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WIPO/SEP/GE/25/2  
ORIGINAL: ENGLISH  
DATE: JANUARY 23, 2026

## WIPO Symposium on Standard Essential Patents

Geneva, September 18 and 19, 2025

### SUMMARY OF DISCUSSION

*prepared by the International Bureau of WIPO*

## Introduction

1. The present document, prepared by the International Bureau, contains a summary of discussions of the Symposium on Standard Essential Patents (SEPs), held at WIPO headquarters in Geneva on September 18 and 19, 2025. In the spirit of WIPO as a global, neutral forum for dialogue on SEPs – an objective reflected in [WIPO's SEP Strategy](#)<sup>1</sup> – the Organization hosted its first-ever Symposium on Standard Essential Patents – a “SEPtember Symphony”, in the WIPO Conference Hall in Geneva, with a livestream for those unable to attend on site.

2. The event brought together approximately 300 participants in person and around 900 online. The Symposium proved truly global in scope: close to 90 countries from Africa, Asia, Europe, Oceania, and the Americas were represented. Diversity was also reflected in the professional backgrounds of the participants. Academics, diplomats, judges, economists, licensing professionals, government officials, IP office staff, in-house counsel from major corporations on all sides of the SEP licensing landscape, private practitioners, and SMEs all came together for the discussion.

3. No recordings of the in-person discussions were made publicly available, based on a decision that encouraged participants to engage more candidly. The program, speaker profiles, and presentations are available at:  
[https://www.wipo.int/meetings/en/details.jsp?meeting\\_id=87172](https://www.wipo.int/meetings/en/details.jsp?meeting_id=87172).

## Opening Speech by the Director General Daren Tang

4. In a recorded opening address, the Director General welcomed participants and introduced the Symposium's subtitle, “SEPtember Symphony,” as a reference to the 2025 World Intellectual Property Day theme, *IP and Music: Feel the Beat of IP*, and as a metaphor for collaboration and harmony within the SEP ecosystem.

5. The Director General emphasized the role of SEPs in enabling cooperation among competing market participants through common technological standards, supporting interoperability across sectors including telecommunications, consumer electronics, digital media, the Internet of Things, and audio technologies.

6. The address highlighted the need to maintain an appropriate balance between standardization, competition, and incentives for innovation. It was noted that a well-functioning SEP ecosystem contributes to economic growth and technological progress.

7. Reference was made to the global nature of SEP licensing and disputes, and to the challenges arising from differing national legal approaches. In this context, the Director General underlined WIPO's neutral role and international mandate as a platform for dialogue and transparency. The address recalled the publication of WIPO's comprehensive SEP Strategy in 2024 and identified the Symposium as an important step in its implementation, bringing together a broad range of stakeholders to exchange views on key SEP-related issues.

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<sup>1</sup> <https://www.wipo.int/publications/en/details.jsp?id=4719> .

## **Keynote Panel: Setting the Scene**

8. The keynote panel was moderated by WIPO's Deputy Director General of the Patents and Technology Sector, Ms. Lisa Jorgenson, and was held under Chatham House rules to encourage open and candid discussion. The panel brought together representatives from standard-setting, industry, implementation, and academia, reflecting the diversity of perspectives within the SEP ecosystem. Panelists were invited to address key challenges in FRAND licensing and to propose possible solutions.

### *Perspectives on FRAND Licensing*

9. It was emphasized that SDOs such as the European Telecommunications Standards Institute (ETSI) are responsible for developing standards and should not assume a licensing role. The ETSI IPR Policy was highlighted as a contractual framework under French law, developed at a time when royalty-free approaches were also considered. Concerns were expressed regarding the evolution of FRAND jurisprudence, the age of the existing policy framework, and the need for an independent expert review of the ETSI IPR Policy and related guidance to ensure continued coherence and effective implementation.

10. From the SEP owner perspective, FRAND licensing was characterized as a broadly successful system that has enabled the development and deployment of global standards such as 4G and 5G, lowered barriers to entry, and supported competitive markets. While disputes occur, it was stressed that most licenses are concluded through negotiation, with mediation and arbitration available as effective dispute resolution tools. The availability of injunctions was described as an important safeguard against unwilling licenses.

11. From the implementer perspective, concerns were raised regarding the impact of injunctive relief on FRAND negotiations. Reference was made to economic and regulatory developments highlighting the costs of injunctions and the risk of above-FRAND demands. The discussion also linked SEP enforcement to broader regulatory frameworks affecting interoperability and access to technology.

12. From the academic and former SDO counsel perspective, attention was drawn to the diversity of IPR policies across SDOs, including royalty-free models. Structural challenges in FRAND rate-setting were identified, including lack of transparency, consistency, and comprehensiveness. Patent pools were cited as one tool to enhance transparency and predictability.

