

# Update From Apache

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# Agenda

- 0) Background
- 1) How we vote
- 2) A moderate proposal (lawyer-free edition)
- 3) Another moderate proposal (go get that lawyer)

**Background**

# What's going on?

1. ASF requested a TCK license for Java SE
2. Sun offered license with a “Field-Of-Use” restriction
3. ASF cannot accept license
  - i) limits how ASF can distribute their software
    - FOU limits how users can use tested binaries
  - ii) not compliant w/ JSPA 5.B, 5.C.III, 5.F.I

# JSPA 5.B

For any Specification produced under a new JSR, the Spec Lead for such JSR shall offer to grant *a perpetual, non-exclusive, worldwide, fully paid-up, royalty free, irrevocable license under its licensable copyrights in and patent claims covering the Specification* (including rights licensed to the Spec Lead pursuant to Section 4.A and 4.C) *to anyone who wishes to create and/or distribute an Independent Implementation of the Spec*. Such license will authorize the creation and distribution of Independent Implementations provided such Independent Implementations:

- (a) fully implement the Spec(s) including all its required interfaces and functionality;
- (b) do not modify, subset, superset or otherwise extend the Licensor Name Space, or include any public or protected packages, classes, Java interfaces, fields or methods within the Licensor Name Space other than those required/authorized by the Spec or Specs being implemented; and
- (c) pass the TCK for such Spec.

For the purposes of this Section 5.B, patent claims covering the Specification shall mean any claims for which there is no technically feasible way of avoiding infringement in the course of implementing the Specification.

# JSPA 5.C.III

Other than as set forth above\*, *the Spec Lead agrees not to impose any contractual condition or covenant that would limit or restrict the right of any licensee to create or distribute such Independent Implementations.* The Spec License may otherwise include as additional terms and conditions only those that do not relate to the license grant but govern issues such as, without limitation, confidentiality, applicable law, dispute resolution, export control and government rights in data provisions, warranties and liabilities.

\* “above” - patent reciprocity limits

# JSPA 5.F.I

*The Spec Lead (including Sun) for a JSR approved by the JCP shall offer to any interested party licenses concerning the RI and TCK -- and also the TCK separately when developed under any JSR submitted hereafter -- on terms and conditions that are non-discriminatory, fair and reasonable.* Except as otherwise set forth in this Section 5.F, such terms and conditions shall be determined by the Spec Lead in its reasonable discretion.

<http://www.apache.org/jcp/sunopenletter.html>

“Your restrictions violate the basic protections of the JCP, which ensure both that a) specification leads and expert groups produce open specifications, and b) anyone can implement and distribute compatible implementations of those specifications without fear of obligation to the specification lead or members of the expert group for any "necessary IP" needed to implement that specification. Specifically, the JSPA requires that

- 1) a specification lead cannot "impose any contractual condition or covenant that would limit or restrict the right of any licensee to create or distribute such Independent Implementations" (section 5.C.III)
- 2) a specification lead must license all necessary IP royalty-free to any compatible implementation of a specification (section 5.B)”

# How We Vote

# Apache's JCP Voting Plan

1. We will vote “NO” on any vote for a JSR led by a spec lead we feel is out of compliance with the JSPA
2. We will vote “NO” on any vote for a JSR where the spec lead won't commit to a FOU-free TCK licenses (for that JSR)
3. We will vote “NO” for any final vote where the presented TCK license terms aren't FOU-free (for that JSR)

# A Moderate Proposal

Lawyer-free Edition

# A Moderate Proposal

The ASF asks the EC to vote on the following motion :

It is the position of the JCP Executive Committees that TCK licenses must not be used to discriminate against or restrict compatible implementations of Java specifications.

Licenses containing such limitations do not meet the EC's understanding of the requirements of the JSPA, the agreement under which the JCP operates, and violate the expectations of the Java community that JCP specs can be openly implemented.

# Another Moderate Proposal

“Go Get Your Lawyer” Edition

# A Moderate Proposal

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