



Frequently Asked Questions: ULR Contracts

What are the primary objectives of ULR contracts?

- To assist patent owners with monetization of their portfolios, returning investment dollars back to research and development creating a virtuous cycle of innovation
- To access the full addressable market for the technology including smaller users not otherwise efficiently reached
- To assure fair market pricing without bias based on size of licensee
- To allow market-driven pooling and more refined options when selecting relevant patents for licensing
- To first manage enforcement or disputes through a 'committee of peers' and industry supported Rulebook rather than traditional litigation
- To allow for development of a technology transfer market based on participant needs rather than legislative reform

Which problems with traditional licensing and enforcement programs does the ULR contract market address?

- The lack of contract standards
- Inefficient distribution mechanics
- Market opacity, leading to inadequate price discovery
- Supply uncertainty
- The lack of predictability in licensors' prospective enforcement strategies

What specific benefits can licensors achieve by bringing IP to market through ULR contracts?

- ULR contracts allow for the efficient monetization of patent portfolios
- ULR contracts offer dramatically reduced legal costs for both licensor and licensee, due to standardized, exchange-based initial and follow-up offerings, as well as secondary market transactions
- ULR contracts enable IP owners to avoid forced cross-licensing
- By using ULR contracts the IP owner is able to outsource marketing, auditing and enforcement activities to third parties
- Market participants receive timely reports on licensee usage
- Licensing terms conform to fair and reasonable standards
- ULR contracts offer a flexible rights structure



What specific benefits can licensees achieve by buying ULR contracts?

- They can efficiently obtain fully paid-up, unitized licenses to critical patent portfolios
- They benefit from in-licensing contract standards
- ULR contract buyers have the right to resell unused ULR contracts or buy additional ULR contracts in the IPXI secondary market to accommodate reduced or increased future needs
- ULR contracts offer a fair and level playing field (no qualified licensee is banned from acquiring ULR contracts)
- ULR contract buyers may remain anonymous
- ULR contract buyers can request that IPXI's independent enforcement committee investigate allegations of infringement

What are the characteristics of a strong ULR contract candidate?

- The size of the ULR contract offering exceeds \$25 million
- There is observable use of the IP and a large number of potential licensees
- The IP has at least 5-7 years of remaining life
- Usage of the IP can be "unitized"
- Usage can be readily monitored
- The due diligence process reveals one or more of the following qualities in the IP:
 - Successful existing licensing history
 - Successful judicial determination
 - Successful patent office reexamination

Can a ULR contract be based on a non-U.S. issued patent or patent portfolio?

Yes. However, the economics of licensing and enforcing are likely to vary greatly from jurisdiction to jurisdiction.

Why is the exchange model appropriate for the licensing and enforcement of patent portfolios?

- It allows for transparency in licensing and enforcement of valuable IP
- Standardized exchange offerings and secondary market transactions avoid the cost and trouble of having to create bespoke bi-lateral contracts between licensee and licensor
- Exchange-based price discovery enables ULR contract buyers to purchase licenses at market-determined prices



- Open exchange access enables all qualified buyers to obtain licenses
- The exchange platform allows for ULR contract owners to purchase or sell in the secondary market
- The exchange model allows for the collection and dissemination of ULR contract consumption data

What will motivate potential ULR contract buyers to purchase voluntarily, rather than wait for enforcement?

- Purchasing ULR contracts will be viewed as an efficient risk management tool against patent infringement
- IP companies will view the ULR contract market as a way to spearhead new technology development and be perceived as industry leaders
- Potential licensees will want to avoid the negative publicity that is likely to come from commencement of an enforcement action for infringement
- As in the case of other new exchanges, for example, the Chicago Climate Exchange (CCX), many companies voluntarily become members of the exchange, in order to be considered good corporate citizens

What distinguishes IPXI from other non-practicing entities that pursue aggressive enforcement programs?

