

SMES AND PATENT HOLDOUTS: HOW EUROPEAN SMES FIGHT BACK

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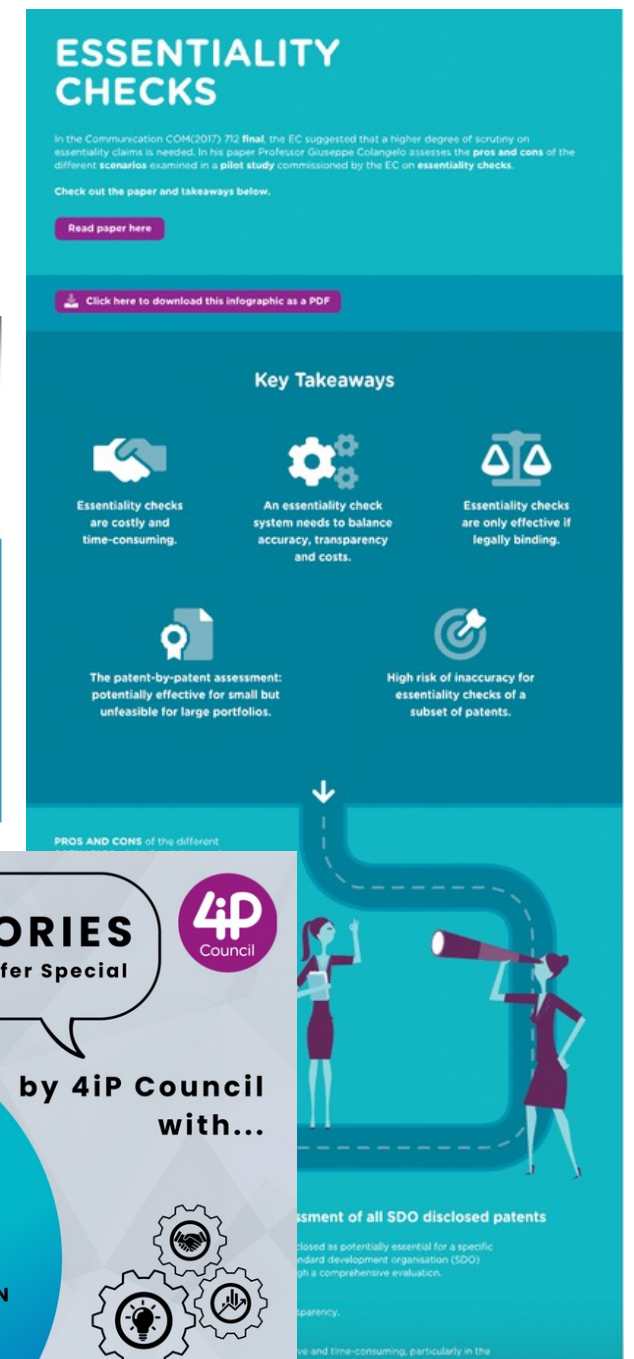
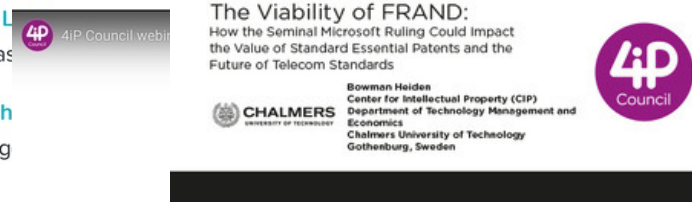


