



WiMAX Forum
Trademark Policy and Trademark Usage Guidelines
Part 1 – “WiMAX”

Adopted March 27, 2007; Amended September 6, 2007

Introduction.

This policy provides usage guidelines and requirements for “WiMAX.” “WiMAX” is a trademark and service mark of the WiMAX Forum. As manufacturers and operators develop and deploy products and services using WiMAX™ technology, there has been some confusion about what “WiMAX” is, proper usage of “WiMAX” in relation to the WiMAX Forum’s certification efforts, and the degree to which a company may “WiMAX” in its trademarks, service marks, trade names and corporate slogans. There have also been some instances in which “WiMAX” has been used for nonconforming technologies, which can damage the goodwill associated with “WiMAX” and tarnish the industry as a whole. The WiMAX Forum has therefore established this policy as a means of promoting the technology and benefiting the ecosystem.

What is WiMAX™ Technology?

The WiMAX Forum was founded in June 2001 as the “Worldwide Interoperability for Microwave Access Forum,” also known as “WiMAX,” to promote the deployment of the IEEE 802.16 standard and to develop and operate a certification program to facilitate this process. Early on, the WiMAX mission was expanded to embrace standards activities that are not purely IEEE 802.16, such as the ETSI HiperMAN standard and other interoperable standards. Moreover, from the beginning, the focus of the WiMAX Forum has been on aspects of the commercialization process for products and services that are not part of what IEEE provides, such as the development of specific implementations of the standards that can provide a framework for product interoperability, the tools to confirm that standards conformance and product interoperability exist, and specifications that can facilitate the seamless operation of WiMAX-enabled equipment and services in the broader network environment. In short:

“WiMAX” is shorthand for “WiMAX technology,” which is (1) a WiMAX Forum-defined set of specifications for wireless networks based upon a WiMAX Forum-selected subset of the IEEE 802.16 and ETSI HiperMAN standards and (2) additional WiMAX Forum-created end-to-end network and service specifications.

“WiMAX” itself is not a technical standard and is thus ***not*** synonymous with IEEE 802.16 or any other standard. A product can be built to the IEEE 802.16 standard without being a WiMAX product. No product is a WiMAX product unless it conforms to WiMAX Forum specifications.

1. Use of “WiMAX” to Describe WiMAX™ Technology.

(a) Introduction. Section 1 of this Policy outlines the rules for using “WiMAX” in relation to the technology itself. These are situations that do not directly involve trademark, service mark or trade name usage. Use of “WiMAX” as part of a trademark, service mark, or trade name involves special issues and rules, which are discussed in detail below.



(b) General Rule. The most basic rule for proper usage of “WiMAX” is quite simple: *in non-trademark settings*, “WiMAX” may be used only to describe a product or service that complies with WiMAX Forum specifications or a service that is provided using equipment that complies with WiMAX Forum specifications. This includes a product component, such as a chip set, if the component is designed and manufactured to implement WiMAX Forum specifications when incorporated into the completed product. If a base station, a subscriber station or other product, or a network service, complies with this general rule, it is proper to refer to it as a “WiMAX product” or a “WiMAX service.”

(c) Prohibited Usage: No Company-Specific Designations for Proprietary Implementations. WiMAX technology is a standards-based technology that has been developed to allow products from different manufacturers to interoperate within the network. Because WiMAX technology is restricted to WiMAX Forum specifications, it follows that there is only one “WiMAX.” It is therefore incorrect and a violation of this policy to use terminology that suggests that WiMAX technology is fragmented or proprietary to individual companies. Illustrative examples include, without limitation, phrases that suggest that there are multiple versions of WiMAX technology, some of which are better than others or that have additional unique features or functions that are also purportedly WiMAX technology, such as “Super WiMAX,” “Smart WiMAX,” “WiMAX Plus” and the like. This rule is necessary to support the role of WiMAX technology as a standards-based technology and to minimize the potential for public confusion regarding which product features are part of WiMAX Forum specifications, which features are certified, and which features are not.

It should be noted that this restriction is limited to phrases that incorporate or relate to “WiMAX.” Manufacturers and operators are free to differentiate themselves and their products or services by providing proprietary enhancements and variations, including, if they wish, incorporating optional features from the IEEE 802.16 or ETSI HiperMAN standards that the WiMAX Forum as not included in its specifications. They just cannot refer to these features as “WiMAX” features.

