

Procedural Rules for Essential Patent Evaluation

Article 1 (Purpose)

These rules provide for the procedures necessary to conduct evaluation on essentiality of patents (hereinafter, the “Essential Patent Evaluation”) by the Japan Intellectual Property Arbitration Center (hereinafter, the “Center”) on whether or not a particular patent is essential for implementation of the functions and effects as prescribed in a particular technical standard (hereinafter, the “Subject Technical Standard”), based on the agreement between the Center and the licensing organization of essential patents for the Subject Technical Standards (hereinafter, the “Licensing Organization”).

Article 2 (Designation of Subject Technical Standards)

The Subject Technical Standards on which the Center conducts the procedure for Essential Patent Evaluation shall be the technical standards as designated in Appendix 1 hereof.

Article 3 (Application Procedure for Essential Patent Evaluation)

(1) The applicant for Essential Patent Evaluation shall submit to the Center a written application in the predetermined form, which includes the following items:

- (i) the name (or title, hereinafter, the same), domicile (or residence, hereinafter the same), and contact information (telephone number, fax number, e-mail address) of the applicant, and name of the applicant’s representative if the applicant is a juridical person;
- (ii) the names, domiciles, and contact information (telephone numbers, fax numbers, e-mail addresses) of agents, if any;
When a person, who is neither an attorney-at-law nor a patent attorney is appointed as an agent, the Center’s approval shall be necessary;
- (iii) the purport of the application; and
- (iv) the grounds for the application.

(2) The grounds for the application as provided in the Item (iv) of the preceding paragraph shall include the following items:

- (a) File history of the patent (hereinafter, the “present patent”) on which Essential Patent Evaluation is requested;
- (b) Explanation of the present patented invention;
- (c) Explanation of a portion of the Subject Technical Standard (hereinafter, the “Subject Portion”) to which the present patent is considered to be essential;
- (d) Comparison between the present patented invention and the Subject

Portion;

- (e) Applicant's contention with respect to the technical features of the present patented invention which are in common with and different from those of the Subject Portion; and
 - (f) Reasons why implementation of the functions and effects of the Subject Portion cannot be achieved without using the present patented invention.
- (3) The Applicant shall submit the following items as attachments to the written application:
- (i) a "Certificate of Qualification" for the applicant's representative if the applicant is a juridical person;
 - (ii) a "Power of Attorney" to show the agent's attorneyship, in case an agent is appointed;
 - (iii) Materials which the applicant believes to prove the grounds for the application; and
 - (iv) an "Oath and Consent" in the format per Appendix 2 hereof which is designated by the Licensing Organization.
- (4) The applicant may submit the written application as provided for in Paragraph (1) and
- the attached documents and materials as provided for in the preceding paragraph by the method of electronic transmission.. Provided, however, that the originals thereof shall be submitted, when the Center considers it necessary and gives such notice to the applicant.

Article 4 (Appointment of the Evaluators)

- (1) The Center shall appoint an attorney-at-law and a patent attorney from the list of evaluator candidates which the Center provides at all times (hereinafter, the "List"). This shall apply to a case where any of the evaluators appointed is lacking in the interim for reason of death or resignation.
- (2) The Center shall appoint one additional evaluator from the List, when there is a motion raised by any of the evaluators to that effect.

Article 5 (Obligation to Disclose Information regarding Conflict of Interests)

The evaluator shall, upon its appointment, submit to the applicant and the Center, a written commitment with respect to the evaluator's conflict of interests and shall fully disclose, without delay, any such information on conflict of interests when the evaluators themselves believe that there exist or occur any such circumstances or events that are likely to give rise to a reasonable doubt as to its impartiality or

independence.

Article 6 (Challenge of Evaluators)

- (1) Where there exist such circumstances that give rise to a reasonable doubt as to the evaluator's impartiality or independence, the parties may request to challenge such evaluator.
- (2) The Center shall make a decision that the challenge is to be accepted when it finds that the request in the preceding paragraph has good reason.

