



STANDARDISING THE
DIGITAL SUPPLY CHAIN

Digital Data Exchange, LLC

Intellectual Property Policy



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INTELLECTUAL PROPERTY POLICY

By becoming a Member of the Company, Member agrees to the terms of this Intellectual Property Policy (“IP Policy”). These terms are a binding agreement between the Member and the Company.

1 Purpose of Intellectual Property Policy

This IP Policy governs the Company’s and the Company Member’s activities related to the creation, development, and contribution of intellectual property undertaken to explore, develop and maintain a robust framework of data exchange Standards for the exchange of information relating to Digital Media Content (which expressly does not include the development of standardised copy or content protection schemes, copyright protection schemes, codecs or other supporting technology). This IP Policy also defines disclosure and licensing requirements relating to intellectual property that is, or may be necessary, to the implementation of the Standards.

2 Applicability to Members of the Company

- 2.1 This IP Policy is applicable to the entirety of the Company’s membership including Charter Members, Full Members, and Associate Members as such categories are defined and described in Section 3 below.
- 2.2 Subscription by written agreement to the terms and conditions of this IP Policy is a prerequisite to admission to membership in Digital Data Exchange, LLC.

3 Definitions

- 3.1 “Adopter” means a person or entity that implements a Standard (in whole or in part).

- 3.2 “Affiliate” means an entity that is under direct control of a Member. Control for purposes of this definition shall mean direct or indirect beneficial ownership of more than eighty percent of the voting stock, or decision-making authority in the event there is no voting stock, in the entity.
- 3.3 “Associate Member” means an Associate Member of the Company.
- 3.4 “Board” means the Board of directors of the Company.
- 3.5 “Chair (of a Working Group)” means an individual that is appointed by the Board to co-ordinate the activities of a Working Group.
- 3.6 “Charter Member” means a Charter Member of the Company.
- 3.7 “Contribution” or “Contributed” means any data or information contributed by a Member in the development of a Standard, which is ultimately incorporated into that Standard.
- 3.8 “Committee Draft” means a document developed by a Working Group. A Committee Draft is the document, which is circulated at the consultation phase to all Company Members for comments.
- 3.9 “Company” means the limited liability company called Digital Data Exchange, LLC formed in accordance with this Agreement.
- 3.10 “Confidential Information” means information about Members, their business, technology, Intellectual Property Rights, strategies, costs data and/or any other data, that is by its nature confidential, or is designated as such (whether in writing or orally).
- 3.11 “Disclosure Statement(s)” shall have the meaning set forth in Section 6.6 below.
- 3.12 “Disposition of Comments” means a document from a Working Group that is issued in conjunction with a Draft Standard in response to comments on the Committee Draft received from Company Members.
- 3.13 “Draft Standard” means a document from a Working Group that is issued in conjunction with a Disposition of Comments prior to the vote by the Board to

determine whether or not the Draft Standard is promoted to the status of a Standard.

3.14 “Essential Claims” means claims of a patent or patent applications, other than design patents and design registrations, that are:

- (i) Owned or controlled by a Member now or at any future time; and
- (ii) Are infringed by implementation of the applicable Standard, where such infringement cannot be avoided by another technically reasonable non-infringing alternative for implementing such Standard. For purposes of clarification, a claim may be an Essential Claim whether it is disclosed under Section 6.2, Section 6.6, or not at all.

Notwithstanding the foregoing, “Essential Claims” does not include any claims:

- (iii) That read solely on an optional implementation example included in such Standard;
- (iv) Other than those set forth above, even if contained in the same patent as Essential Claims; or
- (v) That, if licensed, would require a payment of royalties by the licensor to third parties that are not Affiliates.

Also notwithstanding the foregoing, “Essential Claims” does not include claims that cover:

- (vi) Any enabling technologies that may be necessary to make or use any product or portion thereof that complies with such Standard, but are not themselves expressly set forth in such Standard;
- (vii) The implementation of other published specifications developed elsewhere but referred to in the body of such Standard;
- (viii) Any portions of any product and any combinations thereof the purpose or function of which is not required for compliance with such Standard; and
- (ix) Any software code set out in such Standard for purposes of illustration, sample implementation, or reference.

