

RFID Vendors to Launch Patent Pool

Some 20 providers of RFID technology have announced plans to create a patent pool, which could end confusion and contention over patent royalties.

By Mark Roberti

Aug. 9, 2005—In what could be a major step toward resolving the ongoing confusion over radio frequency identification patents, nearly 20 providers of RFID technology have announced plans to form an intellectual property (IP) licensing consortium—essentially a patent pool—to make it easier for vendors to license patents, reduce risks for end users and provide a convenient way for patent holders to manage their IP.

The consortium will be similar to those set up to manage patents for MPEG-2 and DVD technologies. The plan is to license intellectual property on a reasonable and nondiscriminatory (RAND) basis. Sources say the consortium will likely charge one royalty fee on all RFID products based on EPCglobal's Gen 2 standard for the Electronic Product Code air interface protocol, as well as on International Organization for Standardization (ISO) protocols, and divide the revenue among the patent holders, based on the importance of their patents. The companies proposing the formation of the pool believe this will keep the cost of RFID equipment down, fostering adoption, and provide a way for companies to be compensated for their IP.

To join the pool, a company or individual must hold patents deemed essential to the second-generation EPC standard. The official members thus far are [Alien Technology](#), [Applied Wireless Identifications Group \(AWID\)](#), [Avery Dennison](#), Moore Wallace (owned by global printing company [RR Donnelley](#)), [Symbol Technologies](#), [ThingMagic](#), [Tyco Fire & Security](#) and [Zebra Technologies](#).

Another dozen or so companies, including [Magellan Technology](#), [Precisia](#) and [Printronic](#), have participated in the group's meetings. Some are in the process of joining; others don't have essential patents but are eager to see the pool created so they can go to one entity to get access to the patents they need to produce Gen 2 products. The companies behind the pool are encouraging any company or individual with RFID patents to join the pool. Their technology will be evaluated and if deemed important, they will be allowed to join the pool and will get a portion of the pool's revenue based on the relative importance of their patents.

The pool emerged out of behind-the-scenes meetings held among vendors to determine a way of jointly responding to Intermec's demands for royalties for its patents. Sources say the group looked at possibly combining resources to challenge Intermec's patents, but there was some concern among members that they could run afoul of antitrust laws in the United States.

A patent law firm, [Bell, Boyd & Lloyd](#) of Chicago, was hired by the group to help form the patent pool based on accepted legal practices and precedents. The patent pool group has contacted [Intermec Technologies](#), which holds some 140 patents, some of which are considered by many to be essential to the Gen 2 protocol. Intermec has, so far, not joined the pool. But sources say it has not dismissed the possibility of joining.

Although Intermec is in a strong patent position, it could have reasons for wanting to join the pool. Litigation is expensive, and if Intermec is forced to sue several vendors to enforce its patent rights, that could get costly

over time (the firm is already in a series of bitter suits with Symbol). There's no guarantee Intermec would win any patent lawsuits, because juries are unpredictable. Also, Intermec has been portrayed in some media as the bad guy, blocking rapid adoption of EPC technologies.

The outside team of experts will determine the relative importance of each patent, and the company holding that patent will receive a share of revenue based on the patent's importance. If Intermec's patents are deemed most critical to the protocol, it could wind up getting a larger share of the patent pool revenue than others.

Stan Drobac, Avery Dennison's vice president of RFID strategy and planning, states that the consortium's patent pool "is not intended to try to attack or replace Intermec's Rapid Start Licensing Program." Launched by Intermec in May (see [Intermec Announces Licensing Plan](#)), the program provides a license for various portfolios of the company's RFID patents in return for an initial fee and royalties. "The patent pool could include some of the patents in the Rapid Start program, but Rapid Start contains many more patents than those that are necessary [to the Gen 2 protocol]."

In an e-mail message to *RFID Journal*, Intermec President Tom Miller wrote there are "potentially other RFID patents that may be relevant to supply chain applications scattered across a large number of companies and institutions" and that aggregation of the RFID patents may be beneficial for the RFID industry and could encourage companies that previously have not done so to disclose their RFID patents. "It's too early, however, to draw a conclusion about the pros and cons of the consortium until the details of its purpose, ownership, control, processes participation by patent holders and legal compliance become available," he added.

Miller noted that he does not expect the consortium to have any impact on Intermec's Rapid Start program. "In fact, some of the companies that are involved in the consortium, including Zebra Technologies, have already signed a Rapid Start license," he said.

Even if Intermec doesn't join, the patent pool could still benefit the RFID industry in several ways. Vendors looking to create products could wind up negotiating only two licenses—one with Intermec, one with the pool—rather than having to deal with potentially dozens. And the patent pool could wind up cross-licensing patents with Intermec, which would be more efficient than each patent holder striking a separate deal, and the pool might get a more favorable rate than each company would separately. That could result in end users paying less for RFID products because the royalties paid by manufacturers would be lower.

It will likely take several months to evaluate all the patents to decide which are essential to the EPC Gen 2 protocol, determine the final membership of the pool and then calculate the royalty rate.

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