Essentiality Checks and Standards Essential Patents

- **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 Ig Nikolic

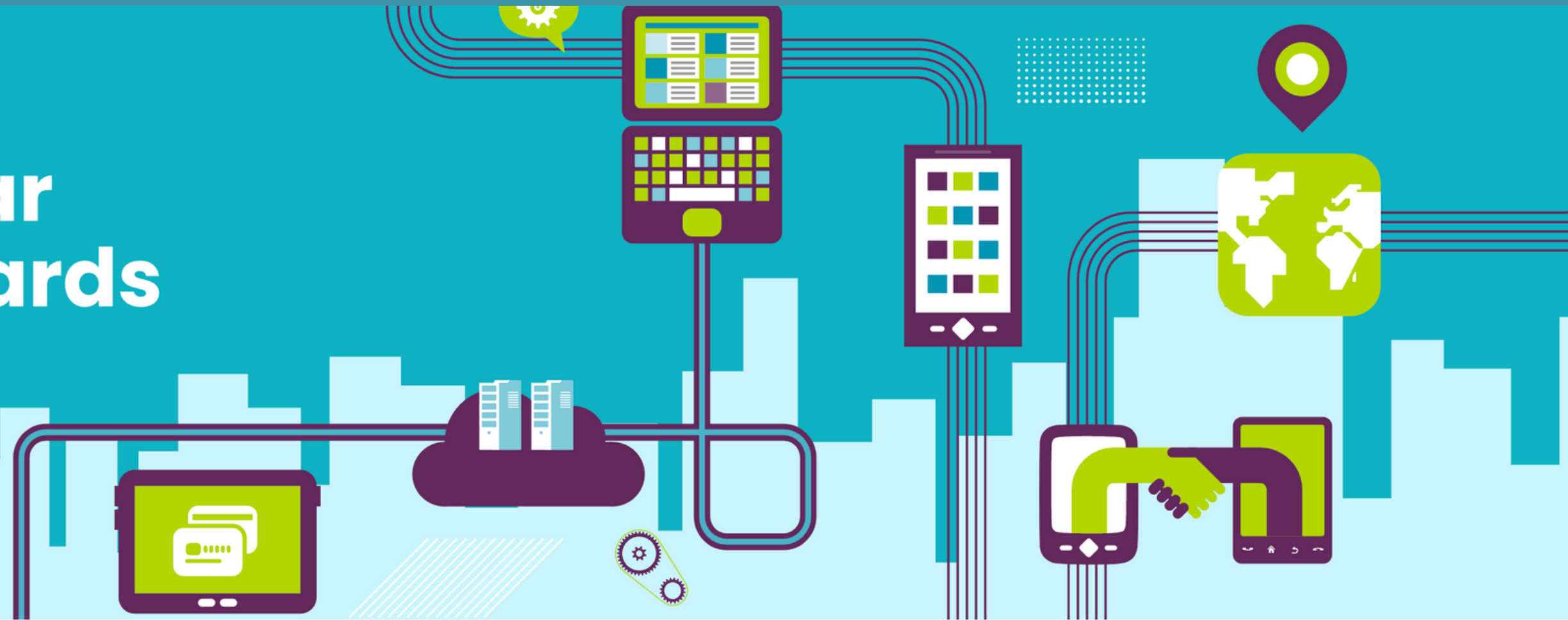
Why automated patent analysis can be wrong, even when it's right by Axel Contreras-Alvarez

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



IOT & Cellular Standards

Made simple



Explore IoT and Cellular Standards

● **What are IoT and Cellular Standards?**

○ Benefits of cellular standards

○ IoT sectors enhanced by cellular standards

○ FRAND: Cycle of Innovation

○ How are cellular standards developed?


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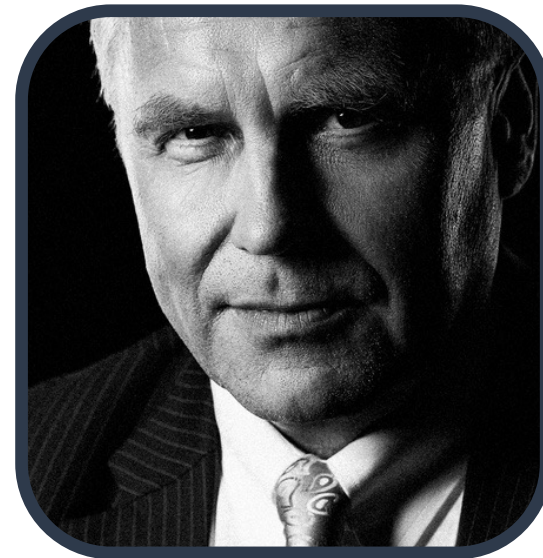


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SMEs and Patent Holdouts: How European SMEs fight back



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SMEs and Patent Holdouts: How European SMEs Fight Back

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Preamble

China IPR Protection Legal Regime

IPR Protection Legal Regime

Administration for Different Types of IPR

IPR	Administrative Office	Lifespan
Patent	China National Intellectual Property Administration	20 years
Software	National Copyright Administration	10 years
Copyright	National Copyright Administration	50 years
Trademark	China National Intellectual Property Administration	10 years

IPR Protection Legal Regime

Types of Patent Models – Similar to Europe

	Invention	Utility Model	Design
Subject matters	Technical solution relating to a product, a method or an improvement thereof	Technical solution relating to a product's shape, structure, or a combination thereof	Design of a product's shape, pattern or a combination thereof, as well as its combination with the color
Requirements on inventiveness	Possesses prominent substantive features and indicates remarkable advancements	Possesses substantive features and indicates advancements	Distinctly different from the existing designs or the combinations of the features of existing designs
Period of Prosecution	3 ~ 5 yr	3 ~ 9 months	3 ~ 9 months
Term of Protection	20 yr	10 yr	15 yr

IPR Protection Legal Regime

Most Recent Betterment in China IPR Protection Environment

- | | |
|--|-------------------------------------|
| Amendment of Trademark Law | → In effect from November 1st, 2019 |
| Amendment of Patent Law | → In effect from June 1st, 2021 |
| Amendment of Copyright Law | → In effect from June 1st, 2021 |
| Guidelines for Building a Powerful Intellectual Property Nation | → In effect from September 2021 |
| China National Intellectual Property Administration standard for the determination of general violations | → In effect from January 1st, 2022 |

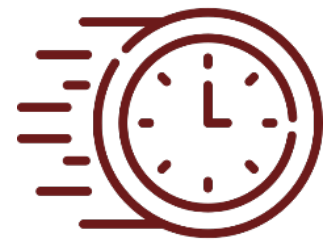
IPR Protection Legal Regime

Utility Model Patent Protection Strong in China

Similar model to minor inventions in Germany, Japan, Korea, Australia or Petty Patents in USA.

