



**TECHNICAL ADVISORY GROUP ON MACHINE READABLE
TRAVEL DOCUMENTS (TAG-MRTD)**

NINETEENTH MEETING

Montréal, 7 to 9 December 2009

Agenda Item 2: Activities of the NTWG

Agenda Item 2.12: Supplemental Access Control Patent Consideration

**SUPPLEMENTAL ACCESS CONTROL
PATENT CONSIDERATION**

(Presented by the New Technologies Working Group (NTWG))

1. INTRODUCTION

1.1 The Technical Report on “Supplemental Access Control” specifies an access control mechanism that is supplementary to Basic Access Control.

1.2 The specified access control mechanism is a framework that allows for various implementation options, e.g. mappings, algorithms, passwords, et cetera. The technical report specifies a few options with respect to mappings, “generic mapping” and “integrated mapping”. For one of these options (the elliptic curve implementation of the integrated mapping) a patent is pending.

1.3 The patent holder of this mapping implementation has indicated that the patent application has mainly a protective character, and therefore the patent holder does not want this patent to be an obstacle to the definition of a password based authentication mechanism named PACE.

2. PATENT HOLDER’S STATEMENT

2.1 The patent holder has drafted a letter stating its willingness to refrain from royalty claims with respect to the patented mapping implementation. A draft of this letter has been discussed within the NTWG.

2.2 The draft letter clearly indicates the commitment of the patent holder to provide a valuable contribution to the work for a common password based authentication mechanism identified as PACE, without creating barriers for e-travel and the e-identity documents projects and deployments.

2.3 To protect itself from such claims in the future, the patent holder has incorporated a limitation and a statement on reciprocity in its draft letter:

- a) Limitation (quote): Patent holder “agrees not to assert its patent against all the identified companies listed in <annex> as contributors and supporters of the PACE protocol, and therefore not to claim against the listed companies any royalty.....”.
- b) Reciprocity (quote): “PROVIDED THAT: Reciprocally, all contributors and supporters to PACE specification listed in <annex> shall commit, not to assert any intellectual property rights (including patents) they hold or will hold in whatever manner for the worldwide use of the PACE protocol, and therefore not to claim against <patent holder> or the other contributors or supporters for the payment of royalties”.

3. NTWG CONSIDERATIONS

3.1 Recognizing the willingness of the patent holder to contribute to the ICAO MRTD program, NTWG however is of the opinion that for inclusion into the 9303 standard, the patented mapping implementation must be available free of license to the entire MRTD community. Therefore the limitation statement should be removed from the letter. The reciprocity claim cannot be effectuated by ICAO in any way, and therefore should be removed as well.

3.2 NTWG will request the patent holder to formulate a statement reflecting the ICAO interest of a license free usage of the patented mapping implementation for the entire MRTD community, both MRTD manufacturers as well as Inspection System vendors.

3.3 Based on such statement from the patent holder both the generic mapping and the integrated mapping, including the elliptic curve implementation of it, will be specified as OPTIONAL, to be implemented at the discretion of the MRTD issuing State. As a consequence Inspection Systems will need to implement both mappings entirely.

3.4 Patent holder may have good reasons not to issue such a statement. In this case one of the following solutions will be chosen:

- a) Patent holder withdraws its contribution to the PACE specification. As a consequence only the not patented mapping implementations will be specified.
- b) NTWG will decide to remove the patented integrated mapping implementation from the specifications or to define the patent free generic mapping to be MANDATORY and the integrated mapping to be OPTIONAL for inclusion in MRTDs supporting PACE. In this way no MRTD manufacturer, nor any Inspection System vendor will be forced to incorporate the patented mapping.

3.5 In the Working Paper on Supplemental Access Control the NTWG has requested the TAG/MRTD for the mandate to solve the issue at the next NTWG meeting.