

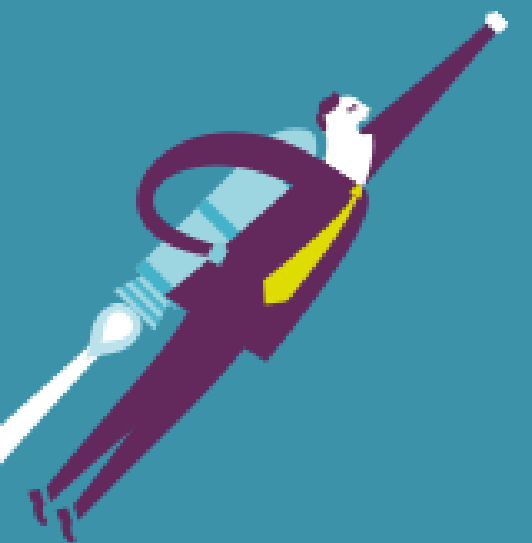


Rigorous empirical
research on
intellectual property

Finding an efficiency-oriented approach to scrutinise the essentiality of SEPs

Host: Axel Ferrazzini

Speaker: Giuseppe Colangelo



What do we do?



Non-Profit
Activities



High Quality
Academic
Research



Education



Promotion
Innovative
SMEs

Free materials on...

- 1 Summaries of papers, studies, guides and case law
- 2 Interactive graphics
- 3 Interviews to inspire SMEs
- 4 Webinars



Workshop 'IP & Protection' - Collaboration with Global Biotech Revolution



4iP Council Webinar: The Rise of Cryptoassets and NFTs and its Implication...

Features

Exoskeletons to help children with neurological diseases

01 February 2022

Interviewing Elena García Armada, CEO at Marsi Bionics



Elena García Armada (CEO) and Manuel Prieto (CTO). Photo from Javier Valeiro.

Was the exoskeletons' technology something that you were drawn to from the b...



The Value of Standard Essential Patents and the Level of Licensing

Bowman Heiden
Co-Director, Center for Intellectual Property (CIP), Chalmers/UGOT/NTNU; Visiting Scholar at The Hoover Institution, Stanford University

Jorge Padilla
Senior Managing Director, Compass Lexecon

Ruud Peters
CEO, Peters IP Consultancy B.V.; Former Chief IP Officer and Executive Vice President Philips N.V.



Bundle pages

4iP

Menu

Rigorous empirical research on intellectual property

SEP related research: key findings by 4iP Council

- [A Policy Governance Framework for SEP Licensing: Assessing private versus public market interventions](#)
- [The Value of Cellular Connectivity – From Mobile Devices to the Internet-of-Things \(IoT\)](#)
- [The Value of Connectivity in the Automotive Sector](#)
- [The Value of Standardized Technology to Connected Cars](#)

Research:

[A Policy Governance Framework for SEP Licensing: Assessing private versus public market interventions](#) by Dr. Bowman Heiden, Dr. Justus Baron

This paper strives to provide a balanced, evidence-driven policy governance framework for SEP licensing. It warns about the negative impact to

4iP

Menu

Rigorous empirical research on intellectual property

Essentiality Checks and Standards Essential Patents

- [Why automated patent analysis can be wrong, even when it's right](#) by Axel Contreras-Alvarez
- [Patent Landscaping Studies And Essentiality Checks: Rigorous \(And Less Rigorous\) Approaches](#) by Haris Tsilikas
- [Estimating 5G Patent Leadership: The Importance of Credible Reports](#) by Igor Nikolic

[Why automated patent analysis can be wrong, even when it's right](#) by Axel Contreras-Alvarez

Axel Contreras-Alvarez, former IPR Commercialization Manager at Ericsson, evaluates the reliability of software and automated analysis for patent valuation, considering the factors used by algorithms, and with an action plan for those wishing to use such platforms.

