StandICT.eu

Webinar

Standards Essential Patents Regulation

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27 June 2024



Webinar «Standard Essential Patents Regulation» Agenda, 27 June 2024

- 15:00 Welcome and Introduction by Nikolaus Thumm, TU Berlin
 15:10 Introduction of StandICT by Emilio Davila-Gonzalez, DG Connect, and StandICT Academy by Knut Blind, Fraunhofer ISI
 15:25 Presentation of the SEP regulation by Anne von Zukowski, DG GROW
 15:45 Intervention by stakeholders:
 - Agnieszka Kupzok, NOKIA
 - o Patrick Hofkens, ERICSSON
 - Roderick Allen McConnell, CONTINENTAL
 - Matthias Schneider, Former AUDI
 - Mirko Böhm, LINUX Europe
- 16:35 Discussion
- 16:55 Conclusion and next steps

Standard Essential Patents -SEP COM (2023) 232 definition-

- (1) 'standard essential patent' or 'SEP' means any patent that is essential to a standard;
- (2) 'essential to a standard' means that the patent contains at least one claim for which it is not possible on technical grounds to make or use an implementation or method which complies with a standard, including options therein, without infringing the patent under the current state of the art and normal technical practice;
- (3) 'standard' means a technical specification, adopted by a standard development organisation, for repeated or continuous application, with which compliance is not compulsory;

New SEPs landscape



April 2023: European Commission COM (2023) 232 Final, Proposal for a regulation of the European Parliament and of the Council on Standard Essential Patents

Feb. 2024: European Parliament has voted by 454 to 83 in favour of the European Commission's proposal for a new regulation for SEPs.

Brussels, 27.4.2023 COM(2023) 232 final

2023/0133 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on standard essential patents and amending Regulation (EU)2017/1001

New 'Competence Center'

- European Union Agency (est. 1994)
- Registration European Union trademark
- Registration Community design
- European Observatory on Infringements of Intellectual Property Rights
- Article 3 'Tasks of the competence centre'

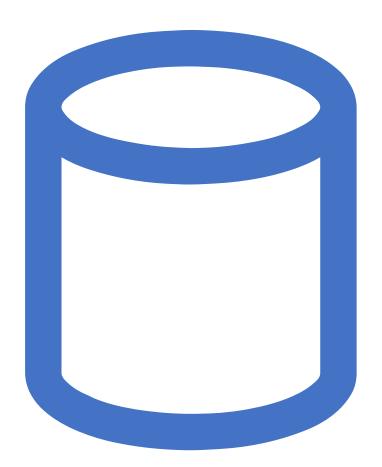




1. SEPs Register

(COM (2023) 232)

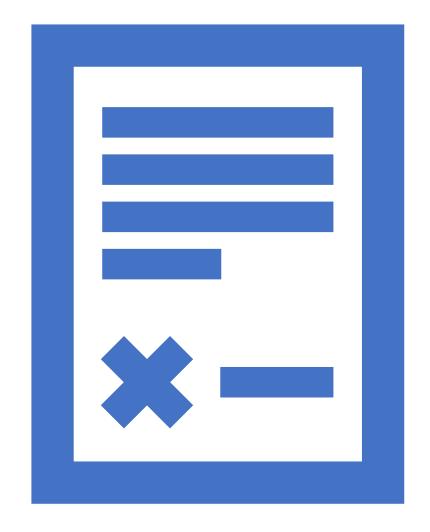
- Register of standard essential patents (Art. 4)
 - Access for free by any third party
 - SEP holder data
 - FRAND terms
 - Availability through patent pools ...
 - Updates
- Electronic database (Art.5)
 - Patent data
 - Standard terms and conditions
 - Product information
 - Essentiality information
 - Aggregate royalty information
 - Expert opinion



2. Essentiality checks

(COM (2023) 232, Title V, Art 28-33)

- By independent evaluators
- Reasoned opinion, not legally binding (within 6 months)
- One SEP per patent family only
- Checks
 - Annual sample of registered SEPs by competence centre
 - Proposal by SEPs holder (up to 100)
 - Proposal by implementers (up to 100)
- Appeal with EUIPO Board of Appeal (within 2 months)
- SEP holder may request peer evaluation
- Results of the essentiality checks published in database



3. Detailed FRAND determination procedure

9 months maximum duration

FRAND determination shall concern a global SEP license (unless otherwise specified)

Shall be initiated by:

- SEP holder
- or implementer (prior to any national court proceedings)

SEP holder request should include:

- claim charts
- proof of essentiality

Selection of conciliators (Art 39)

Conciliator should submit latest 45 days before end of time limit a reasoned proposal

Competence centre shall keep confidential the determination of FRAND terms and conditions (report)

4. Small and Medium Enterprise (SME) support measures

- SEP holders shall consider offering more favourable FRAND terms and conditions
- SME FRAND terms can only be a reference with other SMEs
- SEP holders shall consider discounts or royalty-free licensing for low sales volume
- Level of office fees should consider SME situation

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EU Draft Regulations Are A Nightmare For Intellectual Property—And **Innovation**

Proposed EU regulation on standard-essential patents comes under fire

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05 Jun 2023 | Sponsored Report

The Proposed EU SEP Regulations: A Quiet Move Toward a Top-Down World?

WEDNESDAY, JUNE 21, 2023

Proposed EU SEP Regulation is explicitly not based on any evidence of patent hold-up or holdout, apart from unverifiable anecdotes

EU SEP reform gambles Europe's long-term future

The Commission's proposed overhaul of standard essential patent (SEP) rules puts the EU's leadership in global tech standards at risk.

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