### *Litigation and Alternative Dispute Resolution (ADR)*

13. In addressing the role of litigation and ADR, panelists acknowledged the increasing role of courts in setting global FRAND rates, while also noting concerns regarding parallel proceedings, forum shopping, and the complexity of rate-setting. Global ADR mechanisms such as the ones offered by the WIPO Arbitration and Mediation Center (AMC) were widely viewed as effective for resolving individual disputes, including for SMEs.

14. Industry experience highlighted that litigation is generally a last resort, with the majority of SEP licenses concluded without court involvement. Structured global FRAND mediation, arbitration and expert determination models were discussed as a means to provide timely, neutral, and balanced outcomes. The importance of assessing party willingness and good faith, including engagement with ADR, was also underlined.

### *WIPO's Role*

15. Panelists broadly recognized WIPO's role as a neutral, global platform for dialogue, information-sharing, and dispute resolution in the SEP context. WIPO's AMC was identified as a valuable forum, particularly for cross-border disputes and SMEs. Suggestions included enhancing access to SEP-related resources, increasing transparency through selective publication of outcomes, and, in the longer term, exploring WIPO's role in any future global approaches to FRAND rate-setting. WIPO's principles of neutrality, voluntariness, and complementarity with national legal systems were highlighted as central to its credibility and value.

### **Presentation of WIPO's SEP Strategy**

16. Mr. Andras Jokuti (Director, Patent and Technology Law Division (PTLD), WIPO) presented WIPO's SEP Strategy, highlighting key challenges across the SEP lifecycle, including standardization, FRAND commitments, licensing, enforcement, and transparency. He outlined WIPO's role in the SEP area, being a neutral global organization, building on prior work in patent policy, ADR, and academic initiatives. The Strategy's four pillars—global dialogue, data and transparency, ADR services, and exploration of new initiatives – were presented, together with ongoing implementing projects and the outlook for future work, guided by the principles of neutrality, voluntariness, and complementarity, with emphasis on collaboration with SDOs, competition authorities, and courts. The full presentation may be found [here](#)<sup>2</sup>.

### **Panel Discussions**

17. The following panel discussion of the Symposium was organized around 12 topics, each addressing different aspects of the SEP ecosystem.

- Session 3 – The Economics behind FRAND Determination
- Session 4 – The Process of Dealmaking
- Session 5 – SEP Litigation and Judicial Developments
- Session 6 – Alternative Dispute Resolution in SEP Licensing
- Session 7 – Policy and Regulation: What Governments Can Do
- Session 8 – Fireside Chat
- Session 9 – SEPs and SMEs
- Session 10 – SEPs in the Global Economy
- Session 11 – SEPs and Competition Law
- Session 12 – Approaches to Group Licensing
- Session 13 – The World Outside of Cellular Standards

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<sup>2</sup> [https://www.wipo.int/meetings/en/details.jsp?meeting\\_id=87172](https://www.wipo.int/meetings/en/details.jsp?meeting_id=87172).

- Session 14 – Transparency and Data Science behind SEPs

### **The Economics behind FRAND Determination**

18. The panel moderated by WIPO's Chief Economist Mr. Carsten Fink focused on "how" to value SEPs. It examined several methodological families: comparable-license approaches, top-down allocation, bottom-up valuation and hybrid techniques.

19. The economists Ms. Fei Deng, Mr. Mario A. Lopez, Ms. Kadambari Prasad, and Mr. Pekka Sääskilahti discussed the "intrinsic value" of technology, its contribution relative to alternatives, and its position after standardization. In practice, virtually all observable data points (licenses, court decisions) are *ex post* – after the technology has been deployed at scale. This raises the question: to what extent do observed license terms reflect competitive value versus holdup or strategic bargaining?

#### *Comparable-license approaches*

20. Comparable-license methods – widely used in case law – were described as "market-based" in that they rely on prior agreements between real parties. Economists outlined a structured approach:

- Define the focal license.
- Identify candidate comparables (often past agreements from the same licensor; sometimes from the licensee side).
- Normalize ("unpack") payment structures into effective royalty metrics.
- Select the closest comparable.
- Adjust for differences in portfolio scope, geography, timing, products, structure, as well as terms of the license agreement.

21. Key concerns included:

- Whether past licenses were themselves FRAND (e.g. licenses concluded under strong injunction pressure or with very small amount at stake).
- The risk of "Frankenstein" valuations if analysts make extensive, subjective adjustments that move far away from what the market has actually agreed.
- The circularity between court standards and negotiating behavior: if courts accept weak or opaque economic evidence, parties have little incentive to invest in robust analysis.

#### *Top-down and bottom-up elements*

22. Top-down approaches seek to start from an aggregate royalty burden for the entire SEP stack and allocate shares to individual portfolios. Bottom-up approaches seek to link value to technical contribution and next-best alternatives.

