



European Commission

A Single Market for Patents: New rules on Standards Essential Patents

April 2023

The new EU patent rules will help companies, especially small and medium-sized companies (SMEs), make the most of their inventions, leverage the latest technologies and contribute to the EU's sustainable competitiveness and technological sovereignty by creating a more predictable, futureproof and crisis-ready intellectual property rights framework. They will complement the Unitary Patent (UP) system entering into force on 1 June 2023.

Supporting technological sovereignty and the digital and green transition

SEPs are patented technologies that are essential to comply with a technical standard, such as for instance related to connectivity, 6G, internet of things, etc. Standardisation is a key contributor to industrial innovation and competitiveness.

SEPs in numbers:

➤ **75,000**

number of SEPs in the world

➤ **6X**

increase in the number SEPs in the last 10 years

➤ **1 in 7**

of SEPs today is owned by an EU firm. Of around 260 SEP owners worldwide 30 are in the EU

➤ **3800**

approximate number of EU firms active in IoT, 85% of them are SMEs

➤ **8x**

conciliation is on average eight times cheaper than court proceedings

➤ **€ 300 billion**

expected value of IoT devices reading on 5G standard by 2030 (2.5 billion in 2021)

➤ **250**

interoperability standards in one single laptop, of which at least 150 with FRAND commitments



The new rules introduce:



A **centralised register** and electronic database with information on relevant standards, products and processes, SEPs in force in the EU, SEP licensing FRAND terms and conditions. Selected SEPs will be subject to essentiality checks



An **out-of-court** dispute resolution mechanism to determine Fair, Reasonable, and Non-Discriminatory (FRAND) licensing terms and conditions



An **SEP aggregate royalty determination process** i.e. recommended maximum license fee for using a standardised technology



The establishment of a '**Competence Centre**' at the European Union Intellectual Property Office to manage the process, gather information and support SMEs

Benefits of the proposal

- Increased transparency and reduced transaction costs
- The register will give visibility of and a positive “stamp” on SEP holders’ patent portfolio
- Essentiality checks should reduce overdeclaration of SEPs
- FRAND Conciliation will facilitate negotiating fair terms and conditions, reward good faith negotiations and reduce expensive litigations
- The aggregate royalty will help to justify royalty demanded by SEP holders and will help implementers in production planning and take-up of new technologies
- SMEs will benefit from free advice in SEP licensing negotiations and reduced fees for the use of the competence centre’s services