The system is meant to protect minor improvements to an already existing technology.

BUT! It is a powerful tool for patentees.



Fast registration

6-12 months
compared to 2-5
years for an
invention patent



Same protection

as an invention
patent with the same
basis for claiming
damages and
available remedies



Lower standard for inventiveness requirements

'advancement' vs
'remarkable
advancement'



Cheaper

Application
fees and
maintenance
costs, no-
discovery

IPR Protection Legal Regime



Utility Model Patent Protection as First Remedy

RECOMMENDATIONS

Duo Filing of Invention and Utility Model in China

It is possible to file both an Invention Patent and a Utility Model applications. The Utility Model Patent will be granted quickly.

The patentee is able to enjoy the benefits of fast issuance of the utility model and early protection.

Utility Model Application Based on Foreign First Filing

In 12 months, a UM application can be filed in China claiming priority on an early filed foreign patent application of invention OR utility model.

IPR Protection Legal Regime

Invention Patent and Utility Model Filing Strategies

Simultaneous filing of invention patents and utility model patents

- **Most beneficial when a product is close to launch, but has fundamental features which will be valuable for a long time**
- Applicants may file both applications for the same subject matter on the same day.
- The utility model patent will normally be granted quickly.
- When the invention patent is subsequently granted for the same subject matter, the applicant will have to abandon the corresponding utility model patent.

Earlier publication of patent

- **Most beneficial when the product to be protected is close to launch and ready to go public**
- A patent application is published 18 months after its filing date or the earliest priority date. However, applicants for invention patents may request earlier publication on filing the application at no additional cost.
- If such a request is filed, the patent application will be published as soon as it passes the preliminary examination, which may be as early as two months from the filing date.

Using the Patent Prosecution Highway

- **Most beneficial when it is needed to register as soon as possible**
- Most patent applicants use the PPH to expedite examination of a Chinese patent application based on the prior registration with another patent office
- A first official action for a PPH patent may be issued 12 months earlier than for a normal patent application
- Lower costs

IPR Protection Legal Regime

Importance of China Software Copyright Registration

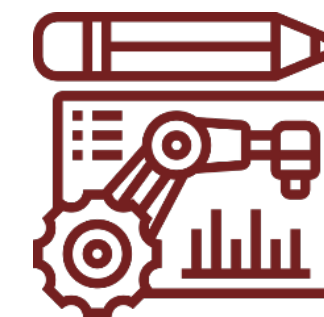
Most types of creative works protectable by copyright in Europe are protectable by copyright in China

Traditional types of creative works such as books, music, recordings, plays, films, paintings, sculptures, photographs, etc., enjoy copyright protection in China. Other works such as works of choreography, acrobatics, calligraphy, quyi (a traditional Chinese performance art form), model works, and databases and compilations as to the selection and arrangement of content also enjoy copyright protection in China. The basic principle for copyright eligibility is that the work be original and reproducible.



Computer software and industrial designs

Unlike Europe where computer software is protected by algorithm patents and Berne Convention, software source codes are expressly protected under copyright in China. Industrial and graphic designs, applied art, architectural buildings are also protected by copyright.



IPR Protection Legal Regime

China Software Copyright for Source Code

In respect of a work in which the **copyright is enjoyed by an individual**, the term of protection of the property rights is the **'life plus 50 years'**, expiring on December 31 of the 50th year after the author's death. For works in which the **copyright is owned by a legal entity**, the term of protection shall be **50 years**, expiring on December 31 of the 50th year after the first publication of the work.

Needed Documents for Software Copyright Registration

- Application form, which shall be filled through the online system of CPCC;
- Sample of the work/source program of the software;
- Description of the work/instructions of the software in Chinese;
- Proof of identity of applicant. If the applicant is an individual, a copy of the ID or passport shall be provided; if the applicant is an entity, a copy of the certificate of incorporation/business registration shall be provided. For copyright registration for software, the copy of the certificate of incorporation/business registration of a foreign entity shall be notarized by the notary or legalized by the Chinese Embassy in the foreign country;
- Proof of ownership, such as a copy of the contract between the

IPR Protection Legal Regime

China Software Copyright Registration Certificate

China is a signatory country of the Berne Convention the Universal Copyright Convention, and several other important international treaties in respect of intellectual property rights.

Berne Convention provides minimal Copyright Protection for 50 years. As China is member of Berne Convention, there is not need for registration.

BUT!



! Copyright registration is a precondition for filing a Lawsuit



! Non-registered software is without any substantial protection. Copyright is a preliminary proof of the registered information. Unless there is contrary evidence, the registered facts or deeds are deemed true.

