

Patent Progress

Intermec's decision to sign EPCglobal's intellectual property agreement is a sign that the industry is moving forward.

By Mark Roberti

Feb. 9, 2004—The news that [Intermec Technologies](#) has joined [EPCglobal](#) and signed that organization's intellectual property agreement is significant for the future of Electronic Product Code (EPC) technology and its use globally. Intermec, which manufactures UHF tags and readers, is one of the largest holders of RFID patents. It was an early supporter of the Auto-ID Center's work in developing EPC technology. But the company, like other RFID vendors, had concerns about joining EPCglobal, because EPCglobal was asking all companies that participate in the development of standards to agree to contribute their intellectual property on a royalty-free basis.

A compromise has been reached between EPCglobal and RFID vendors. Intermec's decision to sign the intellectual property agreement will be a signal to others in the industry that their patents will be protected. I expect to see over the next two months announcements from other major RFID technology providers that they have also signed the IP agreement. Even Microsoft, which jealously guards its intellectual property, says it's close to a point where it feels that it can participate in EPCglobal's development work.

The compromise basically says that intellectual property created before a company joined EPCglobal is protected; if a company's IP is needed for a standards specification, the company can decide whether or not it wants to contribute the IP. The company can also choose the terms under which it contributes its IP. For instance, it could opt to allow other EPCglobal subscribers to use its IP on a royalty-free, cross-licensing or reasonable and non-discriminatory bases, or RAND. (RAND is how most standards work. It basically says companies can't set exorbitant fees or choose who can and can't use the IP.)

As with all compromises, this one isn't perfect. In an ideal world (for end users), all intellectual property contributed to the EPC specifications would be royalty free, which would keep costs down and encourage adoption. It's not clear at this point how much or how little existing intellectual property will be needed for the Class 1, Gen 2 EPC specification, or future specifications for Classes 2, 3, 4 and 5. If the new standards require a lot of existing IP—and RFID vendors demand royalties—that will increase the overall cost of the EPC system, which will slow adoption. If few or no existing patents are needed, then the EPC system will largely be available royalty free.

To some extent, the new IP policy sleights [Alien Technology](#) and [Matrics](#), two companies that worked closely with the Auto-ID Center to develop the Class 1 and Class 0 protocols. These companies, particularly Alien, contributed significant IP to the Auto-ID Center and invested millions of dollars to develop microchips that would work with the initial EPC specifications. Both startups have a right to feel that the IP agreement favors those who got patents then contributed them to EPC specifications over those who worked with the Auto-ID Center to develop EPC intellectual property.

Nevertheless, EPCglobal deserves a lot of credit for moving this issue forward. If EPC technology is to

flourish, there has to be broad agreement on the treatment of intellectual property. End users must have confidence that they will not be sued for patent infringement after they invest \$10 million or \$20 million in a new EPC system. Intermec's decision to sign on the dotted line helps to bring some clarity to the issue.

We are not completely out of the woods yet. There are still major RFID companies that could decide not to sign the intellectual property agreement. And even if all of the big players line up, there will always be the possibility that a company or individual who holds patents but has not joined EPCglobal will claim that EPC technology infringes that patent. Those suits won't come until the market begins to take off and the patent holder perceives there is some real money to be won by going to court. In the meantime, EPCglobal has cleared one obstacle in the pathway to adoption.

Mark Roberti is the founder and editor of RFID Journal. If you would like to comment on this article, click on the link below.

[RFID Journal Home](#)

Copyright ©2005 RFID Journal, Inc. All Rights Reserved