

The **ETSI IPR Policy:** Origins, Intent, and Misinterpretations (Explained by Insiders)

Speakers: Dr. Bertram Huber and Ruud Peters

Host: Axel Ferrazzini



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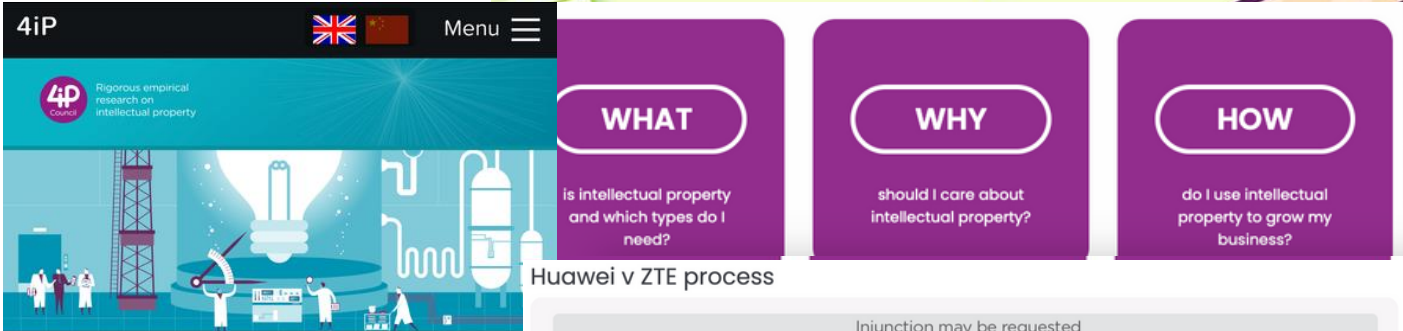
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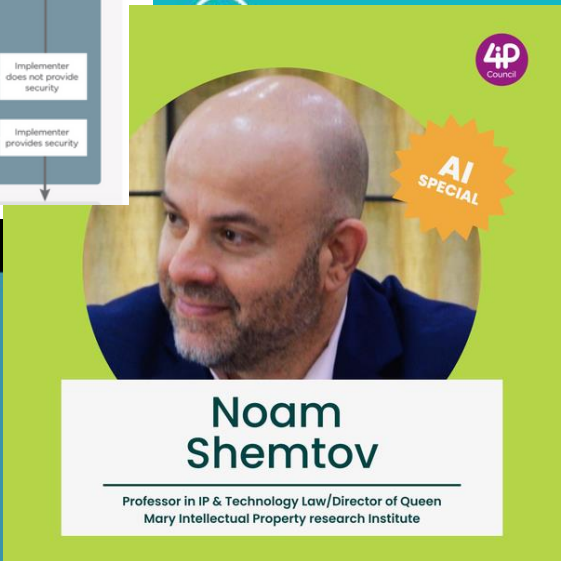


