











Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Awaiting committee decision 2023/0133(COD)
Standard essential patents Amending Regulation 2017/1001 2016/0345(COD)	
Subject 2.10.03 Standardisation, EC/EU standards and trade mark, certification, compliance 3.50.16 Industrial property, European patent, Community patent, design and pattern	
Legislative priorities Joint Declaration 2023-24	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Legal Affairs	 WALSMANN Marion	26/06/2023
		Shadow rapporteur	
		 WÖLKEN Tiemo  VÁZQUEZ LÁZARA Adrián  MAUREL Emmanuel	
	Committee for opinion	Rapporteur for opinion	Appointed
	 International Trade (Associated committee)	 HÜBNER Danuta Maria	19/07/2023
	 Industry, Research and Energy	The committee decided not to give an opinion.	
	 Internal Market and Consumer Protection		23/08/2023
		 CHARANZOVÁ Dita	
Council of the European Union	Commission DG	Commissioner	
European Commission	Internal Market, Industry, Entrepreneurship and SMEs BRETON Thierry		
European Economic and			

Key events

27/04/2023	Legislative proposal published	COM(2023)0232	Summary
15/06/2023	Committee referral announced in Parliament, 1st reading		
05/10/2023	Referral to associated committees announced in Parliament		

Forecasts

26/02/2024	Indicative plenary sitting date
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Technical information

Procedure reference	2023/0133(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation 2017/1001 2016/0345(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114; Rules of Procedure EP 57; Treaty on the Functioning of the EU TFEU 114-p3
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Awaiting committee decision
Committee dossier	JURI/9/11893

Documentation gateway

Legislative proposal	COM(2023)0232	27/04/2023	EC	Summary
Document attached to the procedure	SEC(2023)0174	27/04/2023	EC	
Document attached to the procedure	SWD(2023)0123	27/04/2023	EC	
Document attached to the procedure	SWD(2023)0124	27/04/2023	EC	
Document attached to the procedure	SWD(2023)0125	27/04/2023	EC	
Document attached to the procedure	N9-0083/2023 OJ C 000 14.11.2023, p. 0000	19/06/2023	EDPS	
Economic and Social Committee: opinion, report	CES2306/2023	20/09/2023	ESC	
Committee draft report	PE753.697	02/10/2023	EP	
Amendments tabled in committee	PE755.032	31/10/2023	EP	
Amendments tabled in committee	PE755.977	31/10/2023	EP	

Standard essential patents

PURPOSE: to increase transparency with regard to standard essential patent (SEP) licensing.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: standard essential patents (SEPs) are patents that protect technology that has been declared essential for the implementation of a technical standard adopted by a standard developing organisation (SDO). Such standards relate for instance to connectivity (e.g., 5G, Wi-Fi, Bluetooth, NFC) or audio/video compression and decompression standards.

To make a product that is standard-compliant, an implementer is obliged to use the relevant essential patents. The monopoly granted by such specific patents is balanced by SEP holders' commitment to license these patents on fair, reasonable and non-discriminatory (FRAND) terms, allowing access to market to implementers.

For many years, the current system has suffered from a lack of transparency, predictability, and lengthy disputes and litigation. Previous measures to tackle these problems, such as self-regulation, have not proven effective.

The applicability of SEPs (particularly for connectivity standards) is going to increase with the rise of the Internet of Things' (IoT). Accordingly, a well-functioning system that facilitates access to technologies, while rewarding innovation, is crucial for the EU's technological sovereignty.

CONTENT: the proposal establishes rules on patents essential to a standard (SEPs).

The general objectives of this proposed initiative are to:

- ensure that end users, including small businesses and EU consumers benefit from products based on the latest standardised technologies;
- make the EU attractive for standards innovation; and
- encourage both SEP holders and implementers to innovate in the EU, make and sell products in the EU and be competitive in non-EU markets. The initiative aims to incentivise participation by European firms in the standard development process and the broad implementation of such standardised technologies, particularly in IoT industries.

The main elements of the proposal are as follows:

- the establishment of an obligatory register held by the EUIPO, where SEP holders record their SEPs, providing details on patent and standard. Selected SEPs are subject to a non-binding essentiality checks;
- the establishment of an electronic database that would contain information on, among other things, aggregate royalties, FRAND terms and conditions or any licensing programmes, as well as collective licensing programmes.
- rules on the registration of BENs;
- a procedure for assessing the essentiality checks of registered SEPS;
- SEP aggregate royalty: SEP holders will be able notify in the register the expected maximum aggregate royalty;
- a procedure for the out-of-court settlement of disputes concerning the fairness, reasonableness and non-discrimination of conditions (FRAND determination). An expert-driven and time-limited out-of-court dispute resolution mechanism that SEP holders and implementers can benefit from when negotiating a FRAND licence;
- support measures for SMEs: free advisory services; reduced fees for SEP registration and essentiality checks and access to the SEP register;
- the creation of a competence centre within the EUIPO to manage the above elements (register, database, essentiality checks, global fees, FRAND determination and SME support services).

The proposed Regulation will apply to all standards that will be published by standards development organisation after its entry into force. However, where SEP licensing does not give rise to significant difficulties or inefficiencies affecting the functioning of the internal market, the Commission will establish standards or related implementations or use cases, for which the provisions of aggregate royalty determination procedures and the FRAND determination would not apply.

On the other hand, the proposed Regulation will in principle not apply to standards that have been published by standards development organisations before its entry into force. However, where the functioning of the internal market is severely distorted due to inefficiencies in the licensing of SEPs, the Commission will determine, within the time limits set out in the proposed Regulation, standards or related implementations or use cases to which the proposed Regulation will apply.

Transparency				
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Robert Bosch GmbH
WALSMANN Marion	Rapporteur	JURI	29/11/2023	QUALCOMM Incorporated
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Verband der Automobilindustrie
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Wirtschaftsrat der CDU e.V.
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Siemens AG
WALSMANN	Rapporteur	JURI	29/11/2023	Mercedes-Benz Group AG

Marion				
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Volkswagen Aktiengesellschaft
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Bundesverband Deutscher Leasing-Unternehmen e. V.
WALSMANN Marion	Rapporteur	JURI	29/11/2023	RWE AG
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Nokia
KOVATCHEV Andrey	Member	29/11/2023	Fair Standards Alliance	
NIEBLER Angelika	Member	29/11/2023	European Patent Office	
RINZEMA Catharina	Member	22/11/2023	Osborne Clark	
RINZEMA Catharina	Member	16/11/2023	Forward Global	
NIEBLER Angelika	Member	15/11/2023	Volkswagen Aktiengesellschaft	
NIEBLER Angelika	Member	07/11/2023	QUALCOMM Incorporated	
GRAPINI Maria	Member	25/10/2023	InterDigital, Inc.	
GLUCKSMANN Raphaël	Member	25/10/2023	Fair Standards Alliance	
RINZEMA Catharina	Member	23/10/2023	A.C.E.A.	
RINZEMA Catharina	Member	20/10/2023	Koninklijke Philips	