

DVB LAUNCHES DECLARATION PROCESS TO FOSTER PATENT POOLING

As of 1 July 2005, rights holders can submit declarations of patents essential to a DVB specification immediately after adoption of the specification by its Technical Module. This routinised patent declaration process is part of its effort to foster the formation of patent pools covering DVB specifications. The new process builds on the success of the earlier efforts for fostering pooling of patents essential to the DVB-T, MHP, OCAP and other DVB specifications.

Under the new process, declarations for patents essential to a DVB specification can be made to the patent review coordinator from the time the specification is adopted by the DVB's Technical Module. The availability of declaration review will be announced at that time and the Technical Module will receive periodic updates of the overall progress of submissions. DVB's website will also have periodic reports for each specification. The coordinator will identify successful declarants who will then, generally at the end of six months, follow on with the next steps in the pooling process.

The process announced today has already a "back-log" of specifications for which declarations can be submitted. These include DVB S-2 (ETSI EN 305 307), TV-Anytime in DVB (TS 102 323) and the suite of standards for DVB over IP based network. A list of these "back-log" specifications can be found elsewhere on the DVB website.

The DVB has named the law firm of Sughrue Mion PLLC to continue its work as patent review coordinator. As coordinator it will review declarations of patents essential to these and other DVB specifications. This is the first step in a process leading to the formation of a patent pool covering these standards. The objective is to create efficient access to the intellectual property rights necessary for implementation and offered on terms fair, reasonable and non-discriminatory. Holders of IPRs essential to a DVB specification should make their declarations as promptly as possible to Sughrue Mion.

Carter Eltzroth, Legal Director DVB, stated, "DVB in the past has led campaigns to encourage declarations of patents of its specifications. This led to DVB-T pool and soon to the pooling for MHP, OCAP and other GEM specifications. Our community knows the process very well. DVB is now at a point where our process can be made a routine."

Sughrue Mion as independent patent specialist will assess the declarations submitted. Based on the conclusions drawn from that assessment, those holding essential IPR in each specification will be invited to consider forming a licensing programme. The economic terms of that programme, and the choice of licensing administrator, remain a decision of the participants in each licensing programme.

Alan Kasper, partner at Sughrue Mion, stated, "With DVB, Sughrue Mion established a procedure for assessing MHP, OCAP and other DVB specifications which worked very well. We now build on that work to make our task, and the task of declarants, more routine and standardised. "

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Holders of IPRs essential to the implementation of a DVB standard are invited to identify their rights by submitting the attached Statement of Declarant (available also at www.dvb.org) and a per-patent submission fee of \$3,500 USD to:

DVB Patent Review Coordinator
c/o Alan J Kasper, Esq
Sughrue Mion PLLC
2100 Pennsylvania Avenue NW
Washington DC 20037-3213

T: +1 202 293 7060
E: akasper@sughrue.com

Notes to Editors.

1. The **DVB Project** is the industry-led standards forum that is adopting specifications for digital television and other platforms. Its DVB specifications for digital terrestrial, cable and satellite television have been introduced in Europe and elsewhere throughout the world. Once adopted by the DVB, a recognized standards body, such as ETSI or CENELEC, standardizes its specifications.
2. With this announcement, DVB creates a standardised process for declarations of essential IPRs, with a view of encouraging successful declarants to form patent pools. Today's announcement calling for declarations covers all future specifications and the "back-log" of specifications adopted by the DVB Project from the time of its pooling exercise launched in May 2003, notably for its MHP specification. A list of the specifications in this "back-log" is attached. In the future the opening of the declaration process for a DVB specification will be announced in its Technical Module and on the DVB's website.
3. The DVB's **IPR policy** is set out in its Memorandum of Understanding. DVB specifications enjoy an important advantage because the DVB members have undertaken to provide their IPRs essential to a specification on terms that are fair, reasonable and non-discriminatory. A member may give notice that its IPRs are not so available, but to date no such notice has ever been delivered. The complete text of the DVB MoU and its article 14 on IPR policy can be found at www.dvb.org.
4. Under the IPR policy, the DVB fosters a voluntary, agreed-upon, joint licensing arrangement (a "**patent pool**") for each of its specifications. The DVB has successfully fostered a licensing programme for its DVB-T specification, which is now administered by MPEG LA. In addition, since 1995, the companies that developed the DVB common scrambling algorithm have been licensing their technology under a programme under the custodianship of ETSI. Details of these programmes can be found at www.mpegla.com and www.etsi.com.
5. As indicated in the press release, the pooling process contemplated has several steps. First, those holding IPRs in a DVB specification, either listed in the annex or adopted after today, should submit declarations to Sughrue Mion, the independent patent review coordinator, which will examine the applicability of these IPRs. After its assessment an invitation to those found holding applicable IPR will be invited to consider forming a pool. At this point, the **DVB's fostering process**, as provided under its MoU, stops. It is for the rights holders to demonstrate the essentiality of their IPRs and to establish the economic and other terms of their licensing policy.
6. The firm of **Sughrue Mion** PLLC is a 100 lawyer firm headquartered in Washington DC and specializing in the practice of law related to intellectual property rights. Sughrue Mion served as patent review coordinator for DVB in the declaration process covering the MHP, OCAP and other specification. Since its inception over 45 years ago, the firm has represented its clients in all aspects of patent practice, both in the United States and internationally. The firm's diverse client based, encompassing a broad spectrum of multinational corporations, high technology growth companies and small start-up ventures, has offered the firm experience in all fields of technology, particularly telecommunications, and has provided Sughrue a wealth of litigation, licensing and client counselling opportunities. Sughrue also has offices in Menlo Park, California, and Tokyo, Japan. Further details can be found at www.sughrue.com.

