

Preventing Abuse of Standard-Essential Patents

Many industries rely in certain contexts on technical standards as a common platform for interoperability. In turn, such standards can facilitate competition, innovation and the adoption of new technologies. But for all the benefits of standards, the system is vulnerable to abuse.







SAFEGUARDS FOR COMPETITION:

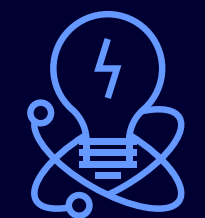
Owners who claim their patented inventions are essential to a given standard (known as a Standard-Essential Patent) must offer licenses to those patents on fair, reasonable and non-discriminatory (FRAND) terms if they committed to doing so as part of the standards development process. These voluntary commitments serve as guardrails to ensure a level playing field for all innovators.



BAD ACTORS:

Unfortunately, some essential patent holders are engaging in anti-competitive and abusive practices by renegeing on their FRAND commitments and restricting technological progress for their own gain by:

-  Using threats of injunctions to force innovators to choose between paying unreasonably high royalty rates or pulling their products off the shelves
-  Strong-arming innovators to pay exorbitant license fees
-  Selectively refusing to license certain essential patents to some manufacturers, resulting in reduced competition
-  Forcing innovators to license additional patented inventions, globally or otherwise, as a condition to license the essential patent



BREAKING THE BOTTLENECK:

Key decision-makers must implement policies that allow innovation to thrive through pro-competitive licensing practices and by reinforcing FRAND terms for these essential patents.



WHAT'S AT STAKE?

From automakers and medical equipment manufacturers to agriculture and energy companies, wireless and digital technologies are transforming long-established industries, leading to an explosion of connected products and services.

If the abusive licensing practices of patent trolls and some essential patent holders are left unchecked, the deployment of innovative technologies and subsequent creation of many high quality new jobs will stall, and the digital economy will suffer.