

USAGE GUIDELINES FOR THE OpenGL® ES TRADEMARK

BRIEF SUMMARY

1. “OpenGL ES” is not a generic name for a graphics library for embedded systems or any other product. OpenGL® ES is a trademark for specific application programming interface software from Silicon Graphics, Inc. (“SGI”).
2. Only SGI and its Conforming Licensees are authorized to use the OpenGL® ES trademark and oval logo to identify their products.
3. Others can use the OpenGL® ES trademark (but not the oval logo) to refer to their products by following the “fair descriptive use” rules contained in these guidelines.
4. Use of the OpenGL® ES trademark and oval logo should always follow the rules of proper trademark usage and acknowledgment contained in these guidelines.
5. All questions regarding use of the OpenGL® ES trademark and oval logo should be referred to the SGI Legal Department.

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USAGE GUIDELINES FOR OpenGL® ES TRADEMARK

1.0 Overview

OpenGL® ES is a trademark owned by Silicon Graphics, Inc. (“SGI”) for the application programming interface (“API”) software specified by the Khronos Group for embedded 2D/3D graphics using well-defined subset profiles of OpenGL® API approved by the OpenGL® Architecture Review Board (ARB). It is a low-level API that enables the lightest weight interface between software applications and hardware or software graphics engines. Since the advent of the OpenGL® ES API, it has shown itself to be extremely portable and has become the most widely adopted embedded graphics API in the industry. SGI has created and licensed the OpenGL® ES trademark and logo to the Khronos Group. Composed of members from many of the industry's leading embedded graphics vendors, each of whom has licensed the OpenGL® ES trademark from SGI, the Khronos Group has managed the OpenGL® ES API specification by proposing and approving changes to the specification and conformance testing. Through the Khronos Group and its participation, SGI has assured that the products bearing its OpenGL® ES trademark meet a consistent standard of the highest quality. SGI retains exclusive rights over the OpenGL® ES trademark and all its associated proprietary intellectual property. Certain licensees (“Conforming Licensees”) have access to proprietary software that enables them independently to verify that all products and implementations bearing the OpenGL® ES trademark conform to the OpenGL® ES API standards (“Conformance Tests”).

The following OpenGL® ES oval logo (“oval logo”) is to be used only by SGI and SGI’s Conforming Licensees:



Other licensees may not use the oval logo and all prior permissions to anyone other than Conforming Licensees, whether explicit or implicit, are revoked.

Developers writing code based on the publicly available OpenGL® ES specification made available by the Khronos Group are free to market and distribute their implementations without reference to the OpenGL® ES trademark. Reference to the OpenGL® ES trademark is permitted for marketing or technical disclosure purposes, but only provided the reference follows the “fair use” guidelines set forth below.

Any party who wants to market and distribute an implementation that is identified by use of the OpenGL® ES trademark and/or oval logo must:

- (1) obtain the required license from the Khronos Group by signing the appropriate License Agreement (see “OpenGL ES licensing” at <www.khronos.org>);
- (2) successfully run the implementation with the Conformance Tests; and
- (3) submit the Conformance Test results to the Khronos Group.

Since an implementation based on the publicly available standard specification for the OpenGL® ES API is not approved or endorsed by SGI, it is important to have a way to inform users and the public which implementations meet SGI's exacting criteria. This is done by carefully defining the manner in which the OpenGL® ES trademark and oval logo are used. These Guidelines provide that definition for those not associated with SGI seeking fair use of the OpenGL® ES trademark, as well as SGI employees and Conforming Licensees who wish to protect this valuable asset to their business.

2.0 General Trademark Rules

A trademark must remain distinctive and be used properly to preserve its function as identifying a particular source of goods or services. For example, the OpenGL® ES trademark and oval logo identify only those products that come from SGI or its Conforming Licensees. Misuse of a trademark, *i.e.*, treating the trademark just like any other word, will diminish its distinctive nature and may eventually destroy its ability to identify a particular source. This leads to confusion and even deception in the marketplace as to who actually stands behind the quality of the product or service that uses the mark. The rules in this section of the Guidelines are designed to give some basic understanding of proper usage that will preserve the value of a trademark. Although these rules are directed specifically to the OpenGL® ES trademark, they are generally accepted and apply to all trademarks.