(d) References to Individual Specifications, Specifications Documents, and Certification Waves. The WiMAX Forum’s specifications development and product certification activities involve multiple standards (e.g. specifications based substantially on IEEE 802.16d and IEEE 802.16e) and a staged approach to deployment as development and delivery efforts are going forward in real time. This situation has led to the emergence of references to WiMAX technology such as “Fixed WiMAX” and “Mobile WiMAX,” both of which are WiMAX Forum trademarks, as well as references to various certification waves. The proliferation of designations creates potential for public confusion regarding the meaning of each term. Accordingly, references to WiMAX technology and specific certification waves shall conform to the approved list that the MWG and the CWG shall jointly establish and modify from time to time. The MWG shall administer the approved list and shall maintain it in a generally accessible location, which may be the Communications Policy.

2. Trademark Usage of “WiMAX.”

(a) Introduction: What is Trademark Usage? Trademark usage is the use of a word, phrase or design to identify a company as the unique source of a product. This occurs by placing the mark on the product or by using it in close association with the product, such as on packaging, labels or tags for the product. For purposes of this policy, trademark usage also



includes promotional uses of the mark in a manner that is calculated to create an association in the consumer's mind between the product and a specific company as the unique source for that product. This can occur either through a mark that identifies the entire product or a through a special component, feature or function of the product that the company is using to identify itself as the unique source of that product. A typical trademark is a product name or the name of a proprietary feature, though designs and slogans may also be used to achieve the same effect – to identify a specific company as a unique source.

(b) General Rule: No Trademark Usage of “WiMAX” Except for Approved Certification Marks. Although it is permissible to use “WiMAX” to identify the product as having been built in accordance with WiMAX Forum specifications in non-trademark contexts, general use of “WiMAX” as part of a company’s trademark is not permitted. Use of “WiMAX” as a trademark is restricted to use as part of the WiMAX Forum certification logo, namely the “WiMAX Forum Certified” logo, or as part of statements on or in association with the product that identifies it as certified: “WiMAX Forum Certified” or “WiMAX Certified.” (For more on certification mark usage, please see WiMAX Forum Certification Mark Usage Guidelines.) This rule is necessary to minimize the risk of public confusion regarding the certification status of a product and to retain control over which products are identified as conforming to WiMAX Forum specifications.

(c) Examples. The following examples illustrate the difference between approved usage under Section 1 and prohibited uses under this Section 2:

Example 1:

“TechCo is currently developing a new WiMAX base station, which it expects to have ready for certification testing by November 2007.”

Remarks: This usage is acceptable so long as TechCo is developing a product that conforms to WiMAX Forum specifications. It is clear from this sentence that this is the case since TechCo is planning to have it certified.

Example 2:

“TechCo announced the release of its WiMAX Blaster™ base station, which it has submitted for certification by the WiMAX Forum.”

Remarks: This usage is prohibited because TechCo is using “WiMAX” as part of the product name, i.e. as part of a TechCo trademark. The product name suggests that the product conforms to WiMAX Forum specifications and may suggest to the public that the product is either certified or certifiable.

Example 3:

“TechCo’s newly developed WiMAX base station deploys advanced antenna technology.”



Remarks: This usage is acceptable for the same reason as Example 1, provided that the base station conforms to WiMAX Forum specifications. The reference to “advanced antenna technology” does not suggest inclusion as part of WiMAX technology something that is not part of WiMAX Forum specifications.

Example 4:

“TechCo’s newly developed WiMAX base station also deploys TechCo’s HighBeam™ antenna technology, a patented advanced antenna technology that TechCo has developed to enhance the performance of its WiMAX base station when used in connection with other HighBeam-enabled products.”

Remarks: This usage is acceptable because it clearly distinguishes between the basic product, the WiMAX base station, and TechCo’s own special feature, the HighBeam antenna technology.

Example 5:

Variation A:

“TechCo’s newly developed base station also deploys TechCo’s WiMAX HighBeam™ antenna technology, a patented advanced antenna technology that TechCo has developed to enhance the performance of its WiMAX base station when used in connection with other WiMAX HighBeam-enabled products.”

Variation B:

“TechCo’s newly developed base station also deploys TechCo’s HighBeam WiMAX™ antenna technology, a patented advanced antenna technology that TechCo has developed to enhance the performance of its WiMAX base station when used in connection with other HighBeam WiMAX-enabled products.”

Variation C:

“TechCo’s newly developed base station also deploys TechCo’s HighBeam WiMAX™ antenna technology, TechCo’s implementation of an optional feature in the WiMAX standard.”

Variation D:

“TechCo’s newly developed base station also deploys WiMAX HighBeam™ antenna technology, an optional feature in the WiMAX standard.”

