

ICC Promoters' Agreement

This agreement is effective as of _____ by and among the members of the International Color Consortium, collectively referred to as the "Promoters".

Background

- A. The Promoters have developed and will continue developing a specification relating to computerized color management.
- B. The Promoters wish to encourage broad and open industry adoption of the specification and wish to provide necessary licenses to do so.

Agreement

1. Definitions

- 1.1 "Adopter" means any entity which has executed an identical copy of Attachment A and delivered it to Promoters.
- 1.2 "Affiliate" is an entity which directly or indirectly controls, is controlled by, or is under common control with another entity, so long as such control exists. "Control" means beneficial ownership of more than fifty percent of the voting stock or equity in an entity.
- 1.3 "Fellow Adopters" are the Promoters and all other Adopters.
- 1.4 "Promoters" are the members of the International Color Consortium.
- 1.5 "Specification" means the document entitled ICC Profile Format Specification authored and published by the Promoters, including all versions up to the version adopted in July 1996.

2. Covenants

- 2.1 Grants of Licenses. The Promoters hereby grant to each other the license set out below. Upon each Adopter's execution and delivery of the agreement attached hereto as Attachment A, such license is granted by Promoters to such Fellow Adopter.

Promoter and its Affiliates grants to each Fellow Adopter and its Affiliates (collectively "Licensee"), under any claim of a patent or patent application owned or licensable by Promoter or its Affiliates and if not for this grant infringed directly or contributorily by Licensee's product, a non-exclusive, royalty-free, non-transferable, world-wide license (without rights to sublicense except as part of the transfer of a product as described hereafter) to make or have made the portions of Licensee's product which implements and complies

with the relevant portions of the Specification, and to use, sell, offer to sell, license and import such portions of such product, where infringement of such claims would not have occurred but for implementation of and compliance with the relevant portions of such Specification, and (a) there is no commercially reasonable noninfringing alternative to such infringement or (b) infringement of such claims results from use of a specific example included in such Specification. Such license is contingent on the Licensee's product fully complying with a version of the Specification to the extent required for such a product.

2.2 Licenses to Fellow Adopters. Notwithstanding the restriction on sublicensing, any Promoter may extend the license set out in Attachment A to any third party.

2.3 Notices. Any publication of the Specification shall contain an appropriate copyright notice in the names of the Promoters. Public references to the Specification shall attribute authorship to the Promoters.

3. Updates, Modifications, Title

3.1 Modifications. Any modifications to or derivative works of the Specification shall be owned solely by the party creating them unless otherwise agreed upon. However, no Promoter shall publish such a modified or derivative work (apart from translations into another language) which is identified as an ICC Specification without the express written consent of all Promoters. The mere preparation of, and compliance with, a proprietary implementation or extension of the Specification shall not act to extinguish a Promoter's rights under Section 2.

4. General

4.1 No Other Licenses. Except for the rights expressly provided by this Agreement, no Promoter grants or receives, by implication, or estoppel, or otherwise, any rights under any patents or other intellectual property rights.

4.2 Limited Effect. This Agreement shall not be construed to waive any Promoter's rights under law or any other agreement except as expressly set out here.

4.3 No Warranty. Adopter acknowledges that the Specification is provided "AS IS" WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY OTHERWISE ARISING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE.

4.4 Damages. In no event will Promoters be liable to each other for any loss of profits, loss of use, incidental, consequential, indirect, or special damages arising out of this or any

other related agreement, whether or not such party had advance notice of the possibility of such damages.

- 4.5 Governing Law. This Agreement shall be construed and controlled by the laws of New York. Any litigation arising out of this Agreement shall take place in New York, and all parties irrevocably consent to jurisdiction of the state and Federal courts there.
- 4.6 Notices. Shall be in writing and sent to the parties at the following addresses or at such addresses as the Promoters may later specify by such written notice.
(ENTER ADDRESSES)
- 4.7 Not Partners. The Promoters are independent companies and are not partners or joint venturers with each other. While the Promoters may select an entity to handle certain administrative tasks for them, no party is authorized to make any commitment on behalf of all or any of them.
- 4.8 Complete Agreement. This Agreement sets forth the entire understanding of the parties and supersedes all prior agreements and understandings related 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.

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

By: _____ By: _____

Name: _____ Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

etc.

ICC ADOPTERS' AGREEMENT FORM

This is a patent license agreement among parties wishing to adopt the ICC Profile Format Specification

As used in this Agreement:

- The “Promoters” are members of the ICC.
- “Adopter” is the entity named at the end of this Agreement.
- “Fellow Adopters” are the Promoters and any other entity which has executed an identical counterpart of this Agreement and delivered it to Promoters.
- “Affiliate” is an entity which directly or indirectly controls, is controlled by, or is under common control with another entity, so long as such control exists. “Control” means beneficial ownership of more than fifty percent of the voting stock or equity in an entity.
- “Specification” is the specification entitled ICC Profile Format Specification authored and adopted by the Promoters, including all versions up to the version adopted in July 1996.

When Adopter’s authorized representative signs this Agreement and delivers it to the Promoters in care of the ICC secretary, , it will be legally binding.

Licenses:

- Grants of Licenses. The following license has been granted by the Promoters to each other. Upon Adopter’s execution of this Agreement, it is granted by Adopter to all Fellow Adopters, and the grants of all Fellow Adopters shall extend to Adopter. In each case, the party (Promoter, Adopter, or Fellow Adopter) granting the covenant is referred to as the “Licensor”.

Licensor and its Affiliates grant to each Fellow Adopter and its Affiliates (collectively “Licensee”), under any claim of a patent or patent application owned or licensable by Promoter or its Affiliates and if not for this grant infringed directly or contributorily by Licensee’s product, a non-exclusive, royalty-free, non-transferable, world-wide license (without rights to sublicense except as part of the transfer of a product as described hereafter) to make or have made the portions of Licensee’s product which implements and complies with the relevant portions of the Specification, and to use, sell, offer to sell, license and import such portions of such product, where infringement of such claims would not have occurred but for implementation of and compliance with the relevant portions of such Specification, and (a) there is no commercially reasonable noninfringing alternative to such infringement or (b) infringement of such claims results from use of a specific example included in such Specification. Such license is contingent on the Licensee’s product fully complying with a version of the Specification to the extent required for such a product.

General

- No Other Licenses. Adopter neither grants or receives any license to or right to use any trademark, trade name, copyright, or maskwork hereunder. Except for the rights expressly provided by this Agreement, Adopter neither grants nor receives, by implication, or estoppel, or otherwise, any rights under any patents or other intellectual property rights.
- No Warranty. Adopter acknowledges that the Specification is provided “AS IS” WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY OTHERWISE ARRIVING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE.
- Damages. In no event will Promoters, Adopter or Fellow Adopter be liable to the other for any loss of profits, loss of use, incidental, consequential, indirect, or special damages arising out of this or any other agreement, whether or not such party had advance notice of the possibility of such damages.
- Governing Law. This Agreement shall be construed and controlled by the laws of New York. Any litigation arising out of this Agreement shall take place in New York, and all parties irrevocably consent to jurisdiction of the state and Federal courts there.
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In witness of this agreement, the Adopter has executed this Agreement below:

By: _____

Name: _____

Title: _____

Company: _____

Date: _____