Essentiality Checks and Standards Essential Patents

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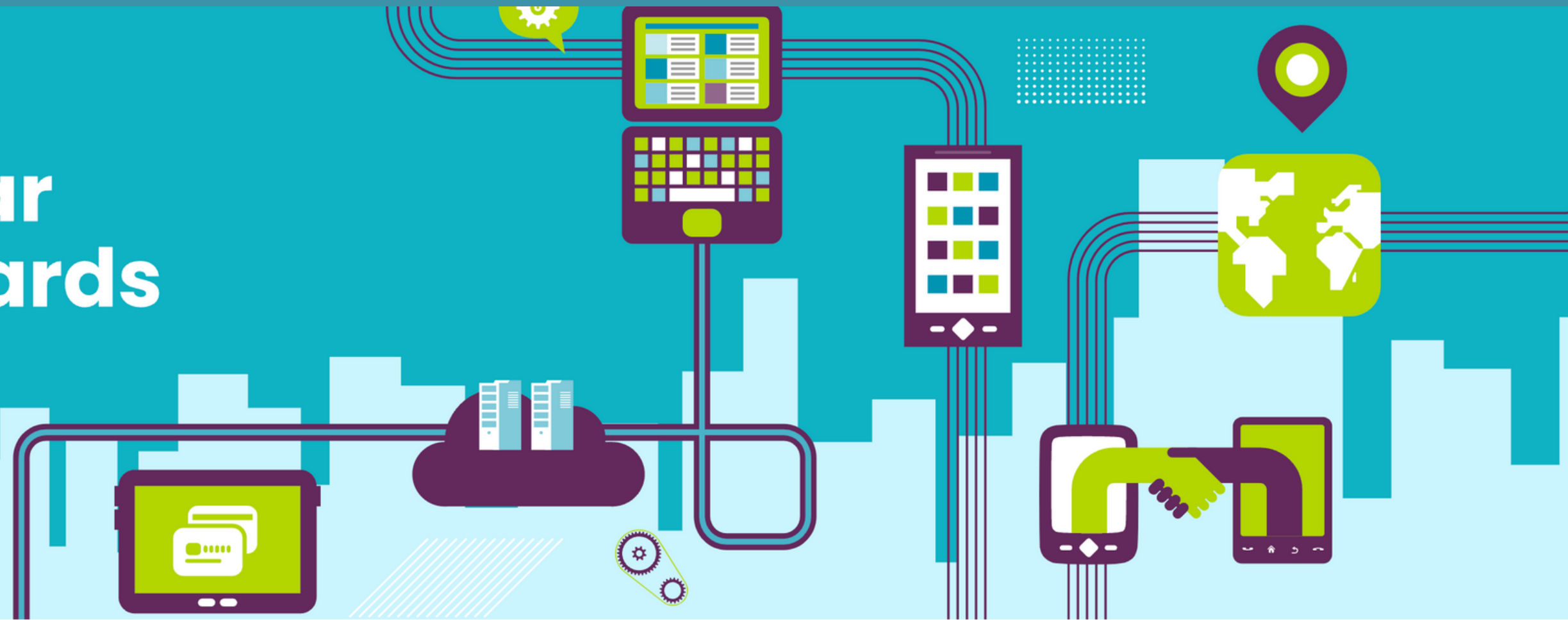
Why automated patent analysis can be wrong, even when it's right by Axel Contreras-Alvarez

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.



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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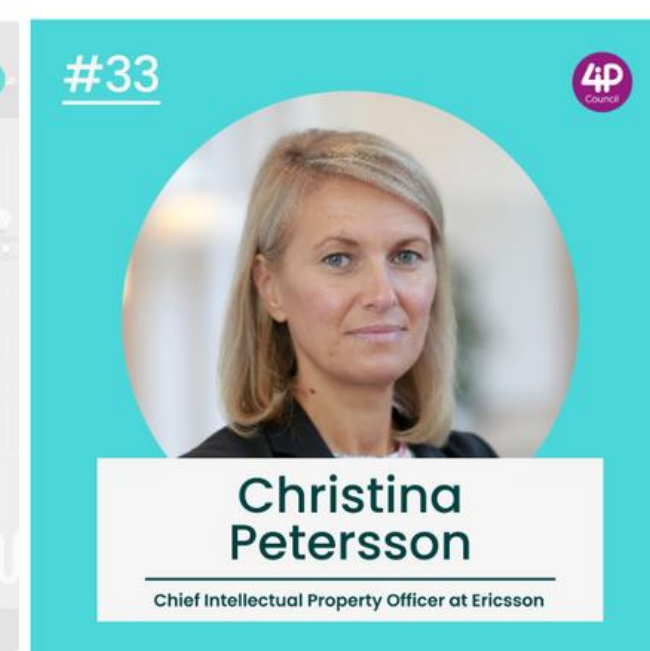