3.15 “Full Member” means a Full Member of the Company.

3.16 “IP Policy” means this “Intellectual Property Policy”.

- 3.17 “IP Notice Period” shall mean, with respect to any proposed Standard or portion thereof, a period of thirty (30) calendar days following receipt of the notice from the Company by the designated Member representative.
- 3.18 “Licensing Statement” shall have the meaning as set forth in Section 6.9 below.
- 3.19 “Member” means a Charter Member, Full Member or Associate Member of the Company.
- 3.20 “Objective Review Criteria” means that the applicable documentation for a particular Notice Period has sufficient description and identification of methods and processes to enable Members to address the following during the applicable IP Notice Period: (a) properly evaluate their patents (both registered patents and patent applications); (b) give a meaningful patent Disclosure Statement; and (c) properly evaluate and declare their Licensing Statement.
- 3.21 “Plenary Meeting” means a face-to-face meeting of Charter and Full Members to review the outputs of all active Working Groups and to make recommendations to the Board in furtherance of the purpose of the Company.
- 3.22 “Representative(s)” means any person or persons who, on behalf of a Member, attend the Working Group meetings regarding the applicable Standard in question.
- 3.23 “Review Documentation” means a document or documents that shall include but not be limited to the Committee Draft, which is the subject of an IP Notice Period and must be delivered to the Members in the notification of that IP Notice Period. The Review Documentation shall satisfy the Objective Review Period Criteria which constitutes the basis for the Calling of the IP Notice Period, and, which, in turn, constitutes the basis for any Disclosure Statement and Licensing Statement by a Member during such Notice Period.
- 3.24 “Standard” means a Standard of the Company so declared by the Board.
- 3.25 “Working Draft” means a working version of a Standard that is intended to become a Standard. Working Drafts are developed and maintained by a Working Group
- 3.26 “Working Group” means a technical committee established by a decision of the Board with a specific mandate, duration and an appointed Chair.

4 Confidentiality

Any information discussed or disclosed in the course of deliberations, meetings or discussions of the Company and its Working Groups, shall be confidential, and each Member shall not, at any time directly or indirectly, divulge or disclose, for any purpose whatsoever, any of such Confidential Information which has been obtained by or disclosed to him as a result of his association with the Company. Notwithstanding the foregoing, certain meetings of the Company Members or Working Groups may be expressly designated as “non confidential” meetings. Such designation will occur at the beginning of each such meeting. The Members attending such meeting shall use their best efforts to repeat such designation promptly upon the addition of any new participants in such meeting, provided that any failure to do so shall not create any confidentiality obligation with regards to such meeting. During such expressly designated meetings, a Member’s disclosure of its trade secrets or other confidential information in the course of such deliberations will not be subject to any obligation of confidentiality or nondisclosure on the Company or other Members. This IP Policy does not preclude any Member or Member’s Representative from entering into separate confidentiality agreements with other Members of the Company.

5 Normative Reference Policy

Any normative references included in a Standard will be in accordance with the Normative Reference Policy set forth in Appendix A of this IP Policy.

6 Member Provision of Proprietary Technology

- 6.1 Except as provided in this Section and Section 7.2, each Member shall retain all ownership of its patent, copyright, trade secret and other proprietary rights in and to any inventions, works, data or technologies which it owns.
- 6.2 At any time prior to notification to Members of the IP Notice Period for a particular Committee Draft, if a Member’s Representative participating in the Company’s activities has personal knowledge that any of the Member’s patents or patent applications contain Essential Claims, (at such time that the Standard is declared as a Standard by the Company Board of Directors) then the Representative may

disclose the existence of such Essential Claims either to the Chair of the relevant Working Group or in a meeting of the Company Plenary Meeting or Working Group in which such Standard is under consideration. Such voluntary disclosures shall be promptly documented by the Member in writing or via email, to the Chair of the Working Group or subgroup in which such Standard is under consideration and also shall be reflected in the minutes of the relevant Working Group or other body.