Article 7 (Examination and Duration)

- (1) The evaluators shall, in the case where they consider that there is a reason to deny its essentiality on the patent concerned, inform the applicant of such reason and give the applicant an opportunity to express its opinion in written or oral form.
- (2) In addition, the evaluators may, in their discretion, request the applicant to explain about any questions the evaluators may have with regard to the case on which the Essential Patent Evaluation is requested, and allow the applicant to express its opinion.
- (3) The evaluators may, in their discretion, refer to the Licensing Organization, in written or oral form, any matters which they consider necessary for the conduct of Essential Patent Evaluation in order to obtain its explanation.
- (4) The proceedings of Essential Patent Evaluation are scheduled to finish within two months from the date of receipt of a written application.

Article 8 (Confidentiality Obligation)

All proceedings and records of Essential Patent Evaluation shall be maintained behind closed-doors, and the evaluators, evaluator candidates, case administrators as well as the members of the Steering Committee and the staff of the Center's Secretariat, the parties, and their agents shall not disclose or use the existence, contents, and results of the Essential Patent Evaluation or applications of Restated Essential Patent Evaluation (including the facts relating to the proceedings of Essential Patent Evaluation and the facts which come to be known through the proceedings of Essential Patent Evaluation), with the exception where the consents of all parties as to the disclosure or use are obtained. This shall also apply to such persons who have left their services. Provided, the Center may, in the case where it is necessary for enlightenment and research, etc. of the resolution of disputes relating to intellectual property, disclose the above without specifying specific contents such as the names of the parties and the patent concerned, etc.

Article 9 (Written Essential Patent Evaluation)

The conclusion of the Essential Patent Evaluation shall be prepared in writing and a written Essential Patent Evaluation shall be notified to the applicant and the Licensing Organization severally.

Article 10 (Nature of Essential Patent Evaluation)

The Essential Patent Evaluation is an opinion of the evaluators appointed by the Center, and it shall have no binding force on any person except for the Licensing Organization and the applicant as the Licensing Organization prescribes.

Article 11 (Appeal)

No appeal may be instituted from the Essential Patent Evaluation once it is issued.

Article 12 (Re-Application)

- (1) Notwithstanding the preceding Article, an application for Restated Essential Patent Evaluation with respect to the Essential Patent Evaluation may be made at any time in the following cases:
 - (i) Restated Essential Patent Evaluation for Affirmation of Essentiality;
With regard to the patent which has been opined that it is not essential, in the case where the owner of such patent requests again to opine that it is essential, with new evidence which such patent owner believes to prove the grounds for application.
 - (ii) Restated Essential Patent Evaluation for Negation of Essentiality;
With regard to the patent which has been opined that it is essential, in the case where any other person but the owner of such patent requests to opine that it is not essential on grounds that there are alternative techniques by which it is possible to implement the function and effect of Subject Portion.
- (2) The evaluators of the Restated Essential Patent Evaluation as provided for in Paragraph (1), Item (ii) shall give an opportunity to such patent owner to submit a written counter-argument against the grounds described in the written application for Restated Essential Patent Evaluation within an appropriate time limit.
- (3) The provisions of Article 3, Paragraphs (1), (3), and (4), Articles 4 through 10, and Articles 12 through 14 shall apply mutatis mutandis to the Restated Essential Patent Evaluation. Provided, with regard to the appointment of evaluators under Article 4, the evaluators who once conducted the Essential Patent Evaluation at issue shall be appointed as the evaluators, unless there exist certain unavoidable circumstances barring such appointment, and the term “the applicant” in Article 7,

Paragraph (1) shall be construed as “the applicant and patent owner.”

Article 13 (Withdrawal)

The applicant may withdraw the application for Essential Patent Evaluation at any time until the written Essential Patent Evaluation has been sent to the applicant.

Article 14 (Fees)

- (1) The applicant shall, upon its application, pay, to the Center, the prescribed fees set out for each Subject Technical Standard for which the Essential Patent Evaluation is sought.
- (2) In the case the fee is not paid, or the fee paid is lacking, the Center may request the parties to pay the shortfall within one week from the date of receipt of notice, and in the case where the applicant does not make such payment within this period, the application may be deemed to be withdrawn.
- (3) The fee paid to and received by the Center shall not be reimbursed, including the case where the application is withdrawn.