When used in text, a trademark is a proper adjective, *i.e.*, it should always be capitalized or be presented in another distinctive manner and precede a noun that describes the generic product or service. In our case, "OpenGL® ES" is the adjective and "API", "application programming interface", "trademark", or a similar accurate generic term, is the noun. With this in mind:

- Use "OpenGL® ES" in its distinctive form, *i.e.*, always capitalize the "O", "G" and "L", leave no space between the "Open" and the "GL", leave a space between "GL" and "ES", and capitalize "ES".

Incorrect: open GL es, Open GL ES, open gles, open gl es, etc.

Correct: OpenGL® ES

- Follow "OpenGL® ES" with its appropriate noun;

Incorrect: Acme now offers OpenGL ES

Correct: Acme now offers OpenGL® ES API

Note: Consistent use of a generic name like "API" with the OpenGL® ES trademark is a simple way to satisfy this rule and is highly recommended. However, it is not mandatory to engage in redundancy by following every use of the trademark with the generic words – it is sufficient that the viewer be made aware that OpenGL® ES is a trademark by the association of the mark with the generic words in a context of normal literary style. For example, the generic term may be used prominently with the mark at least once in a page

of text, or in association with a proper trademark acknowledgment (See Section 3.0 below).

- Don't use "OpenGL® ES" as a noun;

Incorrect: OpenGL ES is powerful

Correct: The OpenGL® ES API is powerful

- Don't use "OpenGL® ES" as a verb;

Incorrect: Let's OpenGL ES the application

Correct: Let's use OpenGL® ES API for the application

- Don't make "OpenGL® ES" plural or possessive;

Incorrect: OpenGL ES's functions

Incorrect: There are many OpenGL ES's

Correct: The functions of the OpenGL® ES API

Correct: There are many implementations of the OpenGL® ES API specification

- Don't combine "OpenGL® ES" with another trademark;

Incorrect: Microsoft Open GL ES

Correct: OpenGL® ES API for Microsoft operating systems

- Don't use "OpenGL® ES" with a hyphen in combination with other words.

Incorrect: Bftzplktm is OpenGL ES-like

Correct: Bftzplktm is based on the specification for the OpenGL® ES API

3.0 Trademark Markings and Acknowledgments

The primary purpose of trademark marking and acknowledgments is to give public notice of ownership and exclusive rights to use of the mark. It is not always practical or feasible to use the appropriate trademark marking with every occurrence of the mark. In those cases, it is acceptable to use the symbol whenever the mark is displayed prominently in documents, programs, packaging, etc., such as in labels, titles, captions, banners, headlines and tables of content, and in the first occurrence of the mark in text on each page, including web pages. The proper marking for a trademark that is registered and used in the United States is ®, and the proper symbol for a trademark which has a pending application for such registration, or for which common law rights are claimed, is tm. When the mark is registered and used in another country, the ® or its local equivalent is used. When used in the U.S., the OpenGL® ES trademark and logo should be marked as follows:



In addition to trademark markings, a brief acknowledgment of SGI ownership should be included in materials in which the OpenGL® ES trademark and/or oval logo are used. An example of such an acknowledgment is:

OpenGL® ES and the oval logo are trademarks of Silicon Graphics, Inc. in the United States and/or other countries worldwide. Products bearing such trademarks incorporate intellectual property that is owned and licensed to others by Silicon Graphics, Inc.

The acknowledgment may be presented in smaller print, but must be large enough to be legible, and generally appears at the end of a document, the bottom of a web page, the inside cover of a publication, on the back of a package, etc.

4.0 Use of the OpenGL® ES Trademark and Oval Logo by Others

Since the OpenGL® ES trademark and oval logo are exclusively owned by SGI, the rights of others to use the trademark and oval logo are limited to those uses allowed by contract (license) with SGI and those “fair descriptive (non-trademark) uses” allowed by law. Any other use of the OpenGL® ES trademark or oval logo by others may constitute a violation of the trademark and/or unfair competition laws of the United States or other countries in which the use occurs.

4.1 Use by Conforming Licensees

Conforming Licensees of the OpenGL® ES API must use the OpenGL® ES trademark and oval logo (the “Licensed Marks”) in accordance with the provisions of their license agreement, which among other things, incorporate the following Guidelines.