- 6.3 In the course of determining that a Working Draft should be declared a Committee Draft by a Working Group a Working Group shall agree to initiate an IP Notice Period (hereinafter referred to as a “Call of an IP Notice Period “ or the “Calling of an IP Notice Period”). In order to authorise a Call of an IP Notice Period, the Working Group must, in addition to any other terms and conditions set forth in this IP Policy satisfy the following conditions:
- (i) The Working Group must identify the specific Review Documentation, that shall include but not be limited to the Committee Draft, which will constitute the basis for the IP Notice Period and which, in turn, will constitute the basis for the Members’ Disclosure Statements, as contemplated by Section 6.6 below, and Licensing Statements, as contemplated by Sections 6.9 to 6.13 below;
 - (ii) The Review Documentation must be sufficiently detailed to satisfy the Objective Review Period Criteria; and
 - (iii) As a part of each vote by a Working Group to approve a Call of an IP Notice Period, the Working Group must also approve an affirmative statement that such Working Group has evaluated the Objective Review Criteria and concludes that the Review Documentation including the Committee Draft that is the subject of the applicable IP Notice Period fully satisfies such Objective Review Criteria.
- 6.4 The Chair of the Working Group shall report to the Company the results of each Working Group vote related to the Calling of an IP Notice Period. If the Working Group has voted to Call an IP Notice Period, the Company shall proceed with the process set forth in Section 6.5.
- 6.5 In the event that the Company receives notice that an IP Notice Period has been called the Company shall provide each Member identified in the Company records with a written notice that the IP Notice Period has been called and shall notify each Member that:

- (i) Members may be required, during such Notice Period, to provide, if applicable:
 - (a) A Disclosure Statement, as contemplated in Section 6.6; and
 - (b) A Licensing Statement, as contemplated by Sections 6.9 to 6.13; and
- (ii) May have an opportunity to review and comment on the Committee Draft during the IP Notice Period. A copy of the applicable Review Documentation (including the Committee Draft) shall accompany the applicable notice from the Company.

6.6 During an IP Notice Period notified to Members in accordance with Section 6.5, if a Member's Representative has personal knowledge:

- (i) That any of such Member's patents or published patent applications contain Essential Claims, such determination to be based only upon the applicable Review Documentation that is the basis of the applicable Notice Period, then the Representative shall disclose, in writing or via e-mail, the existence of any such patents, claims, or published patent applications by providing the registration or application number/serial number for the applicable published patent application to the Chair of the Working Group in which such draft is under consideration; and
- (ii) That any patent application of such Member which has not yet been published anywhere in the world (hereinafter, "Non-published Application(s)") contains Essential Claims, such determination to be based only upon the applicable Review Documentation that is the basis of the applicable Notice Period, bearing upon the Standard to which the Notice Period pertains, then the Representative shall disclose, in writing or email, to the Chair of the Working Group in which such Standard is under consideration, information sufficient to allow the Chair of the Working Group to identify the general nature of each Essential Claim and the portions of the Standard that may be affected by each Essential Claim (The contents of any statement in accordance with (i) and (ii) above being hereinafter "Disclosure Statement").

6.7 Any voluntary disclosure made by a Representative as described in Section 6.2 or any Disclosure Statement that is submitted by a Member Representative as required by Section 6.6 does not include any obligation to disclose information not actually and personally known to the Member Representative and does not impose

any obligation on a Member or its Representative to conduct any patent or other intellectual property searches of any kind.

