

EPC Doesn't Infringe RFID Patents

An intellectual property law firm retained by EAN-UCC has found no RFID patents that would prevent the adoption of the Auto-ID Center's technology.

March. 4, 2003 - [EAN International](#) and the [Uniform Code Council](#) say that an investigation of intellectual property issues surrounding the use of the UHF specification developed by the Auto-ID Center has turned up no patents that would prevent adoption of the specification.

The news was announced at an Auto-ID Center board meeting held in Atlanta last week. EAN and the UCC are currently in negotiations with the Massachusetts Institute of Technology to assume responsibility for the commercialization of technology developed by MIT's [Auto-ID Center](#). The technology includes specifications for RFID tags and readers, as well as network infrastructure for managing data from readers.

EAN-UCC has been doing due diligence before assuming any responsibility for administering electronic product codes (EPC). As part of that process, EAN-UCC retained the intellectual property law firm [Dann, Dorfman, Herrell and Skillman](#) to see if there was any intellectual property owned by third parties that is essential to the implementation of the specifications developed by the Center. If there were, the law firm would also help find a strategy for addressing the issue.

Stephen Brown, the UCC's senior VP and general counsel, told members of the Auto-ID Center that the outside lawyers have been investigating the IP issue since December. Brown said their work is not complete. But the lawyers have examined more than 4,500 patents, including all of those identified by Auto-ID Center sponsors who responded to a request from the center. And they have not found any patents held by third parties that would block the implementation of the specification.

"It doesn't mean any of the patents that are out there are necessarily invalid," Brown told *RFID Journal*. "The question they are looking at is: Does the existence of any patent prevent the implementation of the Auto-ID Center specification unless you obtain a license for that patent? And they have not found any patents where they believe that would be the case."

The lawyers looked mainly at the specification for Class 1 UHF tags. They have not formally begun their investigation into patents that might relate to Class 1 tags operating at 13.56 MHz and Class 0 tags, which are read-only factory-programmable tags. And they have not begun looking into patents that might relate to the network technologies developed by the Auto-ID Center. But Brown said the law firm expects to complete its work no later than March 26.

The Auto-ID Center has been considering setting up a patent pool to manage patents that relate to its specification. However, since no patents that might block implementation have been identified, EAN-UCC has concluded that it does not appear that a patent pool is necessary.

The news provides some reassurance to vendors developing products based on the Auto-ID Center specification as well as companies that might be considering investing in EPC technology. But it is by no means the last word on the patent issue. In fact, EAN-UCC is hoping that by releasing preliminary findings, it

will encourage patent holders to come forward.

"Our outside counsel keeps saying to me, 'I'm looking for a boogey man under the bed. I haven't been able to find him. Please, go tell people that I haven't found him yet, but if they know where he is, let me know.' We want to let people know that if they think there is a blocking patent out there, they should let us know and we'll take a look at it," Brown says.

EAN-UCC is still negotiating with MIT over the future of the Auto-ID Center. A deal could be signed within a couple of months. If it does happen, EAN-UCC will take over much of the administrative work surrounding the EPC after the technology is formally launched in the fall. MIT would continue to develop network technologies that make the sharing of information on products possible.

In a statement released to members of the Auto-ID Center, EAN-UCC said: "It would be premature and presumptuous to state definitively how we will treat the material owned by MIT that, we hope, will be licensed to EAN-UCC. However, we can state that EAN and UCC are committed to widespread, open use of the 'new network' and we shall adopt policies that encourage such widespread use while protecting the integrity of the network."

[RFID Journal Home](#)

Copyright ©2005 RFID Journal, Inc. All Rights Reserved