4iP

Menu

Rigorous empirical research on intellectual property

Internet of Things: SEP licensing within the FRAND framework

Features:

[Robots may soon be spotted in a field near you](#)

To understand the role of intellectual property in Vitrover's success, 4iP Council speaks to serial-entrepreneur Arnaud de la Fouchardière, one of Vitrover's two founders and the CEO of the

4iP

Menu

Rigorous empirical research on intellectual property

Open Source Software Research

Rigorous empirical research on intellectual property

FEATURED ARTICLE:

[Downsides of Using Inadequate Open Source Software Processes and Licenses within Standard Development](#)




[Open Source Software and Standards Development: Competition Law Implications](#)


This paper considers the competition law implications of integrating standards development and open source efforts, to help facilitate that potential “win-win” outcome, and achieve the procompetitive goals of standards development, rather than create risks of competitive harm that will deter innovation.

[Read article >](#)

Case Law post CJEU ruling *Huawei v ZTE*

[← Back to main 4iP Council site](#)





4iP Council home

Case law home

CJEU decisions

German court decisions

Dutch court decisions

English court decisions

French court decisions

Irish court decisions

Italian court decisions

Romanian court decisions

National Courts Guidance


Authors & contributors

Keywords to filter cases


Latest case: Optis v Apple

Cases not referenced here? Let us know...

Subscribe to be kept updated



Huawei V ZTE case



National Courts Guidance

Follow us!

6




 Follow @4ipcouncil on Twitter >



 Connect with 4iP Council on LinkedIn >



 Subscribe to our YouTube channel >

 Follow @4ipcouncil on Instagram >



Finding an efficiency-oriented approach to scrutinise the essentiality of SEPs



GIUSEPPE COLANGELO

Jean Monnet Professor of
European Innovation Policy and
an Associate Professor of Law
and Economics at University of
Basilicata (Italy)

Research question

- How to ensure the development of an efficient and effective essentiality check system
- How to strike a reasonable balance among accuracy, transparency, and cost of essentiality checks
- A literature review on the different scenarios and approaches envisaged in the EU pilot study (2020)

Setting the scene

- EU Commission's initiatives to enhance transparency and quality of SEP declaration
- Aims of SDOs' disclosure rules
- The problem of over-declaration: the academic debate
- Time and costs of essentiality checks
- Legal effect of essentiality check results
- EU pilot study: scenarios and approaches

Patent-by-patent examination

- Patent pools: a useful case study for SDOs' essentiality test mechanisms?
- Advantages: transparency and accuracy
- Limits: feasibility (large v. small portfolios of patents)

Subsets of patents

- Three options: a) patents put forward by patent owners; b) + third party requests; or c) + assistive semantic/AI system
- Option a): the role of claim charts [see also EU Group of experts (2021)]; quality of the assessment v. risks of hold-out
- Option b): no advantages for information availability and risks of hold-out
- Option c): transparency v. accuracy

Random sampling

- Patent owner's request complemented by an assessment of a sample of patents disclosed to SDOs for non-compliant SEP holders [see also CRA report (2016): random evaluation of the patent holder's disclosed SEP portfolio; and EU Group of experts (2021): once a random sample is drawn, essentiality checks should be performed for only one patent in a patent family]
- Advantages: transparency (combining the strengths of the scenario based on a subset of patents with a system to collect data on non-participating firms)
- Limits: accuracy; bias and errors in sampling may incentivise more over-declaration

Automated systems

- Semantic similarity as a predictor of essentiality
- Two options:
 - i) full assessment
 - ii) pre-screening
- Advantages: scalability
- Limits: accuracy; similarity \neq essentiality; risks of gaming

Takeaways

- 1 Essentiality checks as a costly and time-consuming activity
- 2 Legal effect of essentiality check results
- 3 Unfeasibility of the patent-by-patent examination
- 4 Uncertain accuracy of the alternative mechanisms: further improvements are needed before their implementation could enhance the status quo

THANK YOU!

Make sure to check our recorded webinars for more insightful information on IP by going to the following link



<https://www.4ipcouncil.com/webinars>