When using the Licensed Marks, a Conforming Licensee is required to:

- Never use any mark which is confusingly similar to any SGI trademark or logo.
- Always refer to the specific version of OpenGL® ES API to which the product conforms.
- Always follow the General Trademark Rules provided in Section 2.0 herein.
- Always include the appropriate trademark marking and acknowledgment, as provided in Section 3.0 above.
- Never adopt non-SGI marks that are similar to or competitive with the Licensed Marks (absent prior written approval from SGI’s legal department).
- Always follow any other guidelines provided by SGI concerning the OpenGL® ES trademark.

- Never use the Licensed Marks to name the Conforming Licensee’s product without SGI’s advance written approval, e.g., “OpenGL® ES for Hewlett-Packard” would not be acceptable as a product name.
- Never use the Licensed Marks to identify products or services that are not covered by the Conforming Licensee’s License Agreement, e.g., “Conforming Licensee’s OpenGL® ES API offerings include Direct 3D” would not be an acceptable statement.
- Never use the Licensed Marks in a manner that implies that SGI sponsors, endorses or is somehow connected with the Conforming Licensee’s activities, products or services, e.g., “Conforming Licensee has teamed with SGI to bring you Bftzplk™, an OpenGL® ES API-compatible graphics driver” would not be an acceptable statement.
- Never use the Licensed Marks in any way that disparages the Licensed Marks or SGI, e.g., “Although Conforming Licensee’s Bftzplk™ product supports the OpenGL® ES API, the XYZ API is preferred because of the inferior image quality generated by the OpenGL® ES API”.

The following statements specifically apply to and can be used by Conforming Licensees in association with the oval logo (use of the oval logo is exclusively reserved to SGI and its Conforming Licensees):

- OpenGL® ES 1.0 API Certified
- This product conforms to OpenGL® ES 1.0 API
- This product is OpenGL® ES 1.0 API compatible
- XYZ is an authorized OpenGL® ES 1.0 API Licensee
- X is an OpenGL® ES API driver
- X is an OpenGL® ES API implementation

4.1.1 Restrictions on Conforming Licensees

Conforming Licensees must use the OpenGL® ES trademark and oval logo only on those products that have passed the Conformance Tests and for which Conformance Test results have been submitted to SGI. Certain exceptions may be available where implementations otherwise require users to be SGI Conforming Licensees, but these exceptions require written permission from the SGI Legal Department. For specifics, each Conforming Licensee should refer to the details of its license. By way of example, a Conforming Licensee may **not** use the following statements on its products derived from the publicly available specification, that have not passed the Conformance Tests:

X IS A FULL IMPLEMENTATION OF THE OpenGL® ES API
 X IS AN EXTENSION TO THE OpenGL® ES API

4.2 Permissible Fair Descriptive Use by Other Than Conforming Licensees

PERSONS OR ENTITIES OTHER THAN CONFORMING LICENSEES ARE PROHIBITED FROM USING THE OpenGL® ES TRADEMARK AND OVAL LOGO, OR ANY OTHER SGI TRADEMARK, TO IDENTIFY THEIR PRODUCTS, EVEN IF SUCH PRODUCTS ARE DERIVED FROM THE OpenGL® ES API SPECIFICATION, BECAUSE SUCH PRODUCTS HAVE NOT UNDERGONE THE CONFORMANCE TESTS, AND SGI HAS NO CONTROL OVER THE QUALITY OF SUCH PRODUCTS.

However, others are allowed “fair use” of the OpenGL® ES trademark, but not the oval logo, to identify the products of SGI and its licensees, as long as the trademark is used in accordance with these Guidelines. An Independent Software Vendor (“ISV”) who is not a Conforming Licensee is not permitted to indicate that its software is based on the OpenGL® ES API specification by incorporating the OpenGL® ES trademark in the name of its software product or by displaying the oval logo (except as permitted below). However, the ISV may lawfully use a descriptive phrase that truthfully states that the product is based on or derived from the publicly available specification if the ISV follows these Guidelines.