IPR Protection Legal Regime

Member of International IP Conventions

China is a **member of all of the major international IP conventions:**

- the World Intellectual Property Organization
- Patent Cooperation Treaty
- Agreement on Trade-Related Aspects of Intellectual Property Rights
- Universal Copyright Convention; Paris Convention for the Protection of Industrial Property (patent and trademark)
- Berne Convention for Protection of Literary and Artistic Works (copyright)
- Madrid Agreement for the International Registration of Trademarks



IMPORTANT TO CONSIDER!

- **Registration of trademarks and patents in China is a must** to be protected under international conventions.
- Intellectual property is automatically protected under the copyright law. However, the registration of copyright is a prerequisite for arbitration
- There is a presumption of ownership and validity if the copyright is registered with the National Copyright Administration.

Part 1

Introduction to the Patent Holdouts

Introduction to the Patent Holdouts

Intellectual Property (IP) Protection in China

The situation surrounding patent holdouts and intellectual property (IP) rights in China has been evolving, particularly with recent legislative changes and ongoing challenges in enforcement.

China IP Situation	China IP Concerns
--------------------	-------------------

- The European Commission included China in the **IP Watch List as the highest priority country** prepared in accordance with the Commission’s Strategy for the Enforcement of Intellectual Property Rights in Third Countries.
- The U.S. Trade Representative (USTR) in its 2023 Special 301 Report included China on the **Priority Watch List**, highlighting ongoing concerns about IP protection and enforcement in China.
- Even though there have been amendments to China's Patent Law, Copyright Law, and Criminal Law, the pace of reforms aimed at addressing IP issues has slowed.
- China is still the world's leading source of counterfeit and pirated goods, impacting not only right holders but also consumer health and safety. The production, distribution, and sale of counterfeit medicines, fertilizers, pesticides, and under-regulated pharmaceutical ingredients are prevalent.

- Concerns raised by right holders include:**
- effective implementation of the newly updated regulatory IP protection measures, and
 - long-standing issues like technology transfer, trade secrets, bad faith trademarks, counterfeiting, online piracy, copyright law, and patent policies.

Introduction to the Patent Holdouts

Patent Holdouts Overview

The tactic used by companies where they **disregard patents and related claims**, mainly because the substantial expenses involved in enforcing patents often make legal action improbable. Mostly undertaken in regard to Standard-Essential Patents (SEP) - patents which protect technology essential to compatibility with technical industry standards.

Implementers delay the conclusion of a license for as long as possible in order to pressure Standard-Essential Patents holders to accept terms below a fair or reasonable return.

Not to be confused with Patent Holdups	Reverse Patent Holdup	Difference between Patent Holdouts and Regular Patent Infringements
<p>Patent “hold-up” occurs when a patent owner sues a company when it is most vulnerable—after it has implemented a technology—and is able wrest a settlement because it is too late for the company to change course. Patent hold-up is used as a means of obtaining royalties above the fair, reasonable, and non-discriminatory (FRAND) level.</p> <p>While hold-up worries about patentholders wielding undue leverage, hold-out is concerned with the opposite—that implementers (most often manufacturers) wield undue leverage, allowing them to use standards-essential patents and not</p>	<p>The manufacturer may also use the technology without paying, “under the guise that the patent owner’s offers to license were not fair or reasonable.”</p> <p>The patent owner is therefore forced to defend her rights through expensive litigation. Manufacturers who behave this way are accused of engaging in reverse hold-up, a species of patent hold-out.</p>	<p>1.Number of Patents Involve</p> <p>2.Geographical Scope</p> <p>3.Damages Calculation and Legal Constraints</p> <p>4.Uncertainty Over Patent Validity and Infringement</p> <p>5.Strategic Considerations for Implementers</p>

Only
1-2%
of
enforceable
patents are
litigated

Introduction to the Patent Holdouts

Patent Holdouts Underlying Causes

Causes for Patent Holdouts	Details
Companies ignoring High-tech patents	<p>Patent hold-up theory suggests that infringement claims are often made after a product is already on the market because companies tend to ignore patents until they are forced to address them. This happens because it's costly for manufacturers to check every patent, and acknowledging them can lead to higher fines if sued. Consequently, many companies take the risk of infringement rather than deal with the patents in advance.</p> <p>On the other hand, inventors and small businesses struggle to enforce their patents against larger companies due to the high costs of legal action, leading to a situation where larger companies often ignore valid patent claims without consequence.</p>
High costs of patent infringement detection and enforcement, in some cases, relative to the value of the invention	<p>Patent hold-out highlights the issue of litigation costs being too high compared to the potential value of the case—making it more expensive to sue than what the lawsuit may yield. This issue of disproportionate litigation costs is especially troubling for disputes involving small monetary amounts. The 2013 AIPLA Annual Economic Survey indicates that for disputes under \$1 million, the average litigation cost per party is \$916,000, often exceeding the value at stake. This burden of litigation costs disproportionately affects smaller disputes, whereas in cases involving over \$25 million, the average litigation cost of \$6 million per party becomes a smaller portion of the potential reward.</p> <p>Implementers may infringe intentionally without seeking a license “hoping that patent holders do not have the will or the resources needed to detect or pursue each and every instance in which their patents are infringed.” If the probability of detection is sufficiently small, the expected royalty may be undercompensatory even in the presence of some degree of holdup; the royalties that are paid will be too high, but many will not be paid at all.</p> <p>Navigating the complex patent landscape poses significant legal barriers for SMEs. Also, many SMEs lack sufficient awareness or understanding of IP rights and patent holdouts, which can lead to inadvertent infringements or missed opportunities for protection.</p>
Insufficient enforcement of patent rights	<p>Mostly due to the reasons above. Post court-mandated damages often fail to deter holdout strategies or compensate patent holders appropriately, as these damages do not fully cover the costs and lost opportunities associated with delayed licensing agreements. Alternatively, the legal decision-making is often skewed towards technology implementers (users of a patented technology) on the misinterpretation of the FRAND principle in technology licensing (Fair, Reasonable, And Non-Discriminatory).</p>

Introduction to the Patent Holdouts

Patent Holdouts Examples

In standard licensing negotiations, parties regularly and constructively engage, promptly responding with reasoned arguments and balanced counter-offers based on realistic figures. But, in hold-out situations, 'negotiations' lack good faith, with implementers using **delay tactics**, potentially prolonging discussions for years.

- 1.Ignore notifications and other communications for months or years.
- 2.Express a willingness to take a FRAND license – but only for each individual patent for which infringement, essentiality, and validity is confirmed by the courts.
- 3.Insist on obtaining unreasonable amounts of information (e.g. a claim chart for every SEP in a portfolio) without appropriate confidentiality arrangements in place, and/or refuse or delay signing an NDA agreement as a hold-out tactic.
- 4.Claim to lack information or to not understand the license offer, or repeatedly ask for information that the SEP holder has already provided.
- 5.Buy time by professing willingness to engage in constructive licensing negotiations – even as behavior suggests otherwise.
- 6.Table counter-offers that are obviously unreasonable and unacceptable for the rights holder (e.g. a licensing rate of just 0.001 per cent per patent family), or table a counter-offer only once litigation has been initiated.
- 7.Refuse to enter into a global license agreement despite having a global business for products that use standards.
- 8.Direct the SEP owner to suppliers, or to a subsidiary or holding company, for licenses.
- 9.Insist repeatedly that the license offer is not FRAND without providing substantive arguments to demonstrate why.
- 10.Refuse to accept license terms that have been confirmed by an EU court to be FRAND.
- 11.Pursue coordinated hold-out strategies through industry groups.

Part 2

Challenges Faced by European SMEs

Challenges Faced by European SMEs

Patent Holdouts and European SMEs

European courts recently confirmed that some infringers deliberately engage in 'hold-out' strategies. These rulings affirm 'hold-out' concerns and could impact European policy on standard essential patents (SEP) and FRAND licensing

Holdout Policy Evolution	Impact on SMEs
<p>The European Commission's approach to managing standard essential patents (SEPs) has evolved over time, shifting from a primary focus on patent hold-up concerns to a more balanced view that also considers the risk of patent hold-out.</p> <p>Initially, the Commission was concerned with SEP holders potentially abusing their position by refusing licenses or demanding excessive fees, a situation known as patent hold-up. This was evident in their 2011 guidelines and actions against companies like Motorola and Samsung.</p> <p>However, over the years, the Commission started acknowledging the risk of patent hold-out, where limitations on SEP holders' rights could lead to them receiving unfairly low royalties. By 2017, their policies aimed to balance protecting against hold-up with preventing exploitation by bad-faith implementers, emphasizing a case-by-case approach to ensure fair returns for inventors and maintain the benefits of standardization.</p>	<p>European SMEs, which constitute 99% of all businesses in the EU and are providers of three-quarters of all EU jobs, are significantly impacted by their ability to protect and leverage their IP.</p> <p>Patent holdouts can stifle innovation and growth among SMEs. These enterprises often face budget constraints and limited legal resources, making them vulnerable to the predatory practices of larger entities wielding patent portfolios. This disparity can hinder the development and commercialization of new technologies by SMEs.</p>

Challenges Faced by European SMEs

Business Responses to Patent Holdouts

The response of patent holders to holdout behavior depends on various factors like the economic value of the license, the number of licensees, and the bargaining position. Ultimately, there are 3 options: litigate, license or settle on inadequate terms and abstain from licensing.

