

EXTENSIBLE HOST CONTROLLER INTERFACE (xHCI) SPECIFICATION
FOR UNIVERSAL SERIAL BUS
ADOPTERS AGREEMENT

This Extensible Host Controller Interface Specification for the Universal Serial Bus - Adopters Agreement (“Agreement”) is by and between Intel Corporation, a Delaware corporation, having its offices at 2200 Mission College Blvd., Santa Clara CA 95052, and its Affiliates (“Intel”) and the adopting party, including its Affiliates, set forth below (“Adopter”).

Adopter’s Company Name

City

State

Zip

Contact Name

Telephone

Fax

Address for Notices (Section 6.7):

The parties hereto hereby agree as follows.

AGREEMENT

1. DEFINITIONS

1.1 “Adopted” and “Adoption” means Intel’s formal adoption and publication of the USB xHCI Specification which, for the purposes of this Agreement, is considered to have occurred on May 21, 2010.

1.2 “Adopting Party” means any party, other than Adopter, that has properly entered into or later properly enters into an Adopters Agreement during the Adoption Period.

1.3 “Adopters Agreement” means an agreement entered into by an Adopter or Adopting Party, as the case may be, and containing terms substantially similar to this Agreement.

1.4 “Adoption Period” means any time prior to the first sale by Adopter or Adopting Party, as the case may be, of a product that includes a Compliant Portion.

1.5 “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) at least 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) at least fifty percent (50%) of the ownership interest representing the right to make the decisions for the subject entity.

1.6 “Compliant Portion” means only those specific portions of products (hardware, software or combinations thereof) that: (i) implement and are compliant with all relevant portions of the Final Specification; and (ii) are within the bounds of the Scope.

1.7 “Contributors” means each company that has signed a Extensible Host Controller Interface Specification for Universal Serial Bus – Contributor Agreement, and its Affiliates.

1.8 “xHCI” means the Extensible Host Controller Interface.

1.9 “Final Specification” means the USB xHCI Specification as adopted and published by Intel.

1.10 “Necessary Claims” means claims of a patent or patent application that: (a) are owned or controlled by a party or its Affiliates as of the Effective Date of this Agreement or at any future time during the term of this Agreement; and (b) are necessarily infringed by implementing those portions of the Final Specification within the bounds of the Scope, wherein a claim is necessarily infringed only when: (i) it is not possible to avoid infringing such claim(s) because there is no commercially plausible non-infringing alternative for implementing such portions of the Final Specification within the bounds of the Scope; or (ii) it reads on an implementation example included in the Final Specification. Notwithstanding the foregoing sentence, Necessary Claims do not include any claims (x) other than those set forth above even if contained in the same patent as Necessary Claims; (y) that read solely on any implementations of any portion of the Final Specification that are not within the bounds of the Scope; or (z) that, if licensed, would require a payment of royalties by the licensor to unaffiliated third parties.

1.11 “Scope” means the register interface, data structures, protocols, and electrical signaling characteristics solely to the extent disclosed with particularity in the Final Specification where the sole purpose of such disclosure is to enable products to interoperate, interconnect or communicate as defined within the Final Specification. Notwithstanding the foregoing, the Scope shall not include: (a) any enabling technologies that may be necessary to make or use any product or portion thereof that complies with the Final Specification, but are not themselves expressly set forth in the Final Specification (e.g., semiconductor manufacturing technology, compiler technology, object oriented technology, basic operating system technology, etc.); or (b) the implementation of other published specifications developed elsewhere but referred to in the body of the Final Specification; or (c) any portions of any product and any combinations thereof, the sole purpose or function of which is not required for compliance with the Final Specification.

1.12 “Secretary” means the party identified in Section 6.7 of this Agreement that is appointed to undertake certain duties as set forth in this Agreement.

1.13 “Trade Names” shall have the meaning assigned in Section 4.1.