Although use of the OpenGL® ES oval logo is strictly reserved for SGI and its Conforming Licensees, there are two exceptions to this rule. First, a reseller of a Conforming Licensee’s product may use both the OpenGL® ES trademark and oval logo to advertise products that bear that trademark or logo provided that the reseller follows the Guidelines. Second, an ISV may use both the OpenGL® ES trademark and oval logo to advertise products sold by the ISV that incorporate products from Conforming Licensees provided that the ISV obtains the OpenGL® ES oval logo directly from the Khronos Group web site at the following address: <www.khronos.org>. At that location, the ISV will be required to enter into a “clickwrap” license agreement which will spell out the terms and conditions of its permitted use of the oval logo.

4.2.1 Fair Descriptive Use on Products: Descriptive phrases containing the OpenGL® ES trademark that appear on products must comply with the following guidelines:

- The products should be marked under the developer’s or vendor’s own product names and brands.
- On product, product packaging, collateral material, and other similar prominent promotional references to the OpenGL® ES trademark, the descriptive phrase should: (a) be in substantially smaller type than the developer’s or vendor’s product name; (b) be less prominent than the product name; and (c) be in either a different font or color, or on a different line, than the developer or vendor’s product name.
- The use of the OpenGL® ES trademark should comply with the General Trademark Rules of Section 2.0 above and the Marking and Acknowledgment Rules of Section 3.0 above.

- Examples:

Permitted: BFTXPLKtm driver from XYZ for OpenGL® ES API

BFTXPLKtm software derived from the specification for OpenGL® ES API

along with the phrase:

“OpenGL® ES and oval logo are registered trademarks of Silicon Graphics, Inc. in the United States and/or other countries worldwide. Products bearing such trademarks incorporate intellectual property that is owned and licensed to others by SGI.”

Not Permitted: BFTXPLKtm OpenGL® ES driver
 BFTXPLKtm OpenGL® ES software

4.2.2 Fair Descriptive Use in Comparative and Compatibility Advertising

As a general rule, anyone, including a competitor, may use another’s trademark when providing information about the substitutability or compatibility of products, because by doing so the party engages in fair competition based on those aspects in which the products differ. However, in the high technology context in which the OpenGL® ES trademark is used, the word “compatible” can be a term of art and thus have a narrower meaning within the industry than the dictionary definition. For example, courts have held that a product advertising itself as “compatible” with another must support the same functions as that product, *i.e.*, the first product can be used in place of the second product without producing any difference in performance and that the first product has the same capabilities and functions as the second product. If the statement is literally false, or even if it is literally true but it is nevertheless likely to mislead or confuse consumers, the person making the statement may be liable for a false advertising claim.

Therefore, comparative and compatibility statements using the OpenGL® ES trademark should be made very carefully. If the implementation has not successfully completed the Conformance Tests and the Conformance Test results submitted to SGI, the implementation should not be claimed to be “compatible with” or to “support” the OpenGL® ES API. This is because that implementation has not been independently verified to conform to OpenGL® ES 1.0 (or other version number) API through use of SGI’s proprietary Conformance Test software. SGI deems any claims equal to such independent verification as an admission of violation of SGI’s proprietary property, including its patents, and will vigorously pursue legal action against such infringers.

No party is allowed to use the OpenGL® ES trademark or oval logo in a manner that falsely, deceptively or inaccurately compares the performance, compatibility or other characteristics of their products with those of products bearing the OpenGL® ES trademark or oval logo.

IN THAT REGARD, THE FOLLOWING EXAMPLES ARE FALSE STATEMENTS IF MADE BY ANYONE OTHER THAN A CONFORMING LICENSEE:

X IS A SUBSET OF THE OpenGL® ES API
X IS A MINI OpenGL® ES API
X IS OpenGL® ES API COMPATIBLE
X IS AN IMPLEMENTATION OF OpenGL® ES API
X IS AN EXTENSION TO THE OpenGL® ES API

Anyone who makes use of the publicly available API must include the following statement if that person chooses to make any reference to the OpenGL® ES API:

“This product is based on the published OpenGL® ES API, but is not an implementation which is certified or licensed by Silicon Graphics, Inc. under the OpenGL® ES API.”

Conforming Licensees who wish to make specific statements such as those above regarding their products must get prior written approval from the SGI Legal Department.

