



September 2, 2004
To: OMA Members
Re: Change in OMA's IPR Policy

Decision by the OMA Board of Directors

Dear Members,

In accordance with OMA's constitutional documents, OMA's Board of Directors has decided by unanimous written consent to revise the OMA provisions governing the licensing of intellectual property rights ("IPR") in order to allow reciprocal licensing of Essential IPR's to non-OMA members and not just to OMA members. The specific amendments to the OMA IPR policy are as indicated on the marked-up Application Form (a copy of which is attached to this note). These amendments to the Application Form will be effective as of January 1st, 2005. From that date, all OMA members will be subject to these revised provisions governing the licensing of Essential IPR's.

The Board decided to make this change in order to bring OMA's IPR policy more in line with the IPR policies of other comparable organizations. These policies primarily provide for reciprocal licensing to both members and non-members. OMA received a number of requests from organizations such as 3GPP and 3GPP2 to consider this type of revision to its IPR policy, to facilitate better working relationships with such organizations.

Existing OMA Specifications

The OMA Specifications in existence prior to January 1st, 2005 will remain under the existing IPR policy, which is as set out in the existing Application Form and among other points states that the reciprocal licensing provisions governing Essential IPR's apply only to OMA members and not to non-OMA members.

Revised and Future OMA Specifications

The revised OMA IPR policy will apply to all Specifications approved after December 31st, 2004. This will encompass two types of Specification:

- (i) all new versions of existing OMA Specifications; and
- (ii) all new OMA Specifications.

To recap, as from January 1st, 2005, the IPR licensing provisions will be amended in line with the revised IPR policy and thus OMA members will be governed by this revised IPR policy, which provides for reciprocal licensing of Essential IPR to non-OMA members as well as to OMA members.



Membership Provisions

The Board of Directors would like to point out that if an OMA member decides it does not want to fall under the revised IPR policy, then this member may elect to terminate its membership, provided it does so prior to January 1st, 2005. In such circumstances paragraph 11 of the Schedule to the Application Form provides that if a member does leave OMA, then its obligations regarding the licensing of its IPR shall survive termination of membership but only to the extent that such obligations relate to IPR which is in existence during its membership and which is Essential IPR for a Specification or Standard in existence at any time during its membership. Accordingly, a member is not compelled to have its IPR governed by the revised IPR policy if it elects to terminate its membership prior to January 1st, 2005.

Defined Terms

The terms capitalized in this notice are defined in OMA's Application Form (and the Schedule thereto) or in OMA's Articles of Association.

Sincerely,

Jari Alvinen
Chairman of the Board
Open Mobile Alliance Ltd.