Update to be modified to exclude any patented technology that would be subject to a royalty or fee or to permit other courses of action to be taken.

Also, if no patent disclosure and licensing declaration is made, the default condition is that the Necessary Claims are required to be licensed compensation-free. This default condition applies to all of a Member's undisclosed Necessary Claims, despite the lack of actual or personal knowledge by any individual Representative who participates in the AMWA Group on behalf of the Member.

4. Is there a field of use limitation on the patent licenses?

Yes. The patent license grants are limited to Necessary Claims and to products that implement all relevant Required Portions of the Specification. Thus, patent license grants are limited to implementations.

5. How do AMWA and the Specification relate to other standards organizations and similar standards, such as SMPTE and MXF?

Other standards bodies have their own intellectual property policies that are separate and distinct from the AMWA IP Policy. Licenses granted to Necessary Claims under the AMWA IP Policy do not necessarily apply to implementations of other standards.

6. What licenses do I grant if I become a new Member of the AMWA?

Any new Member of the AMWA grants compensation-free licenses to any Necessary Claims it may have in pre-existing Specifications or Updates.

7. Who can make Contributions to a Specification or Update?

Although only Principal Members can initiate or propose that work be started on a new Specification or Update, any Member of any level of AMWA Membership may make Contributions to the development of the Specification or Update.

8. When do I need to sign an Implementer's Agreement?

At any time before you implement an Specification or Update.