4.2.3 Fair Descriptive Use in Publications, Seminars, User Groups, Trade Shows, Conferences and Expos:

- Publications, seminars, and user groups

When directed solely to SGI Conforming Licensees, a license may be available from SGI to use the OpenGL® ES trademark for publications, seminars, user groups, etc. Please contact the SGI Legal Department. Otherwise, to refer to the OpenGL® ES trademark in the titles of books, magazines, e-zines, other publications, educational seminars, training seminars, or user groups, a space should separate the OpenGL® ES trademark from the rest of the title, and rights in the “OpenGL® ES” portion of the title should not be claimed. Rather, you should attribute the OpenGL® ES trademark to SGI by using the acknowledgment in Section 3.0 of these Guidelines. Examples of appropriate titles include:

OpenGL® ES API Technology Review
OpenGL® ES API User Group
OpenGL® ES API Training Seminar

Be sure to include your own company or association name and/or logo in a prominent location on all materials relating to the publication, seminar or user group. A disclaimer of sponsorship, license, authorization or other relationship with SGI is mandatory. A statement such as the following is appropriate:

“Not sponsored or officially authorized by Silicon Graphics, Inc.”

For publications, the publisher's name and logo should be displayed prominently on the masthead and in the publication block. For books, the publisher's name and logo should be displayed prominently on the cover, spine, and title page. For seminars and classes, the provider's name and logo should be prominently displayed on all materials, and only individual class or seminar titles may include the OpenGL® ES trademark descriptively to indicate that the content of the class or seminar is related to the OpenGL® ES API. In advertising and promotional materials, class and seminar titles should be displayed far less prominently than the provider's name and logo.

NO USE OF THE OVAL LOGO IS PERMITTED

- Trade Shows, Conferences and Expos

Unless SGI is sponsoring the show or conference and in the absence of a written sponsorship agreement to the contrary, the name of any trade conference or exposition directed to the OpenGL® ES API should begin with the producer's or sponsor's brand or name, and then follow with the reference to the OpenGL® ES API. For example:

XYZ Conference for Developers using OpenGL® ES API
ABC Brand Conference on OpenGL® ES API standards

Include the producer's and/or sponsor's own company name logo prominently on all materials associated with, or advertisements promoting, the conference.

Also be sure to include the statement of non-association with SGI and to use the acknowledgment in Section 3.0 above on all materials referencing the OpenGL® ES trademark. In addition, do not use the oval logo in your publications, or materials for seminars, user groups, trade shows, conferences, and expos, unless you have a written license from SGI permitting such use, and do not do anything else that might be understood to suggest association with or sponsorship by SGI.

Since the above descriptive uses of the OpenGL® ES trademark are merely references to OpenGL® ES API and technology (and are not trademark uses or a form of branding another's product or services with the OpenGL® ES trademark), there should be no attempt to claim or establish trademark rights (through registration or otherwise) in the name or title of the publication, seminar, user group, conference, trade show, or exposition which contains the OpenGL® ES trademark.

4.2.4 Fair Descriptive Use in Web Sites and Domain Names

If the descriptive use guidelines set forth above in Section 4.2.3 are followed for web sites, then use of the OpenGL® ES trademark in websites, and a domain name containing the OpenGL® ES trademark for a web site, will also constitute a fair, descriptive use so long as the following additional conditions are met:

- The website never displays the oval logo absent written permission from the SGI Legal Department.
- The use of the OpenGL® ES trademark is not misleading or likely to cause confusion as to whether the web site is sponsored by or affiliated with SGI, or as to the source of the OpenGL® ES technology.
- Any principal or second-level domain name is not identical or virtually identical to the OpenGL® ES trademark.
- The web site owner does not use the OpenGL® ES trademark in its company name, product names or service marks.
- The web site owner does not register, or attempt to register, the domain name containing the OpenGL® ES trademark as a trademark or service mark, and does not claim a trademark or similar proprietary rights in the domain name.
- The web site displays a legal notice (a link is okay) that contains the following acknowledgment:

""OpenGL® ES" is a registered trademark of Silicon Graphics, Inc. in the United States and/or other countries worldwide. [insert web site owner name] is independent of Silicon Graphics, Inc."

- The web site otherwise complies with domain name registry policies and current laws regarding trademark infringement and dilution.
- The website does not in any way alter, edit or modify the OpenGL® ES trademark, or use it to refer to SGI products or services other than those for which the mark is intended.

For More Information

If you have questions or need additional information, please contact the SGI Legal Department.

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