

Royalty-Free Caller ID for E-mail Specification License Agreement

This is a legal agreement ("Agreement") between the individual or entity signing below ("You"), and Microsoft Corporation ("Microsoft") (collectively the "Parties"). If You want a license from Microsoft to implement the "Caller ID for E-mail Specification" (as defined below), You must sign and return this Agreement to Microsoft. This is an offer to be accepted only on the terms set forth in this Agreement. If changes are made to this Agreement, the offer is revoked.

RECITALS

Whereas, Microsoft has developed a specification describing certain attributes for eliminating the spoofing or forging of electronic addresses;

Whereas, Microsoft wishes to encourage widespread adoption, implementation and extension of the Caller ID for E-mail Specification to help legitimate senders protect their domain names and reputations, and help recipients more effectively identify and filter junk e-mail; and

Whereas, You want a patent license from Microsoft to implement the Caller ID for E-mail Specification, and whereas You understand and acknowledge that licenses from other third-parties may also be required to implement the Caller ID for E-mail Specification.

1. Definitions

1.1 "Affiliate" means any entity that is directly or indirectly controlled by, under common control with or that controls the subject Party. For purposes of this definition control means direct or indirect ownership of or the right to exercise (a) greater than fifty percent (50%) of the outstanding shares or securities entitled to vote for the election of directors or similar managing authority of the subject entity; or (b) greater than fifty percent (50%) of the ownership interest representing the right to make decisions for the subject entity.

1.2 "Licensed Implementation" means only those specific portions of your products that (i) implement and are compliant with all required portions, (ii) implement and may include any optional portions of the Caller ID for E-mail Specification, and (iii) are branded with a trademark owned or controlled by You.

1.3 "Licensed Product" means a product branded with a trademark owned or controlled by You that includes a Licensed Implementation, either alone or with other components.

1.4 "Effective Date" means the date that this agreement, fully executed by You without any changes, is received by Microsoft pursuant to Section 6.3 below.

1.5 "End User" means a third party customer to whom a copy of or access to a product or service is licensed or otherwise provided for such customer's own use, and not for further sublicense or distribution.

1.6 "Necessary Claims" means claims of a patent or patent application that (a) are owned or controlled by a Party or its Affiliates now or at any future time; and (b) are necessarily infringed by implementing the Caller ID for E-mail Specification, wherein a claim is necessarily infringed only when it is not possible to avoid infringing it because there is no technically reasonable non-infringing alternative for implementing the Caller ID for E-mail Specification. Notwithstanding the foregoing sentence, Necessary Claims do not include any claims: (i) other than those set forth above even if contained in the same patent as Necessary Claims; (ii) that, if licensed, would require a payment of royalties or other fee(s) by a Party to unaffiliated third parties; (iii) to any enabling technologies that may be necessary to make or use any product or portion thereof that implements the Caller ID for E-mail Specification (e.g., enabling semiconductor manufacturing technology, compiler technology, object oriented technology, operating system technology, protocols, programming interfaces, etc.); (iv) covering the implementation of other published specifications developed elsewhere and referred to in the body of the Caller ID for E-mail Specification; (v) covering other caller identification or anti-spam mechanism(s) or technology

which is not set forth in the Caller ID for E-mail Specification, or (vi) covering implementation example(s) set forth in the Caller ID for E-mail Specification, or any material that merely illustrates the requirements of the Caller ID for E-mail Specification.

1.7 The "Caller ID for E-mail Specification" means the specification having submission ID "draft-atkinson-callerid-00.txt" and entitled "Caller ID for E-Mail," published by Microsoft Corporation on May 19, 2004 and located at the following link: <http://www.ietf.org/internet-drafts/draft-atkinson-callerid-00.txt>.

1.8 "Caller ID for E-mail Specifications Licensee" means any entity that fully executes this Agreement without modification and returns the executed Agreement to Microsoft.