- IPXI is a “White-Hat Enforcer” driven first by community rules rather than litigation
- ULR contract buyers agree to be bound by IPXI’s arbitration rules
- IPXI’s only goal in authorizing enforcement is to maintain the integrity of the market-based system for the benefit of all market participants. This system promotes fair, reasonable, and non-discriminatory practices among IP-owners and ULR contract buyers alike.
- To the extent IPXI authorizes an enforcement action, the remedy sought from the infringer is specific performance in the market (i.e., if the infringer needs to purchase 100,000 ULR contracts to no longer be infringing, a portion of the recovery would be used to purchase ULR contracts in the primary or secondary market)
- As part of the ULR contract enforcement process, IPXI will establish an independent enforcement committee to investigate instances of infringement and make recommendations to IPXI

What are the relative merits of bringing a patent to market as a ULR contract versus selling it outright?

- By retaining ownership, the ULR contract issuer can achieve ongoing revenue streams from multiple ULR contract offerings



- Certain types of ULR contracts may involve the purchase of the patents by IPXI, in which case the seller can obtain upfront cash payment for the patent just as they would in an outright patent sale

What are the relative merits of IPXI bringing a patent to market as a ULR contract versus traditional in-house licensing programs?

- In-house licensing allows the IP owner to carefully control the licensing program, including selection of licensees, negotiation of price, contractual terms, audit of usage, and enforcement, whereas ULR contracts allow for the IP owner, where desired, to outsource some or all of the critical licensing and enforcement functions
- ULR contract standardization, transparency, and price discovery offer the potential for vastly larger market opportunities than possible through traditional bi-lateral licensing activities
- ULR contracts avoid cross-licensing demands which may arise through in-house licensing

As the ULR product becomes accepted, will ULR contracts supplant in-house licensing?

No. In-house licensing will continue to comprise the primary form of corporate technology transfer into the foreseeable future. However, for certain types of IP the ULR contract approach represents an important innovation for the corporate community, one that will complement in-house licensing programs and whose efficiencies and cost savings will allow for a net increase in amount of IP that companies bring to market.

Will IPXI's ULR product supplant contingent-fee counsel's role in IP enforcement?

No. Contingent-fee patent counsel will continue to serve an important role in carrying out many kinds of enforcement actions. It is possible that in certain ULR contract enforcement actions, contingent-fee counsel will be retained.

Why would a company utilize ULR contracts to bring patents to market that it hasn't already licensed itself?

- A company may not have the resources to conduct in-house licensing or enforcement programs
- A company may be concerned about pursuing enforcement activities, for the possible negative reaction from existing customers and/or the media
- A company can avoid being forced into a disadvantageous cross-licensing deal that does not adequately compensate it for the contributed IP



Will IPXI facilitate the transfer of know-how required to implement the licensed invention?

If know-how is required, the related ULR contract may include a right to the needed data, drawing, software or other IP. The know-how elements of each ULR contract and related transfers will be described in the offering memorandum.

How does IPXI address risks of royalty stacking or the need to license multiple patent portfolios for any given product?

- All available rights for sale are publicly recorded and transparent
- IPXI will solicit ULR contracts of interest to buyers
- IPXI believes that patent pooling organizations will continue to serve a role in the market
- IPXI is actively discussing the opportunity for patent pools to offer ULR contracts

What is the role of ULR contracts for patents already contributed to pools?

- ULR contracts provide a means to offer pool rights of a given patent owner to users who have not chosen to license existing pools
- ULR contracts, by their very nature, meet the requirement of being RAND offerings (reasonable and non-discriminatory)

How will ULR contracts manage existing encumbrances?

Leveraging lessons learned through patent auctions, ULR contract offering documents will both provide disclosure of licenses and other encumbrances and seek to describe the remaining market opportunity.

When will IPXI bring its first ULR contract to market?

IPXI is currently screening a large number of potential ULR candidates. It anticipates issuing a series of ULR contracts, covering a wide variety of technologies, beginning in 2010.

How does a company know if any of its patents are good ULR contract candidates?

- IPXI works with the IP owner and its IP advisor to identify patents within the company portfolio that may be worthwhile ULR candidates
- IPXI works with the IP advisor to conduct market research to determine if a sufficiently robust market for the IP exists, including searching for potential licensees
- IPXI works with the IP owner and its advisors to determine a reasonable initial offering price, taking into consideration relevant industry royalty rates and potential demand for the technology among likely ULR contract buyers. A reverse or "Dutch" auction may be used to validate pricing and assure greater market acceptance.