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Information to be submitted by an entity declaring essential IPRs

A rights holder submits its declaration to Sughrue Mion by completing the Statement of Declarant (attached to this press release and available at www.dvb.org). Sughrue Mion expects to receive responses as soon as possible after a specification is adopted by DVB's Technical Module. After the close of the review period (generally six months), the DVB Project will encourage those holding essential IPRs to complete an arrangement for one or more pools, each of which may be constituted as a stand-alone licensing entity. Later declarations may also be assessed.

Copies of the specifications are available from the DVB Project Office. Please send requests directly to the following email address: noetzli@dvb.org.

Please note that copies can only be supplied via this channel to organisations for the purpose of identifying their essential IPRs. For all other requirements, copies of the DVB specifications must be obtained through ETSI, CENELEC or the EBU.

Specifications covered by the DVB's Call for Declarations

The present call for declarations of intellectual property rights is the first since May 2003. Earlier calls included DVB's transmission standards for terrestrial, cable and satellite digital broadcasting (in 1997) and for the MHP, CableLabs related OCAP, and other GEM profiles (in 2003).

You can find elsewhere on the DVB website a list of titles of specifications adopted since the last call, together with the reference number of the related recognized standards body. These specifications constitute the "back-log" of the new declaration process. As a specification is adopted by the DVB's Technical Module, it will be added to the list of specifications for which declarations can be made to the patent coordinator. More complete description of each specification, and the status of the review process for the specifications, can be found at www.dvb.org.

STATEMENT OF DECLARANT

Ref. No. _____

01/07/05

PART 1: SUMMARY DATA FOR CANDIDATE PATENT or APPLICATION

A. Title: _____

B. Patent or Application Number: _____

C. Publication Date: _____

D. Publication Number: _____

E. Listing of all applicable standards: _____

F. Proprietor of Listed IPR: _____

G. Contact Person and Details:

a. Name (title) _____

b. Address: _____

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c. Email: _____

d. Telephone: _____

e. Facsimile: _____

H. English Language Copy or Translation Submitted: Y N

I. PATENT APPLICATION FAMILY

COUNTRY	APPL. NO.	FILING DATE	PUB. NO.	PATENT NO.

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PART 2 – LISTING OF CLAIMS and STANDARD

PATENT/APPLICATION NO. _____

Submitting Entity: _____

CLAIM NUMBER	APPLICABLE STANDARD(S)	REFERENCE (reference(s) to cited section of each standard(s))

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PART 3 – CLAIM CHART (one model claim only)

PATENT/APPLICATION NO. _____

Submitting Entity: _____

TEXT REPRESENTATIVE CLAIM NUMBER _____	of SUPPORTING DESCRIPTION (specific reference to figs, columns and lines of English disclosure)	COMMENT (text reference to cited standard(s))
(Preamble)		
(Limitation 1)		
(Limitation 2)		
(Limitation 3)		
(Limitation 4 etc.)		

(use additional pages if necessary)

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INSTRUCTIONS

Introduction

1. **Purpose** - The Statement of Declarant is intended to efficiently obtain data regarding a Declarant's IPR that is asserted by the Declarant to be essential to one or more DVB standards.
2. **Cooperation** - The Statement of Declarant seeks significant cooperation from the Declarant with respect to the Declarant's proposed interpretation of each candidate patent or application for purposes of an evaluation of essentiality. The Declarant is the entity most familiar with its IPR, has already analyzed the application of its IPR to the standard and is in the best position to state a clear and well supported case for essentiality. The Coordinator reserves the right to return incomplete Statements to the Declarant.
3. **Period for Submission** – Under the review process announced in July 2005, declarations can be submitted to the patent review coordinator when the applicable specification has been adopted by the DVB's Technical Module. The objective is to complete the initial review phase of declarations covering a specification within six months of adoption. Generally speaking, it is imperative that complete Statements be submitted as soon possible so that a review of all submissions can be completed in sufficient time prior to the target date.
4. **Submissions** - Submission of this Statement of DVB Declarant should be made as soon as possible to:

Alan J.Kasper, Esq.
Sughrue Mion PLLC
2100 Pennsylvania Avenue N.W.
Washington D.C. 20037-3213 U.S.A.
Email - akasper@sughrue.com
T: 202-293-7060
F: 202-293-7860

5. **Disclaimer** –By making this submission to the Patent Review Coordinator, the Declarant agrees that:
 - a. Alan J. Kasper, the firm of Sughrue Mion PLLC and any person participating on behalf of Sughrue Mion PLLC in the evaluation of the Statement are acting solely as representatives of the DVB Project.
 - b. No attorney client relationship shall be created between Declarant and Alan J. Kasper, the firm of Sughrue Mion PLLC, or any person acting on behalf of Sughrue Mion PLLC as a result of the submission of this Statement.
 - c. The submission of this Statement is not to be viewed as a request by the Declarant for legal services.
 - d. The fees charged and payments made to the Patent Review Coordinator in connection with this Statement shall be considered as payments to the DVB Project.
 - e. The Patent Review Coordinator will review only the patent or patent application, and the identified standards. No review of the file history or related prior art will be made at this time. As such, this review of the Patent Review Coordinator shall not constitute a determination of essentiality as that term is defined in the DVB MOU Article 14.2. It is anticipated that the patent pool participants will perform further review of patents and patent applications for essentiality.
6. **Confidentiality** - This Statement and the information contained therein may be disclosed and discussed among the Patent Review Coordinator and representatives of the DVB Project and will be treated in confidence for a period of one (1)year from the date of submission, unless otherwise authorized by Declarant. Original and copies will be returned or destroyed on request of Declarant.

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Part 1 - SUMMARY DATA FOR CANDIDATE PATENT or APPLICATION

1. The details of the candidate patent or application, including title, patent number or application number (if not yet issued), date of publication and publication number should be provided.
2. **All standards** to which any one or more claims of the candidate patent or application are proposed to be “essential to the standard” should be listed.
3. The owner, assignee or proprietor of the patent or application and the individual who may be contacted for questions related to the submission should be provided. The address, telephone, fax and email contact information for the named individual should be provided as well.
4. An English language version of a patent or application, whether a corresponding patent or application in the same family or a translation of a patent or application not otherwise available in English, should be provided with the submission. Where the claims of a candidate patent or application are not in English and differ from a corresponding English language patent or application, a copy of the English language document and a translation of the claims proposed to be essential to the standard may be provided.
5. A listing of all patents or applications in the family of the candidate patent or application should be provided, together with the relevant data for each such family patent or application. A copy of each such related patent or patent application is not required, unless requested by the Patent Review Coordinator.

Part 2 - LISTING OF CLAIMS and STANDARD

1. **All claims** of the candidate patent that the Declarant wishes to use in support of a proposal that the candidate patent is “essential to the standard” should be listed. Failure to list a claim will not preclude such claim from later being asserted as “essential to the standard.”
2. **For each claim listed**, the Declarant should separately identify **each** DVB standard to which the Declarant proposes that it should apply as an essential patent. Failure to list a standard will not preclude such claim from later being asserted as “essential” to that standard.

Part 3 – CLAIM CHART

1. A **single representative claim** in each candidate patent or application should be selected that best demonstrates why the patent or application should be evaluated for being “essential to the standard.” Where a claim is selected from an application, the currently pending version of the claim should be presented.
2. The statements made by a Declarant shall not be considered as limiting with respect to any future assertion of the scope of the claim, but are solely for purposes of this initial evaluation as part of the fostering process toward formation of one or more patent pools. See confidentiality provisions above.
3. A claim chart providing an exemplary listing and relationship among (1) each individual limitation or element of a representative claim that is proposed as being essential, (2) the specific disclosure that relates to the limitation and (3) a narrative comparison to the specific text of each standard(s). The explanation will be essential to efficiently achieving an understanding of the relevance of a representative one of the asserted claims in each patent to the standard(s).
4. The text of each limitation of the representative claims should be stated separately and in English.
5. For each limitation the relevant Figure(s), reference numbers and description (page or column and lines) in the patent should be identified. This will enable focused attention on the manner in which the Declarant interprets the claim for purposes of this first level analysis and will reduce the need for repeated queries by the Coordinator.
6. A narrative comparison of the claim limitation to specific text of the standard in sufficient detail so as to present clear support for the proposed categorization of the claim as “essential to the standard” should be provided.
7. Any other information, analysis or documentation that may support the submission and aid the efficient and effective conduct of the evaluation is welcome.