- 6.8 Member agrees that, during an IP Notice Period, Member will make a good faith effort to determine Member's policy with respect to the licensing of its Essential Claims to provide Members and Adopters with the necessary rights to implement the applicable Standard (if and when such Standard is duly approved and adopted without substantive amendment or modification by the Company as a Company Standard).
- 6.9 Before the end of an IP Notice Period, regardless of whether the relevant Disclosure was made voluntarily as set out in Section 6.2, or, as required by Section 6.6, the Member shall provide a Licensing Statement to the Company indicating that, with respect to any implementation described in such proposed or pending Company Standard the Member either:
- (i) Agrees to license its Essential Claims for use only in such implementation, without charge or upon reasonable royalty bearing terms and conditions that are demonstrably free of any unfair discrimination to Members and Adopters desiring to implement the Standard, if the Standard is adopted by the Company;
 - (ii) Is, in good faith, unable to determine whether it will license its Essential Claims potentially implicated by the proposed Standard and desires more time to make such determination, pursuant to Section 6.13 below; or
 - (iii) Does not agree to license its Essential Claims in connection with any or all of the implementations described in the proposed Standard.
- Notwithstanding the foregoing, if a Member provides or is deemed to provide a Licensing Statement pursuant to Section 6.9(i) that it will license its Essential Claims without charge, that Member may nonetheless charge a reasonable royalty for its Essential Claims to any Member or Adopter who is offering their Essential Claims on royalty bearing terms.
- 6.10 If a licence that will be granted by a Member to an Adopter pursuant to Section 6.9(i) is conditioned on receipt by the Member of a licence to Adopter's Essential Claims, Member must also require such Adopter to covenant to grant a licence to Adopter's Essential Claims to all other Adopters on reasonable and non-discriminatory terms.

- 6.11 If the Member does not provide a Licensing Statement before the end of the Notice Period, the Member will be deemed to have provided a Licensing Statement pursuant to Section 6.9, wherein that Member agrees to license its Essential Claims on the terms set forth in Section 6.9(i) without charge. Any such Licensing Statement shall be deemed to apply only to the proposed Standard as provided to the Member. In the event of subsequent changes to the proposed Standard, the Member agrees to provide the same information within an IP Notice Period of the same duration starting upon receipt by its Representative of written notice regarding such changed proposed Standard. If the Member withdraws from the Company before the end of the Notice Period and does not provide a Licensing Statement, the Member will be deemed to have provided a Licensing Statement pursuant to Section 6.9, wherein that Member agrees to license its Essential Claims on the terms set forth in Section 6.9(i) without charge.
- 6.12 In the circumstances arising under Section 6.9(ii) above, a Member will use good faith efforts to:
- (i) Promptly identify with reasonable particularity the basis for its failure to submit a Licensing Statement and communicate the same in writing to the other Members of the relevant Working Group;
 - (ii) Request and collect such additional information as may be necessary to facilitate such Member's decision to provide a final Licensing Statement pursuant to Section 6.9(i); and
 - (iii) Reasonably cooperate with other Members to resolve its concerns and attempt to submit a final Licensing Statement pursuant to Section 6.9(i) or 6.9(iii) above before the end of the IP Notice Period.
- 6.13 If a Member that has submitted a Licensing Statement pursuant to Section 6.9(ii) has complied with the requirements set forth above in Section 6.12, and as of the last day of the applicable Notice Period has still not resolved its concerns nor issued a Licensing Statement pursuant to either Section 6.9(i) or 6.9(iii), such Member may request that the applicable Notice Period be extended by thirty (30) calendar days by giving written notice to the Chair of the relevant Working Group before the end of the applicable Notice Period. Within a reasonable time from its receipt of such notice, the Chair of the relevant Working Group will promptly give notice to all other Members that the applicable Notice Period has been extended, upon which time all Members will have an additional thirty (30) calendar days to submit Licensing Statements as required under Section 6.9. Subject to the limitations set forth below in this paragraph, a Member's request for an extension

of any Notice Period will be granted automatically, provided, however, that the Notice Period may be extended automatically for a total of no more than two (2) times in connection with a particular Standard and, thereafter, may be extended only upon a vote of the Working Group. If, after any such extended Notice Period, such Member still has not submitted a Licensing Statement before the end of the applicable Notice Period, it will be deemed to have provided a Licensing Statement pursuant to Section 6.9, wherein that Member agrees to license its Essential Claims on the terms set forth in Section 6.9(i).

7 Production and Rights in Standards

- 7.1 Nothing in this Policy shall prohibit a Working Group of the Company from producing Standards that can be implemented, in whole or in part, with royalty-free technologies.
- 7.2 To ensure that Standards can be made available to all interested parties without competing copyright claims in the document itself interfering with its publication and distribution, Member agrees that the Company shall be the sole owner of the copyright in the Standard(s).
- 7.3 Member hereby grants to the Company a worldwide, perpetual, irrevocable, non-exclusive, sub-licensable licence under any copyright or trade secret in Member's and Representatives Contributions included in all Standards to reproduce, adapt, distribute, perform, display, and create derivative works of such Contributions in connection with the Standards (including any successor thereof). For purposes of clarification, this licence is only applicable to Contributions included in the final Standard(s). Member agrees that neither it nor its Representatives will knowingly infringe a copyright or misappropriate a trade secret in any Contribution it makes to the Standard or other material submitted to the Company.

8 Trademarks

Members acknowledge that the terms of the IP Policy and Members' participation in the Company grant Members no licence or other rights with respect to any trademarks, certification marks or other indications of origin used by the Company in connection with its Standards except as may otherwise be expressly prescribed by the Company in writing.

9 Contributions Subject to Additional Restrictions or Conditions

Each Member acknowledges and agrees that it will not knowingly submit Contributions that may subject any Contribution or Standard, in whole or in part, to licensing obligations with additional restrictions or requirements inconsistent with those set forth in sections 6 and 7 of this IP Policy, or that would require any portion of the Contribution to:

- (i) Be disclosed or distributed in source code form;
- (ii) Be licensed to or from a third party for the purpose of making derivative works; or
- (iii) Be redistributable at no charge. If a Member has knowledge that a Contribution has been made that may subject any Contribution or Standard, in whole or in part, to one or more of the licensing obligations listed in this Section 9 above, such Member shall give prompt notice of the same to the Working Group Chair or Board of the Company.

10 No Other Warranties

Except as may otherwise be set forth in this IP Policy, the Company and all Members acknowledge that all information provided as part of the standard development process, including all Standards, are all provided “AS IS” with no warranties whatsoever, whether express, implied, statutory, or otherwise, and each Member expressly disclaims any warranty of merchantability, non-infringement, fitness for any particular purpose, or any warranty otherwise arising out of any contribution.

11 Survival of Licence

The obligations of a Member and its Affiliates under these Policies shall survive termination or resignation of its Membership and participation provided, however, that a Member whose membership and participation has been terminated or resigned shall only be obligated to license its Essential Claims to Adopters and other Members (as contemplated by Section 6.11) with regard to only those Standards that are either 1) subject to an IP Notice Period as of the effective date of such Member’s termination or resignation of its membership and participation, or 2) completed the IP Notice Period prior to the effective date of such

Member's termination or resignation of its membership and participation and, further provided, that such Member's licensing obligation shall:

- (i) Only apply to the extent of the terminating or resigning Member's Disclosure Statement and Licensing Statement provided during the IP Notice Period (including any Licensing Statement that is "deemed" provided hereunder); and
- (ii) Be subject to all of the terms and limitations otherwise set forth in this IP Policy. Without limiting the generality of the foregoing, any licences Member has granted prior to the effective date of the Member's termination or resignation of its membership and participation shall survive such termination or resignation; and Member shall continue to offer licences under the same terms to other Adopters.

IP Policy: Appendix A

Normative Reference Policy

Guidance for including references to documents of other organisations in Company Standards

1 Scope

These rules for including references to documents of non-Company organisations in Standards are intended to ensure that implementers and evaluators of Standards, and other interested parties, have access to all materials needed to implement those Standards. These rules are meant to apply not only to documents that are created within internal Company procedures but also to any standards that are developed elsewhere but are sent to the Company to be standardised.