Remarks: Example 5 illustrates several variations of usages that are prohibited under the policy. Variations “A” and “B” share the problem of using “WiMAX” as part of the TechCo trademark to describe its technology: “WiMAX HighBeam” and “HighBeam WiMAX” respectively. In both



examples, TechCo is suggesting that it has a special unique WiMAX technology that is TechCo's only. Using "WiMAX" as part of the name of a product feature is prohibited, just as its use in a product name is prohibited. Note that the prohibition may not be avoided by arguing that the trademark is "HighBeam" and WiMAX just describes a general conforming technology that HighBeam technology adds to.

Variations "C" and "D" share the improper usage of "WiMAX" shown in Variations "A" and "B." Variations "C" and "D" also illustrate two other issues. Reference to the "WiMAX standard" is incorrect because WiMAX technology is not a standard. It is a set of specifications built on a standard. These two examples also illustrate that improper trademark usage may not be rehabilitated by reference to optional features in a WiMAX Forum specification. Each example still suggests the existence of a proprietary version of WiMAX technology. This usage should be contrasted with Example 4, which clearly delineates between WiMAX technology and TechCo's unique technology.

3. Service Mark Usage of "WiMAX."

(a) Introduction: What is Service Mark Usage? Trademark usage, discussed above, involves use of a mark on or in connection with a physical product. In contrast to trademark usage, service mark usage involves use of a mark in association with services. The principal potential use of "WiMAX" as a service mark is to identify wireless networking and telecommunications services that implement WiMAX Forum specifications as either part of the services or through the use of WiMAX Forum Certified™ equipment. In addition, "WiMAX" may potentially be used as a service mark in connection with services that relate to the technology or the WiMAX Forum's mission, such as education and training, meetings, conferences, trade shows and the like.

(b) General Rule for Networking Services: Licensed Service Mark Usage is Allowed. Service mark usage of "WiMAX" in connection with network services is permissible if the following requirements are met:

- (i) The usage is under a written license with the WiMAX Forum;
- (ii) The licensee's network is built on WiMAX Forum Certified™ products or, if those products are not yet available, the licensee commits, as part of the license, to using WiMAX Forum Certified™ equipment when it becomes available. As part of the licensee's obligation, the licensee must execute a declaration identifying:
 - (A) The certification profiles that the network is operating under; and
 - (B) The equipment that licensee is using (or will use, when available), identified by manufacturer and model.
- (iii) The certification profile identified in the licensee's declaration must either be a profile under which the WiMAX Forum is actually certifying products or, if product



certification is not yet available, the profile must be one that the WiMAX Forum is supporting for certification.

(iv) The equipment identified in the licensee's declaration must be certified, or certification must be pending, or if certification is not yet available, the equipment must operate under a profile that the WiMAX Forum is supporting for certification.

(v) The service mark, as presented and as used, must accurately and positively portray WiMAX™ technology under the rules described in Section 1.

(c) Other Services Relating to WiMAX™ Technology and the WiMAX Forum's Mission. Use of WiMAX as part of a service mark for services other than network services is permissible if the following requirements are met:

(i) The WiMAX Forum determines that the use promotes the mission of the WiMAX Forum and is positive for WiMAX™ technology.

(ii) The usage is under a written license with the WiMAX Forum; and

(iii) The service mark, as presented and as used, must accurately identify WiMAX™ technology under the rules described in Section 1.

4. **"WiMAX" in Trade Names.**

(a) Introduction: What is Trade Name Usage? A trade name is the name by which a company does business. It differs from a trademark or service mark in that the usage does not need to be associated with any particular products or services. Most companies do, however, also use their trade names as trademarks or service marks.

(b) General Rule: No Trade Names Using "WiMAX." It is the policy of the WiMAX Forum that "WiMAX" may not be used as part of a trade name. The reason for this is that the trade name may falsely suggest that the company's goods or services comply with WiMAX Forum specifications or that its products or services are certified or certifiable by the WiMAX Forum. The WiMAX Forum will not accept as a member any company that violates this policy.

(c) Exception: Existing Members on September 6, 2007. A company that is a member on March 27, 2007 may maintain and renew its membership even though its trade name includes WiMAX so long as it does not use its trade name as a trademark or service mark in violation of this policy. Any such company is encouraged to change its name and should its membership lapse, it will be required to remove "WiMAX" from its name in order for its new application for membership to be considered.

5. **Corporate Identity Slogans.**

(a) What is a "Corporate Identity Slogan?" A corporate identity slogan is a general marketing message that defines a significant business objective of a company. It differs from a trademark or service mark in that it is not intended to be associated with any particular product or service.