Speakers noted that:

- Top-down can help address "royalty stacking" concerns and provide sanity checks but often lacks precise data on aggregate portfolio strength.
- Bottom-up provides conceptual clarity but faces formidable practical obstacles when hundreds or thousands of patents are involved.

23. The panel concluded that in practice, robust FRAND determinations typically triangulate across several methods, rather than relying exclusively on any single one. Their insights will feed into an upcoming WIPO study dedicated to precisely this question – an effort to bring greater clarity and methodological rigor to FRAND valuation.

## **The Process of Dealmaking**

24. The panel moderated by Ms. Allison Mages (Head, IP for Commercialization Section, WIPO), featuring panelists from Deutsche Telekom (Mr. Alexander Haertel, Cluster Lead Patents), Lenovo (Mr. John Mulgrew, IP Policy), Philips (Ms. Sophie Pasquier, Senior Director, Principal Intellectual Property and Licensing Counsel) and Qualcomm (Mr. Shahrokh Nazar, Senior Director of Technology) explored how SEP licensing evolves across industries and why negotiations, the FRAND-dance, vary in complexity.

### *Market Maturity and Licensing Models*

25. The maturation of mobile and automotive licensing, the learning curve for new entrants, and the role of patent pools in building trust and efficiency were highlighted. In contrast, the fragmented IoT ecosystem required new approaches, such as licensing at the module level, where market concentration makes negotiations more manageable.

### *Technical Evidence, Claim Charts, and Trust*

26. A central debate concerned how much technical evidence is necessary in negotiations. Participants emphasized claim chart exchanges to understand portfolio strength and patent impact, while some argued that this slows down dealmaking and that independent evaluations or patent pools can help overcome information asymmetries. All panelists underscored that trust, transparency, and the ability to align technical assessment with commercial discussions are essential to reaching timely agreements.

### *Litigation, Injunctions, and Paths to Faster Deals*

27. On litigation, the panel agreed it should be a last resort: useful to break deadlock but harmful when used strategically. Injunctions were deemed necessary only against truly unwilling licensees. To accelerate dealmaking, panelists advocated for early independent rate reviews, greater transparency around comparable agreements, wider use of patent pools, and flexible, adaptive negotiation mindsets – particularly as companies shift roles between being a sole licensor or licensee.

## **SEP Litigation and Judicial Developments**

28. Multijurisdictional litigation adds another layer of complexity to the SEP landscape. In a panel moderated by Eun-Joo Min, Director of WIPO's Judicial Institute, six experienced judges from China (Mr. Liming Kong, Presiding Judge, IP Court of the Supreme People's Court of China), Colombia (Mr. Cesar Giovanni Chaparro Rincon, Judge, Administrative Tribunal of Cundinamarca, Colombia), Europe (Mr. Peter Tochtermann, Presiding Judge, Unified Patent Court), India (Ms. Prathiba Singh, Justice, Delhi High Court), the United Kingdom (Mr. Richard Meade, Justice, High Court) and the United States (Mr. Rodney Gilstrap, District Judge, Eastern District of Texas, United States of America) compared how their courts approach key issues such as the availability of injunctions, global FRAND rate-setting, interim licenses, and the legal nature of the FRAND commitment – whether grounded primarily in contract law, competition law, or a combination of both.

#### *Different approaches in FRAND-rate setting and injunctive relief*

29. Their discussion highlighted significant differences across jurisdictions. Some courts are more willing to set global FRAND rates; others take a more limited or territory-specific view. Approaches to injunctions likewise vary. Interim measures, including temporary licenses or stay mechanisms, also differ considerably in availability and scope.

#### *Battle of jurisdictions – cross border measures such as anti-suit injunctions*

30. A particularly lively debate arose around the “battle of jurisdictions” – situations involving anti-suit injunctions (ASIs), anti-anti-suit injunctions (AASIs), and similar cross-border measures. These procedural tools can have substantial implications for global trade and for the conduct of licensing negotiations. Their broader systemic impact was examined through the lens of trade law, including insights from a presentation during the second day of the Symposium by WTO Counsellor Roger Kampf concerning the decision before the WTO’s Multi-Party Interim Appeal Arbitration Arrangement (MPIA) panel and appeal arbitrator (see below).

#### *Different national and regional paths*

31. Overall, the session underscored that while courts worldwide grapple with similar underlying questions, the paths they take – and the solutions they offer – often diverge, creating both challenges and opportunities for parties navigating FRAND disputes in an increasingly interconnected global market.

### **Alternative Dispute Resolution in SEP Licensing**

32. The session, moderated by Ms. Heike Wollgast (Head of the IP Disputes Section, AMC, WIPO) brought together Mr. Chung Nian Lam (Head of the IP, Technology, Media, Telecommunications and Data Protection Practices at Wong Partnership), Mr. Tilman Müller-Stoy (Partner at Bardelle Pagenberg); Mr. Richard Vary (Partner Bird & Bird); and Mr. David Yurkerwich (Senior Managing Director, Ankura).

#### *WIPO AMC – rising numbers of SEP mediation*

33. The discussion focused on how mediation, arbitration and expert determination are being used to resolve SEP/FRAND disputes outside the courts. The moderator opened by noting the strong rise in demand for ADR at the WIPO AMC, which has now administered more than 85 SEP mediations involving parties from over 20 jurisdictions, supported by the Center’s global pool of specialized neutrals and growing collaboration with national IP offices such as the USPTO.

#### *Different ADR mechanisms – valuable tools in solving (multijurisdictional) SEP disputes*

34. Panelists emphasized that mediation, because it is consensual and confidential, is well suited to overcoming the information asymmetries that typically block FRAND negotiations. It allows parties to share sensitive material under structured safeguards and to work through obstacles with the help of a neutral facilitator. Mediation was described as particularly effective in supply-chain settings where multiple actors need to coordinate on indemnities and licensing responsibilities. At the same time, parties may hesitate to enter mediation without clear confidentiality arrangements or prior disclosure frameworks.

35. Turning to arbitration, the speakers noted that while publicly reported cases are rare, arbitration is used more widely than often assumed and can provide quicker and globally enforceable solutions. If parties succeed in agreeing on tribunal composition, rules for early license disclosure and targeted evidentiary procedures, arbitration may offer consistency and avoid the burdens of multi-jurisdictional litigation.

36. The panel also explored the role of experts. In mediation, experts may help parties understand differences in valuation models or unpack comparables in a neutral, facilitative capacity. In arbitration, expert testimony remains central to establishing FRAND rates through structured analysis of comparable agreements, product scope and historical usage. Although expert determination as a standalone process is less common, targeted expert input at key stages can streamline both mediation and arbitration.

37. Overall, the discussion concluded that ADR – particularly mediation supported by expert insight, with arbitration available when a binding outcome is required – has become an essential part of SEP/FRAND dispute resolution. While confidentiality limits broader transparency, ADR offers a structured, neutral and internationally enforceable pathway that complements negotiation and helps avoid extended and fragmented litigation.

### **Policy and Regulation: What Governments Can Do**

38. Mr. Christian Hannon (Acting Principal Counsel and Director for Patent Policy, United States Patent and Trademark Office (USPTO)), Mr. Jonas Hein (Legal and Policy Officer, European Commission), Mr. Wei Jiang (Second-level Inspector, China National Intellectual Property Administration, (CNIPA)), Mr. Jamie Lewis (Head, SEP, IP and Competition Policy, United Kingdom Intellectual Property Office (UKIPO)), Mr. Yoshinobu Sato (Director for Intellectual Property, Japan External Trade Organization (JETRO), Intellectual Property Attaché for Japan Patent Office in Europe), and Mr. Alfred Yip (Director, Intellectual Property Office of Singapore (IPOS) International) presented different policy approaches in a panel moderated by Mr. Andras Jokuti.

#### *European Commission — Lessons from the Withdrawn Proposal*

39. The Commission's withdrawn SEP proposal illustrated the difficulty of regulating a highly complex, fast-paced and polarized ecosystem. SEP issues cut across several legal and policy fields, making internal alignment challenging. Jonas Hein, speaking in a personal capacity, emphasized the need for clear and consistent policy goals, realistic expectations, and recognition that limited transparency means inevitable trade-offs rather than perfect regulatory solutions.

#### *United Kingdom – Evidence-Led approach*

40. UKIPO's focus on evidence gathering to improve transparency and reduce licensing frictions was explained. Since 2021, the UK has consulted widely and developed three priorities: SME support, greater transparency, and more efficient dispute resolution. Recent initiatives include the SEP Resource Hub and an international SEP Network. A broad public consultation was underway to assess options related to essentiality checks, a FRAND rate determination track, and ADR frameworks.

*China – Strategic and Coordinated National Framework*

41. China provided an integrated SEP strategy, involving multiple ministries and embedded in national IP and standardization plans. Recent measures included patent pool guidelines, strengthened competition rules, and expanded engagement with international SDOs. The intention to develop SEP licensing guidelines, enhance essentiality review, improve public databases, and deepen cooperation with WIPO and other organizations was emphasized.

*United States – Case-by-Case Solutions, industry-led mechanisms, and Limited Intervention*

42. USPTO relied on case-specific adjudication rather than prescriptive regulation, focusing on promoting good-faith negotiations, supporting industry-led mechanisms such as patent pools, and participating in international discussions, while staying within its statutory limits.

*Japan – Guidance to Improve Predictability*

43. The Guide to Licensing Negotiations involving Standard Essential Patents published by the JPO and last updated in 2022, provided non-binding guidance on negotiation conduct and royalty considerations. A distinction was made to the more prescriptive “Good Faith Negotiation Guidelines for Standard Essential Patent Licenses” that the Ministry of Economy, Trade and Industry (METI) publicized in 2022. Together, these instruments seek to increase clarity and predictability without imposing binding rules.

*Singapore – Trust, Neutrality, and Enterprise Support*

44. Alfred Yip highlighted IPOS’ enterprise-focused, balanced approach, emphasizing awareness-building, trusted legal frameworks, and international cooperation. Singapore supported high-quality patent examination, transparency efforts, and multiple neutral ADR venues, including WIPO’s AMC. Trust, he stressed, was central to both SEP licensing practice and international collaboration around SEPs.

*International Coordination*

45. The panel agreed on the importance of deeper international coordination to avoid policy fragmentation, noting WIPO’s critical role as a neutral forum for dialogue, evidence sharing, and methodological convergence.

**Fireside Chat - Convergence of Sectors**

46. A Fireside Chat moderated by WIPO’s Assistant Director General of the IP and Innovation Ecosystems Sector, Mr. Marco Aleman, opened the second day with an informal exchange between Gabriele Mohsler (VP Patent Development, Ericsson) and Steve Faraji (Head of Litigation, Licensing, Brand Protection, Volkswagen), highlighting the increasingly intertwined nature of telecommunications and automotive industries and inviting to reflect on how standardization has evolved across their respective sectors. Mohsler underscored that Ericsson’s core business remains product development, with standardization built on top of massive, long-term R&D investments that span generations of mobile technology from 1G to early 6G. Faraji contrasted this with the automotive sector’s deep history in mechanical and safety standards, where patented technologies are not necessarily the outcome, but rather standardization traditionally focused on product quality, safety and liability considerations.

### *Different Licensing Cultures Meeting Each Other*

47. As connectivity brought both industries together, Faraji explained that their historically different licensing models created early friction. Automotive manufacturers, long accustomed to resolving patent issues through suppliers, were unprepared for telecom-style OEM-level SEP licensing. Mohsler emphasized that licensing was essential for sustaining the heavy R&D required for telecom standards, and that implementers - whether carmakers or IoT producers - must understand this economic reality. Both speakers pointed to constructive developments such as the 5G Automotive Association (5GAA) and the Avanci platform, while acknowledging persistent challenges: transparency, differing expectations on FRAND behavior, and uncertainty stemming from divergent approaches within and across standard-setting organizations.

### *Looking Ahead*

48. The speakers agreed that the expansion of connectivity and the arrival of 6G will intensify SEP activity across industries, with more companies – and different kinds of companies – participating in standardization. Mohsler stressed that instead of “fighting standardization,” stakeholders should focus on practical, collaborative solutions, particularly as more entrants, including SMEs, join the ecosystem. Faraji emphasized the need for fair, transparent and balanced frameworks that clarify pre-litigation conduct, essentiality, and FRAND expectations. Both concluded that standardization remains a societal success story, and future progress will depend on dialogue, cooperation and efficient solutions that support innovation across all sectors.

### **SEPs and SMEs**

49. Session 9 examined how small and medium-sized enterprises (SMEs) experience the SEP ecosystem, with moderator Mr. Trod Lehong (Head, Legislative and Policy Advice Section, PTLD, WIPO) guiding a discussion between Mr. Jacob Babcock (Chief Executive Officer, NuCurrent), Mr. Lukas Johnson-Hecker (Senior Legal Counsel, Fairphone) and Mr. Robert Pocknell (Chief Executive Officer, N&M Consultancy). The panelists began by outlining how SEPs intersect with their work: Fairphone as a small device manufacturer reliant on connectivity, NuCurrent as an emerging technology developer increasingly drawn into standardization through wireless-power systems, and Pocknell as an experienced practitioner stressing persistent structural challenges for SMEs.

#### *SME participation in SDOs – practical limitations*

50. The discussion then turned to the realities of SME participation in standardization. Babcock described the practical difficulty for growth-stage companies to contribute meaningfully within major SDOs, citing not only engineering effort but also “political” and procedural overhead that SMEs cannot absorb. Pocknell added that for many SMEs, engaging directly in large SDOs is effectively impossible. Johnson-Hecker observed that even without formal involvement in major SDOs, SMEs can still shape how technologies evolve in practice. Fairphone’s modular design work, he noted, has helped influence market expectations and policy discussions on repairability, demonstrating how product innovation by smaller companies can inform broader standardization debates.

### *SMEs and SEP licensing*

51. In the final segment, the panel explored licensing challenges and possible solutions. Speakers noted that SMEs may encounter asymmetry of information, especially when negotiating with sophisticated, larger companies. To close such asymmetry gap, possible solutions may include patent pools, greater transparency, accessible dispute-resolution mechanisms, licensing at the module level, and tailored frameworks for SMEs. Pocknell presented the idea of an “SME Safe Island” offering royalty-free licensing paired with a commitment to arbitrate once companies scale, while Johnson-Hecker advocated targeted protections and standardized contractual clauses to prevent disproportionate burdens.

### **SEPs in the Global Economy**

52. Moderated by Mr. Yogesh Pai (Head, Patents and Treaties Law Section, PTLD, WIPO), the session examined how the global SEP landscape affects countries with diverse economic structures and legal traditions. Speakers provided presentations from development economics, litigation practice, and international trade governance. Across the session, speakers emphasized that the economic effects of SEP licensing and enforcement are global. Strengthening participation of developing countries in standard-setting processes and enhancing international cooperation were identified as key priorities to support more inclusive and predictable outcomes in the global SEP ecosystem. Presentations of the session are available [here](#)<sup>3</sup>.

#### *Developing countries and new technologies: Quick adoption lag of use*

53. Xavier Giné (Lead Economist, World Bank) observed that developing countries increasingly adopt new technologies quickly yet still lag in their intensity of use. Most act as standard users, benefiting from access to advanced technologies while facing higher costs, bargaining asymmetries, and limited institutional capacity. Using examples such as India’s handset market, he noted how royalty structures tied to end-product value can pressure low-margin domestic manufacturers and shape which firms remain competitive.

#### *Brazilian Courts impact on global SEP licensing disputes*

54. From Brazil, Otto Licks (Founding Partner, Licks Attorneys) highlighted how global standards have enabled widespread access to affordable 4G and 5G devices, supporting one of the world’s largest mobile markets. He explained that while Brazilian courts frequently grant preliminary injunctions in SEP disputes, most cases ultimately settle – often as part of broader global agreements – underlining the role of predictable judicial frameworks in encouraging negotiated outcomes.

#### *WTO Dispute Settlement and SEPs*

55. Turning to the international trade dimension, Roger Kampf (Counsellor, WTO) discussed two recent dispute settlement proceedings involving China: WTO dispute DS611 (concerning anti-suit injunctions issued by Chinese courts in SEP litigation) and the ongoing consultations in WTO dispute DS678 (regarding the ability of Chinese courts to set global FRAND licensing terms). He explained how these cases illustrate rising tensions between domestic patent enforcement, cross-border trade in standard-embedded goods, and the territorial nature of intellectual property rights. Kampf noted that while the findings in DS611 are binding only on the

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<sup>3</sup> [https://www.wipo.int/meetings/en/details.jsp?meeting\\_id=87172](https://www.wipo.int/meetings/en/details.jsp?meeting_id=87172)

parties, they raise broader systemic questions for jurisdictions issuing, responding to, or relying on ASIs.

## **SEPs and Competition Law**

56. Moderated by Ms. Nina Belbl (Legal Officer, PTLD, WIPO), this panel brought together experts from competition law and economics. Mr. Peter Camesasca (Managing Partner, Peter Camesasca Advokaats), Ms. Sophie Lawrence (Partner, Bristows Law Firm), Ms. Anke Nestler (Senior Managing Director, FTI Consulting), and Ms. Annie Xue (Senior Partner, Lifang & Partners) explored how competition law interacts with FRAND obligations and SEP enforcement across key jurisdictions.

### *Different jurisdictions – different approaches to SEPs and competition law*

57. The discussion emphasized that SEPs sit at the intersection of contract, competition and intellectual property law, and that national frameworks address this differently. Peter Camesasca outlined the German approach, where the CJEU *Huawei/ZTE* judgment remains central while recent German case law places greater focus on implementer willingness. Sophie Lawrence contrasted this with the United Kingdom's largely contractual approach, where courts apply the ETSI FRAND undertaking under French law and may set global FRAND terms with competition policy considerations continuing to inform the overall balance. Annie Xue, Senior Partner, Lifang & Partners described the Chinese framework, which imposes good-faith negotiation duties on both parties and treats an unjustified refusal to license by a dominant SEP holder as a potential antitrust issue. From an economic perspective, Anke Nestler noted that FRAND valuation depends on market use, comparables and sector characteristics, with competition law shaping how these elements are assessed in practice.

### *Competition law and group licensing – LNGs and pools need competition law safeguards*

58. With a consultation regarding the renewal of the Technology Transfer Block Exemption Regulation (TTBER) that exempts certain technology licensing agreements from Article 101(1) TFEU launched only days before the Symposium, the panel briefly explored the standard EU competition law tool that provides a safe harbor for certain types of technology-transfer agreements, avoiding the need to assess each arrangement individually. Two areas were relevant to SEPs: Licensing negotiation groups (LNGs) and patent pools.

59. For LNGs, the revised draft guidelines open for consultation introduced this concept for the first time and set out four conditions for falling within a safe harbor: (1) the group's combined market share must remain below 15%; (2) participation must be open to others in the sector; (3) bilateral licensing must remain possible; and (4) information exchanges must be limited to what is objectively necessary, avoiding sensitive commercial data. On patent pools, the speakers noted only incremental changes: stronger requirements that essentiality checks be performed by independent experts; greater emphasis on assessing validity; the need for ongoing review; and ensuring that licensees are not charged twice if they already hold bilateral licenses for part of a pool.

60. Panelists also noted that market definition played a critical role – for example, whether the “market” includes all users of a technology or only a specific vertical such as automotive can determine whether participants fall within or outside the 15% threshold.

## Approaches to Group Licensing

61. After the previous panel had outlined the competition-law and economic considerations surrounding LNGs and patent pools, Mr. Hüseyin Kebapci (Senior Legal Officer, Legislative and Policy Advice Section, PTLD, WIPO) discussed with Mr. John Kinton (Chief Legal Officer, Access Advance LLC), Mr. Daniel P. McCurdy (Chief Executive Officer, RPX Corporation), Mr. Matteo Sabattini (Executive Advisor, Government Affairs, Sisvel), and Ms. Uta Schneider (Vice-President Global Government Affairs, Avanci), the practical realities of group licensing.

### *Reduced transaction costs through group licensing*

62. Speakers described how one-stop-shop platforms can streamline negotiations, reduce administrative burdens, and help implementers – especially new entrants or smaller players – navigate licensing obligations more efficiently. They emphasized that patent pools and similar structures can foster predictability and transparency, but only when designed with the appropriate procedural safeguards and when participation remains voluntary. Speakers of Sisvel and Avanci laid out different approaches when it comes to publishing patent portfolio lists.

63. From a practitioner's viewpoint, the panel highlighted several dynamics shaping the success of these models: the need for independent essentiality assessments, clear boundaries on information sharing, protection against double-charging when bilateral licenses exist, and mechanisms that maintain trust between licensors and licensees. These elements, the speakers noted, are essential to ensuring that group licensing complements rather than replaces bilateral negotiations.

### *Necessity of LNGs in practice?*

64. Panelists debated the necessity of LNGs, which are not yet operating, in practice. McCurdy explained that RPX was not a LNG, being a licensee aggregator and an independent principal contrary to the concept of an LNG as a dependent agent. Further, RPX had already built trust among licensors and licensees over decades of negotiations, which a new entity would lack.

## The World Outside of Cellular Standards

65. The session, moderated by Ms. Nina Belbl, examined standardization and licensing beyond the cellular domain, emphasizing their unique policy and licensing dynamics and the need for context-sensitive approaches rather than one-size-fits-all rules. Panelists Mr. John Dubiansky (Senior Director for IP and Standards Policy, Dolby Laboratories), Mr. Scott Hayden (Vice President for Intellectual Property, Amazon), Ms. Claudia MacMaster (Head of Legal and Compliance, IEC), and Mr. Andrew Yen (Chief IP Counsel, Panasonic) spoke in personal capacities about the diversity of non-cellular technology ecosystems, including audio/video codecs and Wi-Fi.

### *Higher diversity of contributors compared to cellular standards*

66. On the SDO level Claudia MacMaster provided an overview of the institutional framework of the International Electrotechnical Commission, explaining that its standardization activities rely on national committee structures, broad stakeholder participation, and consensus-based decision-making. She outlined the IEC-ISO-ITU Common Patent Policy, which accommodates both RAND (Reasonable and Non-Discriminatory) licensing declarations and royalty-free

options, and emphasized the importance of transparency and procedural rigor in standardization governance.

*Licensing outside cellular – patent pools as solution?*

67. The high diversity of contributors in outside cellular standards such as video codec contrasts with the more concentrated stakeholder environment typical of cellular standards. The panel discussed the historical evolution of patent pools in video codec development and noted their value in reducing transaction costs and supporting widespread market adoption. At the same time, they acknowledged the challenges that have emerged in ecosystems such as H.265, where the existence of multiple patent pools has created confusion for industry participants. From an implementer's perspective, navigating uncertainty about aggregate royalty burdens, particularly where multiple pools coexist or where licensors choose not to participate in pools as well as the inconsistency in publishing rates were stressed.

68. Royalty-free models and industry consortia such as the Alliance for Open Media and its aim of producing royalty-free codecs such as AV1 were discussed. From the patent holder perspective, it was mentioned that zero-royalty regimes may risk reducing participation by companies with business models that rely on licensing revenue to fund further innovation, potentially altering long-term incentives. Because industry consortia operate outside traditional SDO frameworks, caution was advised in carefully examining their governance structures, especially their IPR rules and compliance mechanisms.

