

Standards are voluntary common platforms that enable innovators to develop - and consumers to use - products that can reliably work together. Ensuring that licenses to patents that are essential to use these standards are available to all on fair, reasonable, and non-discriminatory (FRAND) terms is critical for promoting competition, innovation, and consumer choice.

INJUNCTIONS

A Last Resort

The ability of standard-essential patent (SEP) holders to seek an injunction (a product ban), based on allegations of infringement of a FRAND-committed SEP, should be limited to **rare and extenuating circumstances**.

By promising to broadly license on FRAND terms, SEP holders agree to monetary compensation, rather than exclusion, for use of their standard-essential patents. Unfortunately, some SEP holders, including patent trolls (i.e. non-practicing entities), are seeking injunctions to ban innovators from selling products that may use these SEPs. These SEP holders threaten to seek a government or court order banning the sale or import of a product incorporating the relevant SEP to force innovators to pay unreasonably high royalty rates. After investing significant resources in designing, manufacturing and marketing their technology, innovators are forced to choose between paying such rates or pulling their products off the shelves. Injunctions or threats on injunctions by these SEP holders threaten innovation, economic growth, and consumer welfare.

BENEFITS OF INJUNCTIONS EXCLUSIVELY IN RARE CIRCUMSTANCES:



FOR SEP LICENSORS:

Reasonable compensation based on the value of their standard-essential patent obtainable from a broad set of potential licensees



FOR INNOVATORS:

Freedom to create new standards-based products and services without the fear of being coerced to pay unreasonable royalties or being subject to product bans



FOR CONSUMERS:

Reliable product availability, lower prices, and improved quality in a competitive marketplace of innovative products