

## Florence Seminar on Standard-Essential Patents

## Call for Papers

Florence (Italy) - EUI Campus, 6 - 7 October 2022

The [European University Institute](#) (EUI) jointly with the [Max-Planck Institute for Innovation and Competition](#) (MPI-IC) invite submissions to their scientific seminar on ‘Standard-Essential Patents’ to be held in Florence at the EUI Campus on 6-7 October 2022. The Seminar takes place within the [Florence Competition Program](#) (FCP) and the ongoing project ‘[Innovation and Intellectual Property in the Digital Age](#)’ of the [Florence School of Regulation - Communications & Media Area](#) (FSR C&M).

**MAIN DESCRIPTION**

The digital economy relies on coordinated efforts by industry participants to set information communication technology (ICT) standards through Standard-Development Organisations (SDOs) to better meet consumers’ demand for interoperability, connectivity and innovation in a timely fashion. The diffusion of global standards such as 5G, Wi-Fi 6 and HEVC drives economic growth and prosperity by enabling the Internet of Things and the Fourth Industrial Revolution. However, as ICT standards become general-purpose technologies and cross the boundaries of traditional computer and telecommunications verticals, tensions arise regarding the licensing of patents declared as essential for their implementation (i.e., standard-essential patents, SEPs).

Under the Fair, Reasonable and Non-Discriminatory (FRAND), or similar, licensing commitments before SDOs, SEP-holders, which are usually longstanding contributors to standardisation, seek remuneration from SEP implementers, which in contrast are often newcomers to FRAND licensing. Implementers resist such licensing demands with the patent hold-up argument, namely that SEP holders request higher than FRAND compensation for their SEPs also thanks to opportunistic patent litigation. SEP holders counter with the patent hold-out assertion claiming that bad faith implementers strategically avoid taking FRAND licenses and efficiently infringe SEPs. As a result of the opposing stances, commercial disputes end up before the patent courts and competition authorities around the world. Recent notable cases include *Unwired Planet/Conversant v Huawei* (UK Supreme Court 2020), *Sisvel v Haier* (German Federal Supreme Court 2020), *Qualcomm v FTC* (US Court of Appeal for the Ninth Circuit 2020) and *Opvo v Sharp* (Chinese Supreme People’s Court 2021).

Several regulatory developments have also recently emerged in Europe and beyond. In June 2021, Germany, one of the most popular SEP litigation venues worldwide for its bifurcated patent infringement and validity proceedings, amended Section 139 of its Patent Act limiting the availability of injunctive relief in exceptional circumstances when such a remedy would be disproportionate. At the EU level, the European Commission, after considering SEP issues in its 2017 SEP Communication, 2020 IP Action Plan and 2021 SEP Expert Group Report, disclosed a regulatory initiative to improve the SEP licensing framework by the end of 2022. Similarly, the UK Intellectual Property Office invited views by 1 March 2022 on the functioning of the SEP ecosystem to assess whether it requires government intervention. Finally, the US Department of Justice, Patent and Trademark Office and National Institute of Standards and Technology welcomed comments by 4 February 2022 on their draft policy statement on SEPs that steers away from the New Madison Approach of the Trump administration.

In line with the recently inaugurated EU-US Trade and Technology Council and EU-US Joint Technology Competition Policy Dialogue, the advanced US policy on SEPs converges to a significant extent with the EU one.

Against this background, the Florence Seminar on Standard-Essential Patents welcomes unpublished papers from lawyers and economists on the licensing and litigation of SEPs both theoretically and empirically oriented. Suggested areas comprise:

- FRAND royalty rate calculation (e.g., transparency, entire-market value rule vs smallest saleable patent-practising unit, how to set a FRAND royalty rate in new IoT verticals);
- Multi-party SEP licensing solutions (e.g., cross-licensing, patent pools, defensive patent aggregators and licensing-negotiation groups);
- Patent exhaustion and FRAND licensing across IoT verticals;
- SEP infringement and remedies;
- Jurisdictional issues of SEP disputes (e.g., applicable law, anti-suit injunctions, national judgments on global FRAND licenses);
- FRAND alternative dispute resolution mechanisms;
- Market definition and market power vis-à-vis SEPs;
- Unilateral and multilateral antitrust issues of SEP licensing and litigation.

**PROGRAM:** The goal of the Florence Seminar on Standard-Essential Patents is to stimulate an in-depth discussion of approximately 14-16 selected academic papers with particular emphasis on the societal impact of the research findings. Each paper will be allocated 40 minutes divided between 20 minutes author's presentation, 10 minutes discussion by a pre-assigned fellow participant and 10 minutes for questions from invited attendees.

**KEYNOTE SPEAKER:** The Florence Seminar on Standard-Essential Patents will feature a keynote lecture by Michael Carrier (Rutgers Law School).



Michael A. Carrier is Distinguished Professor at Rutgers Law School, where he specializes in antitrust and IP law. He is co-author of the leading IP/antitrust treatise, *IP and Antitrust Law: An Analysis of Antitrust Principles Applied to Intellectual Property Law*, the author of *Innovation for the 21st Century: Harnessing the Power of Intellectual Property and Antitrust Law*, and the editor of *Critical Concepts in Intellectual Property Law: Competition*. He has written more than 130 book chapters and articles in leading law reviews, has been quoted more than 2000 times in the media, and has been cited in courts including the U.S. Supreme Court. Professor

Carrier has testified before the FDA, FTC, National Academies, Senate Judiciary Committee, House Judiciary Committee, and House Energy & Commerce Committee; is a past chair of the Executive Committee of the Antitrust and Economic Regulation section of the Association of American Law Schools (AALS); is an Intellectual Property Fellow at the Innovators Network Foundation; was a policy volunteer for the 2020 Biden-Harris campaign; and served on the 2016 ABA Antitrust Section's Presidential Transition Task Force.

**POST-SEMINAR PUBLICATION**

The organisers have reached an agreement with M&CLR - Market and Competition Law Review and IIC - International Review of Intellectual Property and Competition Law. Speakers accepted to the Florence Seminar on SEPs are invited to submit their final papers for publication by 31 December 2022. Acceptance will depend on the successful completion of the M&CLR and IIC peer-review process. The organisers of the seminar, M&CLR and IIC will collaborate to shorten the period this process will take.

**SUBMISSION:** Please submit extended abstracts or full papers by 19 June 2022 to the following link <https://rscas.eu/view-form/call-for-papers-law-and-economics-of-standard-essential-patents/>. Acceptance notifications will be sent by the end of June 2022. Final paper versions of the selected submissions are due by 18 September 2022.

**SCIENTIFIC COMMITTEE:**

- **Marco Botta** | EUI
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- **Josef Drexl** | MPI-IC
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**ORGANISING COMMITTEE:**

- **Chiara Carrozza** | EUI
- **Niccolò Galli** | EUI

**COSTS:** The cost of participating in the seminar is EUR 150, including a shuttle bus between the city centre and the EUI campus, an evening social event as well as meals and refreshments at the venue. Participants bear their travel and accommodation costs. For information about accommodation facilities and logistics issues, please write to Elisabetta Spagnoli at [compreg.secretariat@eui.eu](mailto:compreg.secretariat@eui.eu).

**VENUE:** Teatro at Badia Fiesolana, European University Institute, Via dei Roccettini 9, San Domenico di Fiesole – Florence, Italy.

**CONTACTS:** For further information about submissions and the programme please contact [niccolo.galli@eui.eu](mailto:niccolo.galli@eui.eu).