Two categories of references are possible:

- (a) "Normative references" are references to documents to which conformance is necessary to claim compliance to the Standard containing the reference.
- (b) "Informative references" are references to documents that may be useful in implementing a Standard or add to the reader's understanding but which are not required for conformance to the Standard.

These rules are pointed toward normative references because they are functionally a part of the Standard itself. It is best practice to follow these principles for informative references as well, but more flexibility is permitted for informative references because these documents are not strictly necessary for the implementation of a Standard.

2 Documents that may be referenced

In considering whether a normative reference to a document should be included in a Standard, preference should be given to standards and specifications issued by recognised standards development organisations. Normative referencing of documents under the possession of other organisations is allowed where the Working Group in charge of

development of the Standard containing the reference has justified the use of such normative references. Where an objection to the use of a normative reference has been raised within Working Group discussion, this shall be noted in the minutes or some other record that will be available to the Company Members. A normative reference to such a document is permissible only if the referenced document is Publicly Available, as defined in Section 3 below, during the approval phases and at the time of publication of the Standard. If Public Availability cannot be ensured after publication of the Standard has occurred, the originating body of the document shall be requested to provide the Company with the right to make available the text. If normative references in a Standard are not Publicly Available during the drafting stage, the Standard shall not be submitted to an approval procedure until the reference is Publicly Available or the text shall be made available to be held by the Company.

3 Public Availability

All normatively referenced documents shall be Publicly Available to implementers, evaluators and other interested parties for as long as the Standard that references them is an active document. A document is Publicly Available when:

- (a) It may be obtained from the source organisation by any person (with or without payment) simply by quoting the reference number given in the Standard to the source organisation or typical supplier.
- (b) It is available in the English language from a publicly accessible source, preferably via the Internet or other means of electronic access.
- (c) It is available 1) without contractual limitations relating to its evaluation (other than limitations reasonably intended to restrict duplication and redistribution) and 2) on terms for implementation generally consistent with the Company policies.

This section, however, does not imply any obligation on the Company to investigate the Public Availability of each normative reference used in a Standard at the time that reference is made. Public Availability also requires that implementers, evaluators and other interested parties may not be required to prove qualifications to gain access to the referenced material. In particular, entities entitled to evaluate and implement the Standard shall not be required to be members of any other organisation to gain access to a normatively referenced document.

4 Intellectual property rights

The Company promotes a policy that any essential intellectual property rights (“IPRs”) contained in normatively referenced documents be available for use in the Standards on licensing and disclosure terms that do not materially differ from the terms defined in this IP Policy. This normative reference policy, however, does not imply any obligation on the Company to investigate or ensure the availability of any essential normatively referenced IPRs, under any specific licensing and disclosure terms, at the time a Normative Reference is provided, explicitly or implicitly, within a Standard.

5 Stability and Maintenance

Normative references may be "specific" or "non-specific":

- (a) A "specific" reference is a reference to the particular revision or version of the normatively referenced document. Specific references are favoured because they lead to permanence and stability in the Standards. Normative references generally should be limited to documents that are finally approved by the organisations responsible for issuing them.
- (b) A "non-specific" reference is a reference to a deliverable of another organisation that will apply to all future revisions and versions of the originally referenced document. Non-specific references require additional procedures to ensure that the appropriate Working Group in charge of the Standard considers any revisions made necessary to the Standard by virtue of revisions made to the normatively referenced materials.

If a normative reference is non-specific, the body in charge of the Standard should establish a process for gaining access to all future revisions and versions of the normatively referenced material. In addition, the body should establish a work plan for ensuring that any such new revisions and versions of the normatively referenced material do not require a substantive amendment to the Standard referencing that document or, alternatively, for ensuring that any such needed amendments are made and approved appropriately. Any future versions incorporated by reference should meet with the requirements for Public Availability and IPRs as set forth above.

6 Test suites

If conformance with a specification that includes normative references requires the use of a test suite, the test suite for the normatively referenced part should also be made Publicly Available. Any such test suite should be usable by potential implementers on terms at least as favourable as those contained in this IP Policy.