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IBM Statement of Support of Open Standards-Based Healthcare Industry and Education Industry Standards with a Patent Nonassert

The Healthcare Industry and the Education Industry both have complex information needs and complex ecosystems across which information must be accurately, securely and efficiently shared. Standards can foster interoperability and dramatically improve the ability to communicate data and information among and between companies, throughout communities. IBM has shown our commitment to open standards by working actively in standards organizations for many years. IBM is again taking a leadership role to further drive the adoption of software interoperability standards in these important industries. We are announcing that IBM patents will be available for the development, implementation and use of selected open healthcare and education software standards, through a patent nonassert described in legal terms below.

Legally Binding Patent Nonassert

IBM will not assert any Necessary Patent Claims against you in your making, use of, and distribution of implementations (and products, components, and features that are included in implementations) that are fully compliant with all the required portions of a Covered Standard, subject to the following. This nonassert applies only if you abstain from filing, maintaining, or voluntarily participating in a lawsuit that asserts patents or other intellectual property rights (“Asserting Acts”) against others for their implementation of any Covered Standard. IBM may terminate this nonassert as to any or all Covered Standards if you engage in an Asserting Act. The nonassert is personal and all rights are directly from IBM and not received through distribution or otherwise. This nonassert covers products, components, features, and implementations, only to the extent they are implemented in the Healthcare Industry or Education Industry in accordance with the Covered Standards. Subject to the foregoing conditions, this nonassert is irrevocable.

“Necessary Patent Claims” shall apply to those patents owned by IBM at the time a standard becomes a Covered Standard or thereafter acquired by IBM, and shall have the same definition as stated for either Necessary or Essential Patent claims in the policy of the applicable standards organization or, if there is no such definition, shall mean any patent claim which cannot be avoided by any fully compliant implementation of the Covered Standard.

“Covered Standard” shall mean any standard specification, which IBM includes on the Covered Standards List now or in the future, solely to the extent that such specification enables and conforms with open standard-based software interoperability (pertaining to protocols, data, document, and message formats, interface descriptions) in the healthcare or education fields. IBM will include on the Covered Standards List specifications of those Technical Committees and Working Groups of those standards organizations identified in the attached Healthcare Standards Initiatives and Education Standards Initiatives (“Initiatives”) if IBM determines, in its sole discretion, that

- (i) The specification complies with the Scope of Work of the Technical Committee (or Working Group) as set forth in the Initiatives, and is approved or recommended by and published as final by the listed standards organization under which the Technical Committee (or Working Group) developed the specification;
- (ii) The specification enables and conforms with open standard-based software interoperability in the healthcare or education fields,

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- (iii) The specification builds upon and conforms to at least one of the following as identified with versions in the attached Technology Standards list:
 - (a) both the SOAP and WSDL specifications, with use described in the Web Services Interoperability Organization Basic Profile 1.1; or
 - (b) W3C XForms; or
 - (c) OASIS OpenDocument Format for Office Applications; and
- (iv) The specification is consistent with and uses the applicable listed Technology Standards.

New versions of previously listed standards will be separately considered for addition to the Covered Standard list.

Please see:

COVERED STANDARDS LIST

TECHNOLOGY STANDARDS

HEALTHCARE STANDARDS INITIATIVES (WITH TECHNICAL COMMITTEE/WORKING GROUP AND SCOPE OF WORK)

EDUCATION STANDARDS INITIATIVES (WITH TECHNICAL COMMITTEE/ AND SCOPE OF WORK)