(b) General Rule: Narrow Use of “WiMAX” as part of a Corporate Identity Slogan Permitted. Use of “WiMAX” as part of a corporate identity slogan may be permitted under the following circumstances:

(i) The company provides WiMAX™ products or WiMAX™ services, as defined in Section 1 above;

(ii) The corporate identity slogan is consistent in all respects with the “WiMAX” usage requirements in Section 1 above.

(iii) The WiMAX Forum determines that the corporate identity slogan promotes the global adoption and deployment of WiMAX™ technology and is otherwise positive for WiMAX™ technology.

(iv) The corporate identity slogan is not used at any time as a trademark or service mark for any specific goods or services.

(v) The usage occurs under a written license agreement with the WiMAX Forum.

Due to the potential for abuse of the corporate identity slogan, these requirements will be strictly construed.

6. Formal Usage Requirements.

(a) Presentation. The correct form of “WiMAX” is always to write the word in all capital letters except for the “i,” which is always presented in lowercase form. Any other presentation of the word, such as “Wimax,” is incorrect and should not be used. “WiMAX” should bear a trademark notice in its initial occurrence in text (“WiMAX™”) and should include a statement that “‘WiMAX’ is a trademark of the WiMAX Forum” if there is a section that attributes trademark ownership.

(b) Variations. The presentation of “WiMAX” may not be varied in any way. Examples of prohibited variations are use of “WiMAX” include changing the spelling, adding hyphens, making one word two or using a possessive or plural form of “WiMAX,” or creating new words and word forms, such as “WiMAXX” or “WiMAXXed.”

7. Registration of Trademarks and Service Marks.

(a) Introduction. The WiMAX Forum dedicates significant resources to protecting “WiMAX” as a trademark and as a service mark in support of its mission of promoting the global adoption and deployment of WiMAX™ technology and certifying the products and services that implement it. These efforts benefit the ecosystem and the public at large by helping to ensure that “WiMAX” is viewed positively and treated uniformly. The efforts by individual companies to register trademarks or service marks that contain “WiMAX” significantly interfere with the WiMAX Forum’s efforts to protect and regulate “WiMAX” for the benefit of all.

(b) General Rule: No Registration of “WiMAX” as Part of a Proprietary Trademark. No company or person may register or apply to register a mark that contains



“WiMAX” as one of its elements. It is the policy of the WiMAX Forum to oppose registration of all such marks and to seek cancellation of any existing registration that interferes with the objectives expressed in Section 7(a). Any member that attempts to do so will reimburse the WiMAX Forum for all fees and expenses that the WiMAX Forum incurs, including specifically all attorneys’ fees, to enforce compliance with the requirements of this policy.

(c) Existing Applications and Registrations: No Grandfathering. All pending applications and any prior registrations are covered by this policy. If the WiMAX Forum objects to the application or registration, the owner will do one of the following:

- (i) File a withdrawal or abandonment; or
- (ii) Assign the application or registration to the WiMAX Forum.

If the WiMAX Forum requests assignment of the application or registration, the owner will consider the request in good faith.

(d) License Back of Applications/Registrations. If the WiMAX Forum acquires an application the use of which would be permissible under Section 3 of this policy, it will license the mark back to the assigning party.

8. Usage Requirements for Other Marks. In addition to the rules regarding “WiMAX” described above, the WiMAX Forum has issued or will issue usage guidelines for specific marks from time to time. A member may choose not to use a mark, but if it uses the mark, compliance with the applicable usage guidelines is mandatory. Each such document, upon its finalization, becomes a part of this policy.

9. Policy Violations and Enforcement.

(a) Generally. If the WiMAX Forum becomes aware of a violation of the its policies regarding trademarks, it may take any of the following actions:

- (i) It may contact the violator in writing or by telephone.
- (ii) It may provide the violator with a reasonable time, as determined by the WiMAX Forum in its sole discretion, to correct the noncompliance.
- (iii) It may suspend or terminate the violator’s membership in accordance with Bylaws procedures and/or bring legal action, as the WiMAX Forum determines to be appropriate under the circumstances.

(b) No Waiver. No delay or failure by the WiMAX Forum to take one of the foregoing actions shall be construed as a waiver by the WiMAX Forum of its enforcement rights or acceptance by the WiMAX Forum of noncompliance.

(c) Enforcement Costs. The member will bear all costs that the WiMAX Forum incurs in correcting that member’s violation of this policy, including all attorneys’ fees and costs.



(d) **Governing Document.** This policy and all related guidelines that are made a part hereof are “Governing Documents” under the WiMAX Forum Membership Agreement.