2. License Grants

2.1 Patent License Subject to Section 2.4 and Your grant of licenses in accordance with Section 2.3, Microsoft and its Affiliates hereby grant You a nonexclusive, royalty-free, nontransferable, non-sublicenseable, personal, worldwide license under Microsoft's Necessary Claims to make, use, import, offer to sell, sell and distribute directly or indirectly to End Users, object code versions of Licensed Implementations only as incorporated into Licensed Products and solely for the purpose of conforming with the Caller ID for E-mail Specification.

2.2 Source Code Distribution You also have a nontransferable, non-sublicenseable, personal, license to distribute or otherwise disclose source code copies of such Licensed Implementation licensed in Section 2.1 only if You (i) prominently display the following notice in all copies of such source code, and (ii) distribute or disclose the source code only under a license agreement that includes the following notice as a term of such license agreement and does not include any other terms that are inconsistent with, or would prohibit, the following notice:

"This source code may incorporate intellectual property owned by Microsoft Corporation. Our provision of this source code does not include any licenses or any other rights to you under any Microsoft intellectual property. If you would like a license from Microsoft (e.g. rebrand, redistribute), you need to contact Microsoft directly."

2.3 Reciprocal Patent License You, on behalf of yourself and your Affiliates, hereby grant to Microsoft, and agree to grant to all other Caller ID for E-mail Specification Licensees upon request, a non-exclusive, royalty-free, nontransferable, non-sublicenseable, worldwide license under Your Necessary Claims to make implementations of the Caller ID for E-mail Specification that are compliant with the required portions and may also include any optional portions of the Caller ID for E-mail Specification ("Caller ID for E-mail Implementation"), and to use, import, offer to sell, sell and distribute directly or indirectly to End Users, Caller ID for E-mail Implementations solely for the purpose of conforming with the Caller ID for E-mail Specification.

2.4 Defensive Suspension If Microsoft or any of its Affiliates, or You or any of Your Affiliates, are first sued for patent infringement ("the sued party") by the other Party hereto or any of its Affiliates, on account of the manufacture, use, sale, offer for sale, importation or other disposition or promotion of the sued party's Licensed Implementation or Microsoft's Caller ID for Email Implementation, as applicable, then the sued party may terminate all license grants and any other rights provided under this Agreement to such entity and such entity's Affiliates. The foregoing shall not apply if the patent infringement suit that would otherwise trigger such clause is solely based on the sued party's Licensed Implementation or Microsoft's Caller ID for E-mail Implementation (as defined in Section 2.3), as applicable, not complying with the scope of the license grants set forth in this Agreement.

2.5 Reservation of Rights All rights not expressly granted in this Agreement are reserved by Microsoft and You. No additional rights are granted by implication or estoppel or otherwise. By way of clarification, in order for a third party to distribute a Licensed Implementation as part of its third party branded products, such party must be authorized to do so by You and must also execute this license and comply with its terms.

3. Term

Except as set forth herein, this Agreement and the license grants herein are effective as of the Effective Date and terminate upon the last of Microsoft's and Your Necessary Claims to expire. Your notice obligations arising under Section 4.3 of this Agreement shall terminate upon the last of Microsoft's Necessary Claims to expire. Microsoft may terminate this Agreement (including all license grants) earlier if You materially breach this Agreement, and You fail to cure the breach within thirty (30) days after You receive notice of the breach from Microsoft. The license grants do not include a release for any infringement occurring prior to the Effective Date.

4. Representations and Disclaimers of Warranty

4.1 You represent and warrant that the person executing this Agreement on behalf of You and Your Affiliates is authorized to do so, that You are authorized to enter into this Agreement, and that this Agreement is a binding obligation on You and Your Affiliates.

4.2 If You or any of Your Affiliates transfers any Necessary Claims, You shall require that the transferee be bound by the terms of Section 2.3.

4.3 You shall prominently display the notice set forth in Section 2.2 in each copy of the source code of a Licensed Implementation that You distribute or disclose, and You shall also distribute or disclose that source code under a license agreement that includes the same notice.