Business Response Criteria	Details
Threshold Size	Patent holders have limited incentives to litigate against small implementers who are unwilling to license due to the high costs of litigation compared to the potential royalty revenue. Small implementers, therefore, have strong incentives to engage in holdout.
Many-to-Many Licensing	The approach of patent holders varies depending on the number of implementers. A patent holder may concede to an individual implementer to avoid disputes but may be less inclined to do so when licensing to many, to maintain consistency in their licensing program. Large numbers of implementers might lead patent holders to initiate litigation against smaller infringers to maintain a credible threat of enforcement. Implementers may engage in holdout if it benefits them in negotiations with other patent holders.
Strategic Interdependence	The decision to engage in holdout and the response of patent holders is interdependent. The patent holder decides whether to approach an implementer for licensing, and the implementer then chooses between good faith negotiations or holdout. The implementer's choice depends on their expectation of the patent holder's response (conceding or fighting). For low-value licenses, patent holders have little incentive to fight, leading to major

The cost of patent litigation affects these dynamics.

For example, if the cost of litigation exceeds the expected revenue from a license, rational implementers would offer a lower value, leading to little incentive for the patent holder to sue. As the value of the license increases, the incentives for patent holders to fight for adequate compensation also increase, affecting the implementer's offer. However, with very high-value licenses, the dynamics change again, as implementers may be willing to incur significant litigation costs to obtain more favorable terms, leading to larger concessions from patent holders.

Part 3

Patent Holdout Strategies

Patent Holdout Strategies

Protection against Patent Holdouts

Collaboration and networking, defensive patenting, and legal measures are key strategies.

Strategies Employed

Collaboration and Networking

- Industry Partnerships: SMEs engage in partnerships with other firms to share resources and knowledge, mitigating the risks associated with patent holdouts.
- Research Collaborations: Collaborating with research institutions helps SMEs access new technologies and share the burden of IP management.

Defensive Patenting

- Building a Strong IP Portfolio: Acquiring their own patents helps SMEs protect their innovations and strengthen their bargaining position.
- Patent Pools: Joining patent pools enables SMEs to access a broader range of technologies at a reduced cost and risk.

Legal Measures

- Litigation: Some SMEs take legal action against unjust patent holdouts, though this is often a last resort due to the cost and complexity involved.
- Negotiation and Licensing Agreements: Engaging in negotiations to secure fair licensing agreements is a common strategy for SMEs.

Patent Holdout Strategies

China's Patent Prosecution Highway

Background

- China initiated the **Patent Prosecution Highway (PPH)** program in December 2011 to expedite examination of invention patent applications.
- In 2016, China's State Intellectual Property Office received **5,274 requests for expedited examination via the PPH program**, with 1,904 filed by U.S. applicants, second only to the Japanese Patent Office.
- The China National Intellectual Property Administration (CNIPA) has **prolonged its Patent Prosecution Highway (PPH) pilot programs with Germany and Denmark**. The extension with the Danish Patent and Trademark Office (DKPTO) will continue for five years, from January 1, 2024, to December 31, 2028, while the agreement with the German Patent and Trade Mark Office (DPMA) will last for three more years, from January 23, 2024, to January 22, 2027.

Benefits of PPH

- **Time Saving:**
 - PPH participation can reduce examination time by over half, with an average time of 11.9 months from request to final decision, compared to 22.0 months under normal procedures.
 - First office action can be received in around 2.7 months after the PPH request, versus 12.5 months without expedited examination.
- **Cost Saving:** Reduces attorney fees by minimizing the number of office actions, with an average of only one office action per application under the PPH program.
- **High Grant Rates:** Average allowance rate increases to 87.8% for applications examined under the PPH program.

Patent Holdout Strategies

China's Patent Prosecution Highway

Keys to a Successful PPH Petition

- **Right Timing:** File the PPH petition after the Chinese application is published but before SIPO issues the first office action.
- **Claims Correspondence:** Chinese application claims must sufficiently correspond to the patentable claims in the foreign or PCT application.
- **Application Relevance:** Requests can be Normal PPH, PCT-PPH, or extended IP5-PPH, each with specific eligibility criteria based on application types and priority chains.
- **Patentability:** Include an indication of patentability for at least one claim in a notice of allowance or office action, or in a PCT work product.

Submission Requirements

- Must include an **indication of patentability of at least one claim in a notice of allowance or an office action, or the PCT application must indicate patentability in a PCT work product** (i.e., written opinion of the International Searching Authority or International Preliminary Examination Report); in addition:
 - Chinese translations of allowable claims
 - List of cited references
 - Copies of relevant office actions
 - Claims correspondence table with explanations.

Part 4

Case Study OPPO (China) vs Nokia (Finland)

Case Study OPPO (China) vs Nokia (Finland)

Case Details

- **Entities Involved:** Nokia (SEP Holder, Finland), OPPO (Implementer, China)
- **Location:** Munich, Germany
- **Industry:** Mobile Communications
- **Year:** 2022 – consequences ongoing
- **Part of an overall European IP Battle between OPPO and Nokia** (ongoing cases in the UK, France, the Netherlands regarding other patent issues)

Case Background

- In November 2018, Nokia and Oppo entered into a **patent licensing agreement** covering both standard essential patents (SEPs) and non-SEPs, which expired in mid-2021.
- **Failed negotiations for renewal** led Nokia to file patent infringement lawsuits against Oppo in multiple countries, including Germany, in July 2021.

Legal Disputes

- Nokia filed **patent infringement lawsuits against Oppo in seven countries**, with significant activity in German courts, including Mannheim, Munich, and Dusseldorf.
- Oppo countered Nokia's lawsuits and initiated **patent opposition proceedings** against Nokia's patents.
- The legal battle expanded globally, involving **19 infringement courts and revocation proceedings** with Patent Trial and Appeal Board (PTAB).

Case Study OPPO (China) vs Nokia (Finland)

Court Outcomes

- Nokia secured victories in some lawsuits, including **injunctions in Germany and Netherlands**, while facing setbacks in Indonesia and India.
- Oppo faced injunctions in Germany, leading to its **exit from the German market**, and legal challenges in China and UK.

Developments

- Oppo **sought resolution in Chinese courts**, leading to a first-instance decision in Chongqing determining FRAND rates for Nokia's SEPs.
- The legal pressure prompted Oppo and Nokia to negotiate a **global cross-license agreement**, ending all pending patent litigation in various jurisdictions.
- The agreement included **royalty payments from Oppo to Nokia and catch-up payments for past non-payment periods**.

Case Study OPPO (China) vs Nokia (Finland)

Resolution and Implications

- The **global patent cross-license agreement** resolves all disputes between Nokia and Oppo, signalling an end to years-long legal battles.
- Oppo's legal challenges in Germany and China, along with its declining smartphone shipments, underscored the **urgency for resolving patent disputes** and boosting global sales.
- The agreement not only puts an end to costly and protracted litigation but also sets a **precedent for constructive collaboration** in the realm of technology innovation.
- While the specific terms remain confidential, the agreement is poised to provide **financial stability to Nokia's licensing business** while potentially rejuvenating Oppo's global market presence.
- Oppo's simultaneous licensing deal with Nokia's rival, Honor, underscores the **shifting dynamics within the competitive smartphone market** and the imperative for companies to navigate intellectual property disputes strategically.

Part 5

Summary

Summary

Practical points of IP protection strategy to take note of

- **It is imperative to register your IP:** Prioritize the registration of intellectual property to protect your innovations. This step is crucial in establishing legal ownership and defending against infringements.
- **Conduct in-depth partner search and negotiations:** Be thorough in selecting partners and negotiating terms. Look for partners who are trustworthy and can add value and ensure that all agreements are fair and protect your interests.
- **Freedom of Law principle:** Take advantage of the ability to choose the governing law. Leverage the flexibility of choosing applicable laws and arbitration venues offered by the European legal framework. This approach can provide more favorable or expedient dispute resolution.
- **Continue own R&D efforts:** Invest continuously in R&D to stay ahead of the competition in the market
- **Aim for settlement:** Aim for settlement rather than litigation to resolve disputes. Litigation can be costly and time-consuming, so exploring amicable settlement options can be a more efficient and less adversarial approach.
- **Work with IP experts:** Engage with IP experts, legal advisors, and industry specialists. Their expertise can guide effective IP management, strategic planning, and informed decision-making, especially in complex areas like patent holdouts and IP negotiations.

Questions?

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client prototypes



Technology Transfer

Signing licensing agreement with
Technology Access Fees & NRE

Sharing datasheet, electronic layouts
& know-how + custom integration



Mass Production

Royalties / device (RX) flashed

Royalties / charger (TX) flashed

License rights on patents, know how,
firmware & other IPR



Our SME vision of IP : Using IP as business leverage

For Energysquare, IP is :

A protection tool

Defensive (freedom to operate)
Or offensive (third party infringer)



A business leverage

Creation of new business models
& Source of revenue

Example 1 :

We were able to change our business model thanks to early investment in IP

Example 2 :

IP helped us increase our negotiation power in licensing agreement negotiation

Our SME vision of IP : Using IP as an analytic tool

We increased the sharpness of understanding of :

