

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.

VALUATION

Merits-Based Valuation

Royalty rates for standard-essential patents (SEPs) should be reasonable and reflect **only the value of the individual patented invention** rather than that of the entire end product, and should not capture value from additional aspects, such as other inventions or the patent's inclusion in the standard.

A single technical standard can contain many patented inventions. A single product can use many standards and can also contain a number of other non-standardized inventions and contributions. While it is important to ensure that the owners of standard-essential patents (SEPs) are compensated for the value of their patented inventions, it is equally important to prevent them from charging for innovations that are not their own, or hindering technological advancement by demanding prohibitively high licensing fees. This is why the valuation of an SEP should consider the smallest unit that incorporates the patented invention. Doing so helps ensure that royalties do not include other value, such as the value gained from the patent's inclusion in the standard, or the value of other contributions or inventions in a product.

BENEFITS OF MERITS-BASED VALUATION



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 unencumbered by excessive licensing fees



FOR CONSUMERS:

Increased choice, lower prices, and improved quality in a competitive marketplace of innovative products