

# Patent Facility Note

## Facility for Voluntary Disclosure of Patents

1. In respect of a work item (in each case designated by the Steering Board) leading to a DVB specification, DVB shall provide a facility, described in this document, so that participants in the technical work, and other DVB members, may, on a voluntary basis, declare their specific patents, or published applications, containing claims that are potentially essential to the specification. Patent holders that are not DVB members may also make a declaration. Any declaration to which this facility relates should be submitted on the DVB patent information statement declaration in the form of the attachment. In this document, “patent” refers, unless the context otherwise requires, to both patents and published applications.
2. The duties of a DVB member in respect of intellectual property rights are set out in Article 14 of DVB’s Memorandum of Understanding and the provision of this facility does not add a further duty on a member. The lack of a declaration by a DVB member does not create any implication under the rules of the DVB Project governing intellectual property rights. The provision of this facility does not make a statement as to the expectations of DVB or its members. A declaration may improve the transparency for individual members in considering technologies under review in a DVB work item or facilitate the early formation of a patent pool.
3. The submission of a declaration, or its display in a database on a DVB website, does not imply any determination by the DVB Project (or acceptance by any DVB member or implementer) that the declaration describes essential patents. DVB may in its absolute discretion display in a database every declaration, and any update, but it accepts no liability for inaccurate or late postings or for other error related to the database. The DVB Project may at any time remove any declaration, posting or link from its database.
4. The declaration should identify at least a single specific patent or published application that may contain claims that may be potentially essential and indicate the specification or draft specification relevant to which the patent has potentially essential claims. A patent holder may choose expressly to limit the scope of its declaration (but in the case of essential patents expressly outside the scope of the declaration, article 14 MoU continues to apply).
5. A declarant may provide updates; an updated declaration should use the same form of declaration. The update may add to the list of declared patents. The declarant should provide an update if, because of changes in the draft specification, its patents are no longer essential.

6. For the avoidance of doubt, Article 14 MoU will continue to apply, including, among the other duties, the obligation of a DVB member to grant licences to its IPRs essential to a DVB specification on terms fair, reasonable and non-discriminatory unless such IPRs are excluded pursuant to Article 14. In other words, disclosure alone of essential patents does not itself satisfy the duty to offer FR&ND terms or the obligation to observe the other provisions of Article 14.
7. Nothing in this facility shall prevent a declarant at any time providing further information in relation to its patents disclosed pursuant to this facility including disclosure or offer of proposed licensing terms relating to disclosed patents and/or other patents on a database or website of its own or hosted by a third party. If the declarant chooses to do this the DVB Project may, at its discretion, provide a link or reference to any such database or website in its database.
8. A rights holder not a DVB member may affirm that its essential patents are available to implementers of the specification on the terms conforming to article 14 MoU. It may also submit a declaration in line with this facility process.
9. The Project Office will maintain a database, open to DVB members, of the information supplied on a declaration, including any attachments. The database will include a link to this document and will display a disclaimer covering the matters presented in section 3 and other customary provisions. Declarations covering a finally adopted specification will be made publicly available.
10. A declarant may withdraw its declaration at any time and should do so at the time the specification is finally adopted, if its listed patent has become no longer essential.

Declarations should be completed on the form provided for DVB Patent Information Statements and submitted to [eltzroth@dvb.org](mailto:eltzroth@dvb.org).

Questions on the Facility for Voluntary Disclosure of Patents can be addressed to the Legal Director DVB, [eltzroth@dvb.org](mailto:eltzroth@dvb.org).