*Enforcement discussions similar to cellular standards*

69. As in cellular standards, the necessity of injunctive relief was debated: Either it was seen as a legitimate and necessary measure in cases involving unwilling licensees, helping to safeguard fair competition and deter free-riding behaviors, or as a means to pressure licensees.

*Policy considerations – not one size fits all standards*

70. SEP policy cannot be understood only through the lens of cellular standards since outside-cellular sectors such as audio/video codecs, Wi-Fi, electrical safety, and emerging digital technologies follow different traditions, structures, and licensing practices. Several speakers cautioned policymakers that any regulation must account for those differences between sectors. It was stated that attempts to impose one uniform SEP framework across all industries could disrupt long-standing and well-functioning ecosystems, particularly where for example, patent pools provide industry solutions, and competition law already provided guidance.

71. The discussion also touched on policy tensions arising from changes to SDO IPR rules, such as the 2015 IEEE policy revision and resulting shifts in members' willingness to commit to FRAND terms. This illustrated how altering SEP policy without consensus can fragment standards or reduced participation by key innovators. Finally, the need for predictability and transparency on licensing costs, to help policymakers understand sector-specific realities was highlighted.

*Continued global dialogue between all stakeholders to find solutions*

72. All panelists encouraged continued global dialogue among WIPO, SDOs and industry. Finding global solutions for a global matter was seen as key.

## Transparency and Data Science behind SEPs

73. The final session of the Symposium, moderated by Ms. Magdalena Zelenkovska (Senior Patent Data Manager, Patent Database Section, WIPO) focused on the evolving role of transparency and data science in the standard-essential patent (SEP) landscape.

### *PATENTSCOPE and declared SEPs*

74. Opening the session, Magdalena Zelenkovska presented WIPO's new integration on standard-essentiality declaration data from three major SDOs into PATENTSCOPE, creating a unified search environment that now hosts approximately 200,000 declared SEPs and around 700,000 patent-to-standard relationships. This initiative represents a significant step toward consolidating fragmented SEP-related information and enhancing global accessibility. The presentation is available [here<sup>4</sup>](#).

75. Ms. Magali Fitzgibbon (Legal and Governance Director, European Telecommunications Standards Institute (ETSI)), outlined ETSI's long-standing practice of making its IPR disclosure database publicly available. She noted that while access to raw data alone cannot guarantee transparency, it provides an essential foundation for analytical tools and industry insights. ETSI's constantly thrives towards modernization of the dataset, such as improved formats and planned APIs, and highlighted obstacles related to data quality. She suggested exploring incentives for declarants as a path to more accurate information.

76. Mr. Tim Pohlmann (Managing Director Americas of LexisNexis Intellectual Property and founder of IPlytics) emphasized the complementarity between public data sources and commercial analytics platforms. While welcoming WIPO's data integration as an important contribution to the ecosystem, he explained that private providers add value by cleaning, enriching, and harmonizing datasets, linking patent ownership, corporate-tree information, and cross-SDO metadata. Mr. Pohlmann noted that ETSI's SDO database remains the most complete in the cellular domain.

77. Mr. Pere Arqué Castells (Stream Leader at the Observatory on Patents and Technology, European Patent Office (EPO)), explained that SEP-declaration data does not directly influence EPO patentability assessments. Instead, the most relevant information for examiners came from technical contributions and documents generated within standard-setting processes, which often constitute important prior art. He described the EPO's substantial investment in integrating SDO documentation into its examination tools through long-term collaborations, dedicated examiner teams, and specialized IT infrastructure. While essentiality determinations remain outside the patent-grant process, the EPO is exploring future analytical uses of declaration metadata.

78. Mr. Sharaz Gill (Founder, IP Mind) offered a practitioner's perspective, stressing that voluntary declaration data is too imprecise to serve as a reliable proxy for essentiality in licensing negotiations. He highlighted the growing ability of artificial intelligence – especially large language models – to generate claim charts at scale and perform essentiality analysis with far greater rigor than previously possible.

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<sup>4</sup> [https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=650762](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=650762).

*AI as a tool*

79. In a closing exchange on the role of artificial intelligence, the panelists agreed that AI offers significant opportunities but must be deployed responsibly. Sharaz Gill emphasized AI's power to transform essentiality assessment; Tim Pohlmann cautioned that AI cannot replace value judgments inherent in FRAND negotiations.

80. The session concluded with a shared understanding that data is key. WIPO's expanded data initiatives and its role as a neutral and global convening platform were highlighted as important contributions to a more informed and balanced global discourse on SEPs.

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