2. COMPLIANCE WITH ANTITRUST LAWS

Adopter and Intel (on behalf of all the Contributors) are committed to fostering open competition in the development of products and services based on the Final Specification. Adopter and Intel understand that in certain lines of business they are or may be direct competitors and that it is imperative that they and their representatives act in a manner which does not violate any state, federal or international antitrust laws and regulations. Adopter and Intel agree to comply with all applicable antitrust laws pertaining to Adopter's participation under this Agreement, and nothing in this Agreement shall be construed to require or permit conduct that violates any applicable antitrust law. Without limiting the generality of the foregoing, Adopter and Intel acknowledge that this Agreement prohibits any communications regarding costs, prices, quantity or quality of production levels, methods or channels of distribution, markets, customers, exclusion of competitors or any other topic which may be construed as a violation of antitrust laws. Accordingly, Adopter and Intel will counsel their respective representatives who participate in any activities under this Agreement on the importance of limiting the scope of their discussions and communications to the topics that relate to the purposes of this Agreement, whether or not such discussions and communications take place during formal meetings, informal gatherings, or otherwise.

3. LICENSES

3.1 Limited Patent Licensing Obligations.

(a) To Adopter. Effective upon Intel's execution of an original of this Agreement already executed by Adopter during the Adoption Period, Intel, on behalf of itself and the Contributors, hereby agrees to grant to Adopter a non-exclusive, world-wide license under Necessary Claims of a patent or patent application reading on any of those Contributions, respectively, to make, have made, use, import, sell, offer to sell, and otherwise distribute and dispose of Compliant Portions; provided that such license need not extend to any part or function of a product in which a Compliant Portion is incorporated that is not itself part of the Compliant Portion. Such license shall be granted on a royalty-free basis and under otherwise reasonable and non-discriminatory terms, provided that such license grant will be conditioned upon Adopter's grant of a reciprocal license to Intel and the Contributors.

(b) By Adopter. Effective upon Intel's execution of an original of this Agreement already executed by Adopter during the Adoption Period, Adopter hereby agrees that it will grant to Intel, all Contributors and all Adopting Parties and their respective Affiliates (collectively "Licensee"), a non-exclusive, worldwide license under its Necessary Claims solely to make, have made, use, import offer to sell, sell and otherwise distribute and dispose of Compliant Portions; provided that such license need not extend to any part or function of a product in which a Compliant Portion is incorporated that is not itself part of the Compliant Portion. Such license shall be granted on royalty-free and otherwise reasonable and non-discriminatory terms, provided that such license grant may be conditioned upon Licensee's grant of a reciprocal license binding Licensee.

3.2 Copyright License. Subject to Adopter's compliance with the terms of this Agreement, Intel, on behalf of itself and the Contributors, also hereby grants to Adopter a non-exclusive, royalty-free, non-transferable, non-sublicenseable, worldwide copyright license to the Final Specification to reproduce the Final Specification as necessary in order to exercise the patent rights granted in Section 3.1(a), provided that all reproductions thereof shall include any copyright notices and disclaimers contained in the Final Specification.

4. TRADE NAMES

4.1 Non-assertion. Adopter hereby agrees not to assert against Intel, any Contributor or other Adopting Party any trademark, trade name, or similar rights it may have now or hereafter in the names “Extendible USB Host Controller Interface”, “USB xHCI”, or “xHCI” (collectively “Trade Names”).

4.2 No Obligation to Use Trade Names. Adopter is not obligated to use any of the Trade Names on any product, advertising, or on any other material in any manner.

4.3 Use of the Trade Names. Adopter agrees that, to the extent it uses the Trade Names or any of them, it shall only use the Trade Names to label and promote products in which all included features and functions reasonably capable of being implemented as Compliant Portions have been so implemented. Adopter shall not use or adopt any trademarks for any product, service or specification likely to cause confusion with the Trade Names.

5. TERM AND TERMINATION

5.1 Term. Unless terminated as provided herein, this Agreement shall remain in full force and effect for a period of five (5) years from the Effective Date.

5.2 Termination by Intel. Intel may terminate this Agreement in the event that a material breach of the Agreement by Adopter, if such breach is not remedied to Intel’s satisfaction by Adopter within thirty (30) days of receiving written notification from Intel. After the effective date of termination, Adopter shall not be subject to any agreement to grant any further copyright ownership, or license of its Necessary Claims, except as provided in Section 5.4 below.

5.3 Termination By Adopter. Adopter may terminate this Agreement at any time upon giving written notice to the Secretary. After the effective date of termination, Adopter shall not be subject to any agreement to grant any further copyright ownership, or license of its Necessary Claims, except as provided in Section 5.4 below.