Our competitive environment

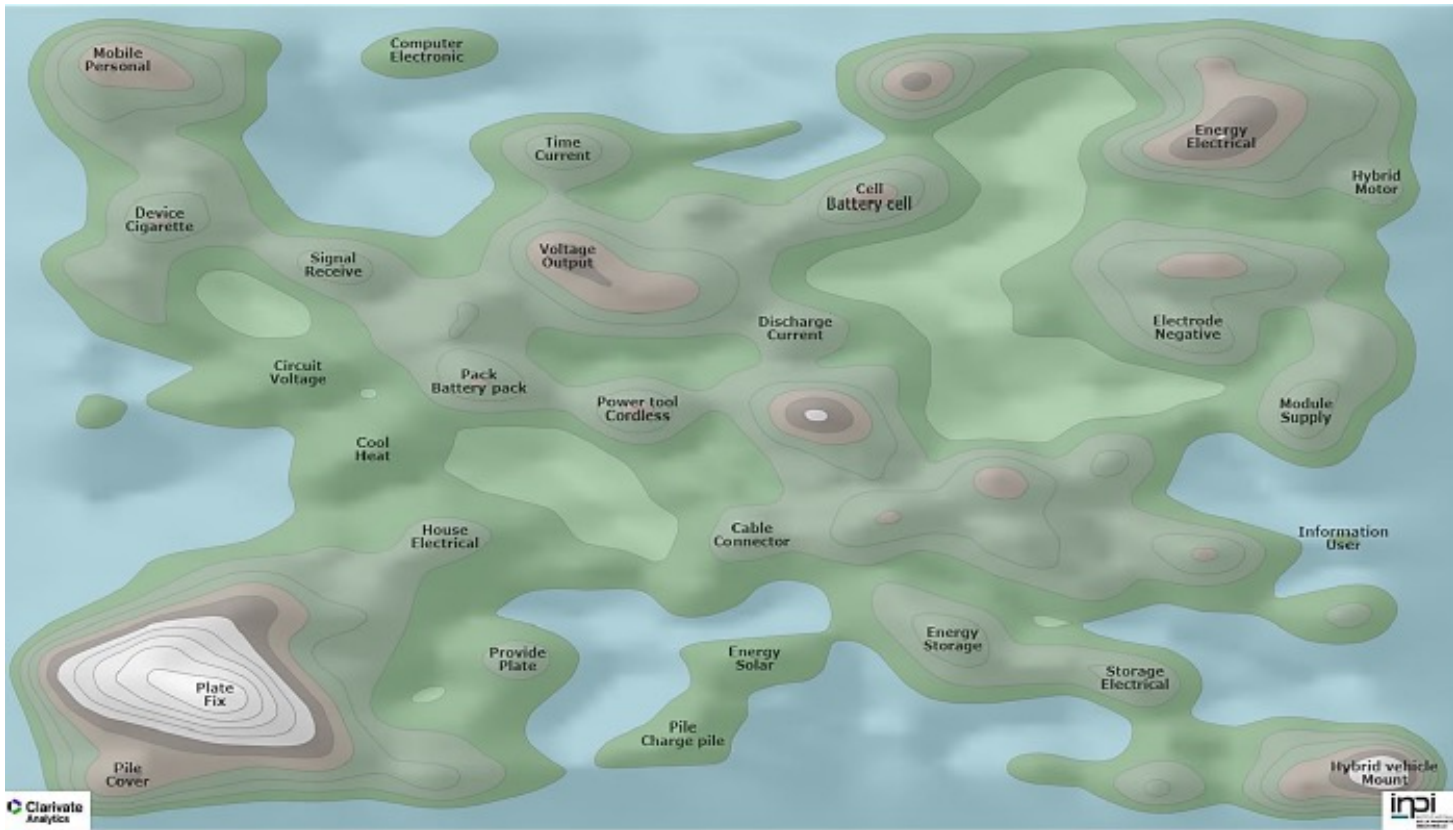


Our technological differentiators



Our barriers to entry

Tool example :
Patent mapping



Tool example :
Patent database

	Titre	Publication	N° du brevet	Déposant(s)	Inventeur(s)	Classification CIB	
<input type="checkbox"/>	1 SYSTÈME ET PROCÉDÉ POUR RECHARGER DES APPAREILS...	25/07/2018	EP3350900	ENERGYSQU SAS	LOLLO Daniel, LE...	H02J 7/00	
<input type="checkbox"/>	2 SYSTÈME ET PROCÉDÉ POUR RECHARGER DES APPAREILS...	23/03/2017	WO2017046458	ENERGYSQU SAS,...	LOLLO DANIEL,...	H02J 7/00	
<input type="checkbox"/>	3 DISPOSITIF DE RAPPORTS POUR INTERFACE...	15/07/2020	EP3681005	ENERGYSQU Energysqua	VASQUEZ PABLO,...	H02J 1/08, H02J 1/00...	
<input type="checkbox"/>	4 SYSTÈME ET PROCÉDÉ POUR RECHARGER DES APPAREILS...	17/03/2017	FR3041170	ELECTRICITE DE FRANC...	DANIEL LOLLO,...	H01R 13/22, H0...	

Our licensing experience in China

3 licensing
agreements signed
With ODMs



Negotiation time :

From a few weeks
to >1 year

**Three Main
Friction points**

Warranty

Liability

Arising IP

3 tools to unlock
negotiation :

Test plans

Firmware lock

Infringement « plan »

- Have a technical way to control the number of units produced
- Invest in IP from day 1, and not only in patents
- Get support from local advisors. Language and business culture barriers can be hard to overcome alone.

Next steps, and how we plan to avoid patent holdouts

Create a consortium - Standardize a technology

- + Interoperability
- + Credibility
- + Clear IP rules
- + Risk sharing
- Control loss
- Less services to sell

Have all the firmware « keys » managed by an independant & trusted organisation.



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Thank you.



ANY QUESTIONS ?

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THANK YOU!

Sign up to our upcoming
webinar “Fashion, IP and
Sustainability”

March 13rd, 16h CET



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

