

Philippines

The Philippine IP Code does not have specific provisions on Standard Essential Patents. As such, there is no formal SEP practice, procedure, or regulatory body. However, even without such formal structures surrounding SEP, PH recognizes essential patents per se under the Philippine IP Code. Section 97¹ thereof can be considered as a variant of SEP, particularly the concept of “interdependence of patents”.

This IP Code provision speaks of interdependence of patents, whereby there is a second patent that cannot be worked without infringing another (first patent). A compulsory license may be granted to the owner of the second patent to the extent necessary for such invention to work, subject to certain conditions as provided by law.

¹ SEC. 97. Compulsory License Based on Interdependence of Patents.- If the invention protected by a patent, hereafter referred to as the "second patent," within the country cannot be worked without infringing another patent, hereafter referred to as the "first patent," granted on a prior application or benefiting from an earlier priority, a compulsory license may be granted to the owner of the second patent to the extent necessary for the working of his invention, subject to the following conditions:

97.1. The invention claimed in the second patent involves an important technical advance of considerable economic significance in relation to the first patent;

97.2. The owner of the first patent shall be entitled to a cross-license on reasonable terms to use the invention claimed in the second patent;

97.3. The use authorized in respect of the first patent shall be non-assignable except with the assignment of the second patent; and

97.4. The terms and conditions of Sections 95, 96 and 98 to 100 of this Act. (Sec. 34-C, R.A. No. 165a)