5.4 Survival of License Grants if Adopter Terminates. Notwithstanding expiration or termination of this Agreement, Adopter’s and Intel’s agreement to grant equal ownership to copyrights as provided in Section 3.2, and to grant the licenses as provided in Sections 3.1(a) and 3.1(b), and to the non-assertion provision as provided in Section 4.1 shall remain in full force and effect. Regardless of the date of expiration or termination of this Agreement, Adopter’s ownership, non-assertion and license grants will extend to Intel, all Contributors and to all Adopting Parties (collectively, “Licensees”) including Licensees that become Licensees after the effective date of the Adopter’s termination; however, Adopter will only receive such ownership and license grants for those copyrights and licenses provided under this Agreement as of the effective date of Adopter’s termination.

5.5 Sections to Survive Termination. Sections 5.4, 5.5, 6.3, 6.4, 6.5 and 6.6 shall survive termination or expiration of this Agreement.

6. GENERAL

6.1 Effective Date. This Agreement shall become effective upon the date this Agreement is executed by Intel, following execution by Adopter (“Effective Date”).

6.2 No Other Licenses. Except for the rights expressly provided by this Agreement, Intel and Adopter neither grant nor receive, by implication, or estoppel, or otherwise, any rights under any patents or other intellectual property rights.

6.3 No Warranty. All parties acknowledge that all information provided as part of the Final Specification and the Final Specification itself are all provided "AS IS" WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND THE PARTIES EXPRESSLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY OTHERWISE ARISING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE.

6.4 Limitation of Liability. IN NO EVENT WILL ANY PARTY HERETO BE LIABLE TO ANY OTHER FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES, WHETHER UNDER CONTRACT, TORT, WARRANTY OR OTHERWISE, ARISING IN ANY WAY OUT OF THIS OR ANY OTHER RELATED AGREEMENT, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

6.5 Governing Law. This Agreement shall be construed and controlled by the laws of New York without reference to conflict of laws principles.

6.6 Jurisdiction. The parties agree that all disputes arising in any way out of this Agreement shall be heard exclusively in, and all parties irrevocably consent to jurisdiction and venue in, the state and Federal courts of New York.

6.7 Notices. Intel Corporation shall serve as the Secretary. All notices hereunder shall be in writing and sent in the case of Adopter to the address for notices set forth on the front page of this Agreement, or in the case of Intel, to the following address, or at such addresses as Intel or Adopter may later specify by such written notice. For purposes of this Section, written notice shall not include notice by electronic mail or by facsimile.

Notices to Intel

Intel Corporation
2111 NE 25th Avenue
Mailstop JF5-373
Hillsboro, OR 97214
Attn: Jeff Ravencraft - Secretary
Subject: USB xHCI Specification

With a copy to

Intel Corporation
2200 Mission College Blvd. RNB 4-151
Santa Clara, CA 95052
Attn.: General Counsel
Subject: USB xHCI Specification

Such notices shall be deemed served when received by addressee or, if delivery is not accomplished by reason of some fault of the addressee, when tendered for delivery. Any party may give written notice of a change of address and, after notice of such change has been received, any notice or request shall thereafter be given to such party at such changed address.

6.8 Authority. Each party hereby warrants that it has power to enter into and perform its obligation under this Agreement, and to cause all patents owned or controlled by it and all of its Affiliates to be licensed as set forth in this Agreement.

6.9 Not Partners. The parties hereto are independent companies and are not partners or joint venturers with each other.

6.10 Complete Agreement; No Waiver. This Agreement sets forth the entire understanding of the parties and supersedes all prior agreements and understandings relating hereto. No modifications or additions to or deletions from this Agreement shall be binding unless accepted in writing by an authorized representative of all parties, and the waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.

6.11 No Rule of Strict Construction. Regardless of which party may have drafted this Agreement, no rule of strict construction shall be applied against any party. If any provision of this Agreement is determined by a court to be unenforceable, the parties shall deem the provision to be modified to the extent necessary to allow it to be enforced to the extent permitted by law, or if it cannot be modified, the provision will be severed and deleted from this Agreement, and the remainder of the Agreement will continue in effect.

6.12 Compliance with Laws. Anything contained in this Agreement to the contrary notwithstanding, the obligations of the parties hereto shall be subject to all laws, present and future, of any government having jurisdiction over the parties hereto, and to orders, regulations, directions or requests of any such government.

In witness of their agreement, the parties have executed this Agreement below:

INTEL CORPORATION

ADOPTER: _____
(Company Name)

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____