Article 15 (Management of Case)

- (1) Management of the applications for Essential Patent Evaluation shall be conducted by the Steering Committee or a branch Steering Committee of the Center (hereinafter, the “Steering Committee”) and its office work shall be conducted by the Secretariat of the Center.
- (2) The Steering Committee shall, when an application for Essential Patent Evaluation is made, promptly appoint a case administrator to manage the case.
- (3) The case administrator may attend the hearings as necessary.

Supplementary Provisions

These rules shall come into force as from April 4, 2006.

Supplementary Provisions

These rules shall come into force as from January 9, 2007.

Appendix 1-1: Technical Standards for "Digital Broadcasting Pool"

NUMBER	TITLES OF THE ARIB STANDARDS
ARIB STD-B10	Service Information for Digital Broadcasting System
ARIB STD-B20	Transmission System for Digital Satellite Broadcasting
ARIB STD-B21	Receiver for Digital Broadcasting
ARIB STD-B24	Data Coding and Transmission Specifications for Digital Broadcasting
ARIB STD-B25	Conditional Access System Specification for Digital Broadcasting
ARIB STD-B29	Transmission System for Digital Terrestrial Sound Broadcasting
ARIB STD-B30	Receiver for Digital Terrestrial Sound Broadcasting
ARIB STD-B31	Transmission System for Digital Terrestrial Television Broadcasting
ARIB STD-B32	Video Coding, Audio Coding and Multiplexing Specifications for Digital Broadcasting
ARIB TR-B13 *	Operational Guidelines for Digital Terrestrial Sound Broadcasting
ARIB TR-B14	Operational Guidelines for Digital Terrestrial Television Broadcasting
ARIB TR-B15	Operational Guidelines for BS/Broadband CS Digital Broadcasting

Patents related to MPEG-2 Standards, MPEG-4 Standards, H.264/MPEG-4 AVC Standards, EEE1394 Standards and Server-type Broadcasting are to be excluded .

*ARIB TR-B13 was abolished on July 31, 2014.

Appendix 1-2: Technical Standards for "Digital Cable Broadcasting Pool"

NUMBER	TITLES OF THE STANDARDS	REMARKS
JCTEA STD-001	Conditional Access System for Digital Cable TV Broadcasting	
JCTEA STD-002	Multiplexing Device for Digital Cable TV Broadcasting	
JCTEA STD-003	Standards for Service Information Structure and the Operation of Identifiers for Digital Cable TV Broadcasting	
JCTEA STD-007	Digital Cable TV Sets for Digital Cable TV Broadcasting	
JCTEA STD-011	Pass-through Transmission System for Digital Cable TV Broadcasting and Digital Terrestrial TV Broadcasting	
JCTEA STD-012	Headphone Amplifier for Joint Reception of Digital Cable TV Broadcasting and Digital Terrestrial TV Broadcasting	
JLabs SPEC-001	Operational Guidelines for Trans-modulation for BS Digital Broadcasting	

JLabs SPEC-001-01	Operational Guidelines for Trans-modulation for BS Digital Broadcasting Detailed Guidelines for Abuse Prevention Function	
JLabs SPEC-001-02	Operational Guidelines for Trans-modulation for BS Digital Broadcasting Operational Specifications for Download Function	
JLabs SPEC-002	Operational Guidelines for Trans-modulation for CS Digital Broadcasting at 110 Degrees of East Longitude	
JLabs SPEC-003	Operational Guidelines for Re-multiplexing for Digital Broadcasting (Independent Broadcasting)	
JLabs SPEC-004	Operational Guidelines for Re-multiplexing for Digital Broadcasting (i-HITS)	
JLabs	Operational Guidelines for JC-HITS	

SPEC-005	Trans-modulation	
JLabs SPEC-006	Operational Guidelines for Pass-through Transmission for Digital Terrestrial TV Broadcasting and Independent Broadcasting	
JLabs SPEC-007	Operational Guidelines for Trans-modulation for Digital Terrestrial TV Broadcasting and Independent Broadcasting	
ARIB STD-B20	Transmission System for Digital Satellite Broadcasting	The entire portion of the Multiplexing Technology for the transmission side is to be excluded.
ARIB STD-B24	Data Coding and Transmission Specifications for Digital Broadcasting	Book 1, Part 2, Section 4.4 and Book 2, Appendixes 4 and 5 are to be excluded.
ARIB STD-B25	Conditional Access System Specification for Digital Broadcasting	Part 1, Chapters 5 and 6, Part 2 are to be excluded.
ARIB STD-B31	Transmission System for Digital Terrestrial Television Broadcasting	The entire portion of the Hierarchical Transmission Technology for the transmission side is to be excluded.
ARIB STD-B32	Video Coding, Audio Coding and Multiplexing Specifications for Digital Broadcasting	

ARIB TR-B14	Operational Guidelines for Digital Terrestrial Television Broadcasting	The entire portion of the Delivery and Transmission Technology for the one-segment broadcasting section is to be excluded. The C Profile for the receivers is to be excluded.
ARIB TR-B15	Operational Guidelines for BS/Broadband CS Broadcasting	The entire portion of the Delivery and Transmission Technology is to be excluded.
Other ARIB Standards	Any and all portions of the ARIB Standards which are referred to in the JCTEA and JLABS Standards mentioned above as being complied with.	There exist certain portions in the ARIB STD-B10, and B21, which are referred to as being complied with in the Standards or Operational Guidelines on the cable broadcasting side.

Patents related to MPEG-2 Standards, MPEG-4 Standards, H.264/MPEG-4 AVC Standards, IEEE1394 Standards and Server-type Broadcasting are to be excluded.

Appendix 1-3: Technical Standards for " Ultra High-Definition Television Satellite
Broadcasting Pool"

Standards No.	Standard Name (English translation)	Applicable Version	Applicable Part Information
ARIB STD-B1	Digital Receiver for Digital Satellite Broadcasting Services using Communication Satellites (Desirable Specification)	Version 3.0 or later	Part 2 is applicable
ARIB STD-B10	Service Information for Digital Broadcasting System	Version 5.4 or later	Except Part 2, Annex F; Annex J; Annex M; Annex N; Annex P; and Explanation
ARIB STD-B24	Data Coding and Transmission Specification for Digital Broadcasting	Version 6.0 or later	Volume 3 (except Explanation) and Volume 4 (except Annex) are applicable
ARIB STD-B25	Conditional Access System Specifications for Digital Broadcasting	Version 6.4 or later	Except Part 1, Chapter 5, 5.2; Part 1, Reference 4 and 5; Part 2, Appendix; Part 3; and Part 4
ARIB STD-B32	Video Coding, Audio Coding and Multiplexing Specifications for Digital Broadcasting	Version 3.0 or later	Except Part 1, Appendix A; Part 2, Interpretation 1 to 3; Part 2, Annex; Part 3, Chapter 3, 3.6, 3.7 and 3.9(7); and Part 3, Appendix A
ARIB STD-B44	Transmission System for Advanced Wide Band Digital Satellite Broadcasting	Version 2.0 or later	Except Annex B, B.3; and Appendix 1 to 3
ARIB STD-B56	UHDTV System Parameters for Programme Production	Version 1.1 or later	

ARIB STD-B59	Three-Dimensional Multichannel Stereophonic Sound System For Programme Production	Version 1.0 or later	
ARIB STD-B60	MMT-Based Media Transport Scheme in Digital Broadcasting Systems	Version 1.0 or later	Except Explanation 4 and Appendix
ARIB STD-B61	Conditional Access System (2nd Generation) and CAS Program Download System Specifications for Digital Broadcasting	Version 1.0 or later	Except Volume 1, Part 1, Chapter 3, 3.1; and Chapter 4, 4.6 and 4.7; Part 1, Explanation 1 and 2; Part 2, Explanation 1, 1.3 and 1.4; and Volume 2, Explanation 1
ARIB STD-B62	Multimedia Coding Specification for Digital Broadcasting (2nd Generation)	Version 1.0 or later	Except Explanation and Appendix
ARIB STD-B63	Receiver For Advanced Wide Band Digital Satellite Broadcasting (Desirable Specifications)	Version 1.4 or later	Added to this list on Jan. 1 st 2016
ARIB STD-B67	Essential Parameter Values For The Extended Image Dynamic Range Television (EIDRTV) System For Programme Production	Version 1.0 or later	Added to this list on Jan. 1 st 2016
NEXTVF TR-0002	Contents Protection Requirements and Receiver Output Rule for the 4K Broadcasting using the Advanced Narrowband Transmission System	Version 1.0 or later	
NEXTVF TR-0003	Technical Data about the Operation of the 4K Broadcasting using the Advanced Narrowband Transmission System	Version 1.0 or later	

NEXTVF TR-0004	Operational Guideline for Advanced Wideband Digital Satellite Broadcasting	Version 1.0 or later	Added to this list on March 14th, 2016
ARIB TR-B39	Operational Guidelines For Advanced Digital Satellite Broadcasting	Version 1.1 or later	

Patents related to MPEG-2 Standard, MPEG-4 Standard, H.265(HEVC) Standard, and IEEE1394 Standard are to be excluded.

Appendix 1-4: CATV(UHDTV) Applicable Standards

Standards No.	Standard Name (English translation)	Information
JCTEA STD-002	Multiplex System for Digital Cable Television	Volume 1 Part3,Part5 are applicable Added to this list on June 10th, 2017
JCTEA STD-003	Service Information for Digital Cable Television	Part 4 is applicable Added to this list on June 10th, 2017
JCTEA STD-007	Receiver for Digital Cable Television	Part 2 is applicable Added to this list on June 10th, 2017
Jlabs SPEC-017	Digital Television Broadcasting Operational Guideline for Advanced Re-Multiplex Transmission (Access Program)	
Jlabs SPEC-018	Digital Television Broadcasting Operational Guideline for Advanced Re-Multiplex Transmission (i-HITS)	
Jlabs SPEC-019	Digital Television Broadcasting Operational Guideline for Advanced Trans-Modulation (JC-HITS)	
Jlabs SPEC-028	Operational Guideline for IP Broadcasting (Access Program)	
Jlabs SPEC-030	Operational Guideline for IP-VOD Service	

Appendix 1-5: IPTV(UHDTV) Applicable Standards

No.	Standard Name	Information
IPTVFJ STD-0001	Overview	
IPTVFJ STD-0002	VOD Specifications	
IPTVFJ STD-0003	Download Specification	English version is not available
IPTVFJ STD-0004	IP Broadcasting Specifications	
IPTVFJ STD-0005	Digital Terrestrial Broadcasting IP Retransmission Specifications	English version is not available
IPTVFJ STD-0006	CDN Scope Service Approach Specifications	
IPTVFJ STD-0007	Internet Scope Service Approach Specifications	English version is not available
IPTVFJ STD-0008	Specifications of IPTV Service Approach by Integration with Broadcasting	
IPTVFJ STD-0009	Digital Satellite Broadcasting IP Retransmission Specifications	English version is not available
IPTVFJ STD-0010	Integrated Broadcast-Broadband System Specification	
IPTVFJ STD-0011	HTML5 Browser Specification	
IPTVFJ STD-0012	Operator to Operator Communication Metadata Operational Guideline	English version is not available

IPTVFJ STD-0013	Hybridcast Specifications	English version is not available
IPTVFJ DOC-0002	Hybridcast Technical Specification Service Guideline	English version is not available

OATH AND CONSENT ON ESSENTIAL PATENT EVALUATION

With regard to the filing of applications for Essential Patent Evaluation with the Japan Intellectual Property Arbitration Center (hereinafter referred to as the "Center"), we, the undersigned _____ (name) (hereinafter referred to as the "Applicant") do hereby duly sworn, depose and say that:

1. the Applicant shall agree to comply with the Procedural Rules for Essential Patent Evaluation established by the Center,
2. the Applicant shall not use the results of the Essential Patent Evaluation received from the Center for any purposes other than joining in the ARIB Standard Patent Pool for Digital Broadcasting (hereinafter referred to as the "Pool"),
- 3.the Applicant shall not disclose to others or use the contents, inclusive of the results, of the Essential Patent Evaluation received from the Center except for use in participating in the Pool,
- 4.the Applicant shall make applications for Essential Patent Evaluation in good faith only in respect of the patents that are considered in the Applicant's belief to be valid and essential,
- 5.the Applicant shall not raise any objections against any of the Evaluators in their representing any third party in a dispute against the Applicant in the future, except for a dispute involving the patents for which the Evaluators have handled the Essential Patent Evaluation.

IN WITNESS WHEREOF, the Applicant hereby execute this document and submit the same to the Center together with the necessary documents as specified in Article 3 of the Procedural Rules for Essential Patent Evaluation.

Dated this _____ day of _____ in the year of _____

Applicant: _____

By: _____

Appendix 2-2: Form for "Oath and Consent" for the "Digital Cable Broadcasting
Patent Pool" under Article 3, Para.3, Item No.4

OATH AND CONSENT ON ESSENTIAL PATENT EVALUATION

With regard to the filing of applications for Essential Patent Evaluation with the Japan Intellectual Property Arbitration Center (hereinafter referred to as the "Center"), we, the undersigned _____ (name) (hereinafter referred to as the "Applicant") do hereby duly sworn, depose and say that:

1. the Applicant shall agree to comply with the Procedural Rules for Essential Patent Evaluation established by the Center,
2. the Applicant shall not use the results of the Essential Patent Evaluation received from the Center for any purposes other than joining in the Digital Cable Broadcasting Patent Pool (hereinafter referred to as the "Cable Pool"),
- 3.the Applicant shall not disclose to others or use the contents, inclusive of the results, of the Essential Patent Evaluation received from the Center except for use in participating in the Cable Pool,
- 4.the Applicant shall make applications for Essential Patent Evaluation in good faith only in respect of the patents that are considered in the Applicant's belief to be valid and essential,
- 5.the Applicant shall not raise any objections against any of the Evaluators in their representing any third party in a dispute against the Applicant in the future, except for a dispute involving the patents for which the Evaluators have handled the Essential Patent Evaluation.

IN WITNESS WHEREOF, the Applicant hereby execute this document and submit the same to the Center together with the necessary documents as specified in Article 3 of the Procedural Rules for Essential Patent Evaluation.

Dated this _____ day of _____ in the year of _____

Applicant: _____

By: _____

Appendix 2-3: Form for "Oath and Consent" for the " Ultra High-Definition Television
Satellite Broadcasting Patent Pool" under Article 3, Para.3, Item No.4

OATH AND CONSENT ON ESSENTIAL PATENT EVALUATION

With regard to the filing of applications for Essential Patent Evaluation with the Japan Intellectual Property Arbitration Center (hereinafter referred to as the "Center"), we, the undersigned _____ (name) (hereinafter referred to as the "Applicant") do hereby duly sworn, depose and say that:

1. the Applicant shall agree to comply with the Procedural Rules for Essential Patent Evaluation established by the Center,
2. the Applicant shall not use the results of the Essential Patent Evaluation received from the Center for any purposes other than joining in the Ultra High-Definition Television Satellite Broadcasting Patent Pool(hereinafter referred to as the "Pool"),
- 3.the Applicant shall not disclose to others or use the contents, inclusive of the results, of the Essential Patent Evaluation received from the Center except for use in participating in the Pool,
- 4.the Applicant shall make applications for Essential Patent Evaluation in good faith only in respect of the patents that are considered in the Applicant's belief to be valid and essential,
- 5.the Applicant shall not raise any objections against any of the Evaluators in their representing any third party in a dispute against the Applicant in the future, except for a dispute involving the patents for which the Evaluators have handled the Essential Patent Evaluation.

IN WITNESS WHEREOF, the Applicant hereby execute this document and submit the same to the Center together with the necessary documents as specified in Article 3 of the Procedural Rules for Essential Patent Evaluation.

Dated this _____ day of _____ in the year of _____

Applicant: _____

By: _____