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The ETSI IPR Policy: Origins, Intent, and Misinterpretations (Explained by Insiders)

Dr. Bertram Huber



A principal of IP*SEVA, international intellectual property expert based in Backnang, Germany

Ruud Peters



Former Chief Intellectual Property Officer and Executive Vice President of Royal Philips

European Telecom Market before 1990

- No single telecom market in EU
- National telecom operators (PTTs) had monopoly positions in their country
- One or two local OEMs supplying proprietary telecom equipment to national operator
- IP relationships between OEMs mainly governed by cross-licenses

CEPT

- CEPT = European Conference of Postal and Telecommunications Administrations
- Starting in 1981 Scandinavian countries launched networks based on the analog NMT standard
- In 1982 CEPT started to work on an analog GSM standard but switched to a digital GSM standard in 1984
- European telecom OEMs were invited to participate in developing the GSM standard
- In 1987, thirteen operators signed an MoU for implementing the GSM standard by 1991
- CEPT wanted OEMs to grant free licenses to any interested European manufacturer
- The OEMs rejected these royalty-free policies

The role of the European Commission

- In 1987 the EC issued a Green Paper on the Development of a Common Market for Telecommunication Services and Equipment proposing to liberalize the European telecoms market
- Creating European-wide standards for telecom equipment and phones was the instrument chosen to achieve this goal
- The EC proposed the establishment of a new European standards body with direct participation of manufacturers and other stakeholders
- In 1988, ETSI was established; CEPT transferred the work on the GSM standard to ETSI
- In a 1990 Green Paper the EC recommended to create FRAND policies for SEPs for ETSI standards

The ETSI IPR Committee (IPRC)

- In 1989, ETSI established an IPRC tasked with formulating an IPR Policy
- About 30 members; roughly 50-50 representation from operators and OEMs
- Widely different views re IPR Policy between “have’s” and “have-nots”
- A 1992 draft ETSI IPR Policy included many restrictive elements for SEP holders, including licensing by default, maximum royalty declarations, monetary compensation only, maximum cumulative royalty setting, and MFN conditions
- This draft Policy also included provisions setting different licensing conditions for manufacturers within the EU and importing into the EU
- In 1992, the EC issued a Communication on IPRs and Standardization outlining its concerns about the constraints put on SEP holders and non-compliance with EU- law and international treaties

The 1992 EC General Principles

- EC outlines General Principles to which EU SDOs and SEP holders need to adhere, including:
 1. All persons wishing to use European standards must be given access to those standards;
 2. Patent holders to offer monetary or non-monetary FRAND terms for their SEPs
 3. Standards are available on FRAND terms regardless of whether or not the user participates in standard activity;
 4. Users can manufacture standard-compliant products in the EU or import those products manufactured in third countries
- EC General Principles aim to ensure broad access to standards and fair rewards to SEP holders in compliance with EU law and international treaties

The 1993 ETSI IPR Policy

- In March 1993 ETSI adopted a slightly modified version of the 1992 draft IPR Policy with 88% of members voting in favor
- No voters, including Motorola, Philips, and AT&T, continued to object and threatened not to make SEPs available for GSM or to leave ETSI
- US companies also involving US government to raise concerns at the EC
- In June 1993, the CBEMA filed a complaint with the EC claiming that the ETSI IPR Policy was not compliant with EU law and International treaties
- In September 1993 ETSI decided to withdraw the 1993 IPR Policy

The 1994 ETSI IPR Policy

- In November 1994, ETSI adopted a new IPR Policy
- This policy was a complete reset, deleting all provisions limiting a fair reward for SEP holders and bringing it in line with the 1992 EC General Principles
- EC considered the 1994 ETSI IPR Policy in agreement with EU law and International Treaties
- The 1994 ETSI IPR Policy is still largely the same today

Q&A

Open floor for questions and discussion.

THANK YOU!

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Date: March 13th at 5pm CET



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