4.4 **DISCLAIMERS.** THE CALLER ID FOR E-MAIL SPECIFICATION AND ALL INTELLECTUAL PROPERTY DELIVERED AND/OR LICENSED BY EITHER PARTY AND/OR ITS AFFILIATES TO THE OTHER PARTY PURSUANT TO THIS AGREEMENT ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. EACH PARTY AND ITS AFFILIATES DISCLAIMS ALL WARRANTIES, DUTIES AND CONDITIONS, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

5. Limitation of Liability

MICROSOFT AND ITS AFFILIATES SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT, INCLUDING INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES EVEN IF MICROSOFT OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

6. Miscellaneous

6.1 No Partnership, Joint Venture or Franchise Neither this Agreement, nor any terms and conditions contained herein, shall be construed as creating a partnership, joint venture or agency relationship or as granting a franchise as defined in the Washington Franchise Investment Protection Act, RCW 19.100, as amended, or 16 CFR Section 436.2(a), or any similar laws in other jurisdictions.

6.2 Export Regulations You acknowledge that implementations of the Caller ID for E-mail Specification may be subject to U.S. export jurisdiction and other applicable national or international laws. You agree to comply with all applicable international and national laws that apply to the Caller ID for E-mail Specification, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments, and privacy laws. See <http://www.microsoft.com/exporting/>.

6.3 Executed Agreements Only one agreement per Party shall be accepted by Microsoft. To be effective, an executed Agreement must be:

(a) sent by messenger, traceable express mail or prepaid certified mail, return receipt requested, addressed to Microsoft, as follows:

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6399
Attention: Royalty-Free Caller ID for E-mail Patent License for Implementers
Copy to: Law & Corporate Affairs; or

(b) faxed to Microsoft, as follows:

Attention: Microsoft Standards Inquiries (stdsreq@microsoft.com)
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6399
Subject: Royalty-Free Caller ID for E-mail Patent License for Implementers
Facsimile No.: 425-936-7329

6.4 Governing Law; Jurisdiction; Attorneys' Fees This Agreement shall be construed and controlled by the laws of the State of Washington, and You consent to exclusive jurisdiction and venue in the federal courts sitting in King County, Washington, unless no federal subject matter jurisdiction exists, in which case You consent to exclusive jurisdiction and venue in the Superior Court of King County, Washington. You waive all defenses of lack of personal jurisdiction and forum nonconveniens. Process may be served on either Party in the manner authorized by applicable law or court rule.

6.5 Assignment You may assign this Agreement, and any rights or obligations hereunder, whether by operation of contract, law or otherwise, provided that the assignee first agrees in writing to the terms and conditions of this Agreement; any attempted assignment by You in violation of this Section shall be void.

6.6 Construction If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable (other than Sections 2.2-2.4 and 4.3), such provision and the rest of the Agreement will be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the Agreement will continue in full force and effect. In the event that a court of competent jurisdiction finds that any of Sections 2.2, 2.3, 2.4 or 4.3 is unenforceable, this entire Agreement and any licenses granted hereunder shall be rendered null and void. Failure by a Party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.

6.7 Trademark/Logo Usage Nothing herein grants You any right to use or display any Microsoft trademark or logo in connection with a Licensed Implementation or Licensed Product.

6.8 No Requirement to Implement Nothing in this Agreement shall be construed as requiring You to use or implement the Caller ID for E-mail Specification, or limit the Parties from competing in any way without infringing each others' intellectual property, including engaging in activities, independently or with others, that may be deemed competitive with the Caller ID for E-mail Specification.

6.9 Identification of Licensees The fact that You are a Caller ID for E-mail Specification Licensee by executing this Agreement is not confidential. Either Party may make public announcements regarding Your execution of this Agreement (e.g., list You as a licensee on a Web site).

6.10 Entire Agreement This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and merges all prior and contemporaneous communications. It shall not be modified except by a written agreement dated subsequent to the date of this Agreement and signed on behalf of You and Microsoft by their respective duly authorized representatives.

Agreed to and accepted on behalf of You:

By (signature):	Your Name:
Name (printed):	Your Address:
Title:	City, State, Zip, Country:
	Dated: