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# Licensing of SEPs and Emergence of FRAND: International and Indian Perspective

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## ABSTRACT

*Standard Essential Patents are certainly the backbone of creating a standardized industrial sector to that context whereby a patent would be necessarily infringed to set that standard. This universally accepted 'standard' in any sector is a concurrent and core requirement in bringing a product for commercial competition and viability. In simple words, the patentee has to necessarily grant licenses to manufacturers on the Fair Reasonable and Non-discriminatory terms (FRAND). Predominantly, most technological standards develop through voluntary organizations like the Standards Setting Organization (SSO) and standard developing organization. Different patent owners associate together to pool their resources and collaborate in setting a standard for the entire industry for coherence and uniformity in technologies like the potential 5G.*

*SEPs are an essence of the meaning of standard or nature in pooling the existing technologies. Investment in Research and development necessarily requires adequate returns on investments. Thereafter, contractual agreements take place between the SSOs and patent holders; however, this relationship has been questioned widely. The paper will hence focus on this issue, as well as the questions on SSO's procedure in making arrangements and negotiation. Furthermore, the study unveils the theme of FRAND i.e., Fair, reasonable, and non-discriminatory. Evolving through a series of landmark judgments, the FRAND ranging has been fluctuating, because it can never be too high or low. At the same time, it is to be noted that the popularity of the standard is not considered for the patent holders' rights. India needs to develop clarity in its patented technologies and create a framework on FRAND terms without relying on the other developed countries.*

**Keywords:** *Standard essential patents, FRAND, SSO, patents*

## I. INTRODUCING STANDARD ESSENTIAL PATENTS<sup>2</sup>

Standards are emerging out as an integral part of almost all sectors in and around the globe today. The Bar, bench, and the stakeholder institutions and corporations have been spending

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<sup>2</sup> Hereinafter to be called SEPs.

their wealth, time, and skills in affiliating with technologies backing the worth and value of Standard Essential Patents (SEPs). It is however seamlessly ambiguous to verify the stance of organizations as well as aspirants on their knowledge about the proceedings that follow in court with regards to SEPs. In simple words, if an individual develops a technology, he/she has to involve standard patent and avail permission from patent holders in the form of a license or consignment<sup>3</sup>.

In this day and age, industrial sectors are aided with the advancement of computer systems, servers, telecommunications, and the internet that highly depend upon standards. Industrially necessitated standards are pivotal to development. These institutions predominantly rely upon the set standards to combine the existing market resources and ensure the perfect pooling of resources for a final developing product in the economy/market.<sup>4</sup> The standard set out by the SSOs result in an efficient and sufficient premise for marketers to get confirmation about the product features and disclosures. These SEPs restrict other smartphone and gadget manufacturers to exploit the said patented product that is standardized. The objective of introducing standardization in the market is to bring equilibrium between patent owners' monopoly on the techno-oriented product and the licensees who thereby use the product. Thereafter, these licensees are to pay royalties on the same, however, these specificities regarding the royalty amounts are yet to be determined.

## II. THE SIGNIFICANCE OF SEPS

Apart from the general patents, industrial standards aided with technology are indeed an important part of the vital sectors of the economy of a country. Several SSOs allow royalty-free patent licence, while some require the applicant to disclose the existing patents that have the potential of turning essential based on the FRAND terminology. Many SSOs even neglect this aspect and this proves to be one of the major drawbacks of SEPs. Nevertheless, SEPs, as well as the FRAND rates, are strong and valuable because of their widespread use by common industries. When a patentee denies compliance with FRAND terms, he might as well be notified with an injunction. SSOs, therefore, order the standards to be discarded completely if any such tech-creator disobeys the FRAND rules in the course of developing that technology.

Another inference tends to be that there are extensive disclosures in SEPs. Every one of those that are found to have been broken as SEPs, is challenged at the court. The

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<sup>3</sup> Geeta, SEPs and FRAND Licensing, MONDAQ (May 11, 2020), <https://www.mondaq.com/india/patent/930032/standard-essential-patents-seps-and-frand-licensing>.

<sup>4</sup> Mark Lemley and Timothy Simcoe, *How essential are SEPs*, 104 CORNELL L.REV. 607, 607-615 (2019).

implementation of the standard is fairly common in several circumstances which are used virtually by every claimant. It would be odd to claim a patent that protects a standard that is commonly adopted throughout the sector, yet to argue that perhaps a patent upon this standard is infringed by nothing but that standard.

### **III. FAIR, REASONABLE, NON-DISCRIMINATORY<sup>5</sup>: BASIS OF A PRUDENT**

#### **Regulation**

The FRAND guidelines were introduced to eliminate non-transparency in the proceedings of SEPs and patent hold up<sup>6</sup>. These intellectual property rights guidelines require the patent owners to necessarily comply with the FRAND scheme in licensing their SEPs. The model of standardization is in continuance to developing vital improvements in existing standards as well.<sup>5</sup>

A FRAND algorithm reflects those basic values which the judiciary and policymakers had already generally accepted. Large-scale implementation of this model is perhaps the basic aim of a FRAND model. This method is susceptible to abuse or exploitation due to the unique existence of SEPs. FRAND is meant to discourage the abuse of the primary value of the asset by patent owners and the accumulation of unfair revenues and demands that may potentially benefit in operating with a special position. IP owners also commute a systematic singular technique to a standardization or communication conundrum posed by technologies. Licensing a SEP under the conditions of FRAND will be a mutual agreement amongst the SSO and owners of the SEP. <sup>5</sup> Nevertheless, the importance of FRAND has not been interpreted by the SSOs; this relies upon the essence of communications between the owner of SEP ("licensor") and facilitator of SEP ("licensee").

#### **A. Solves Problems of Double-Marginalisation**

There are indeed several complications in licensing a SEP. a certain product may hold several standards<sup>7</sup> and several SEPs may include almost all standards existing. For instance, an intricate Wi-Fi network or 3G, 4G, and 5G communications may allure thousands of SEPs<sup>8</sup> and all of these patents are assumed to be essential. Thereafter, there are high risks of double marginalization i.e. several royalties might overlap when several of these patent owners call for varied share from the benefits of that product.

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<sup>5</sup> Hereinafter to be called as FRAND.

<sup>6</sup> Geeta, *supra* note 1.

<sup>7</sup> Brad Biddle, *How Many Standards in a Laptop?* SSRN (2010) [https://wr.perma-archives.org/public/q42s/sdnz/20180916184958mp\\_/https://dx.doi.org/10.2139/ssrn.1619440](https://wr.perma-archives.org/public/q42s/sdnz/20180916184958mp_/https://dx.doi.org/10.2139/ssrn.1619440).

<sup>8</sup> David J. Goodman & Robert A. Myers, *3G Cellular Standards and Patents*, (2005), [http://eeweb.poly.edu/dgoodman/wire\\_lesscom2005.pdf](http://eeweb.poly.edu/dgoodman/wire_lesscom2005.pdf).

To solve the problem of royalty overlapping, the FRAND rules are enforced provided that the said royalty complies with the aggregate value of all SEPs and not the additional or incremental value of one SEP holder separately. Additionally, the FRAND must necessarily be effective, efficient, and reasonable based on the circumstances.

### **B. FRAND as a Defense**

The most prominent defenses against patent infringement in today's scenario, are in cases of SEPs and standardized technology as per the competition law. The producers of these standard creations are constantly worried about the infringement of their patented product when they have failed to acquire the license of SEPs. Notably, for such products to enter the market for sale, the industry examines the subject-matter of the patents utilized for the development in that particular industry.

In a noteworthy case<sup>9</sup>, the patent manufacturers filed a suit against the defendants for infringing their patent ("*Orange Book Standard*"), which generally all CD-R and CD-RW manufacturers must necessarily comply with. The plaintiff, Philips stated that the defendants had utilized and infringed that patent, to which the defendants replied that the proprietors/plaintiff had to comply with the competition Law to license the said product patent according to the FRAND terminology and that the conventional method of licensing was violative of Article 82 of the EC<sup>10</sup>. The defendants, however, had neglected to inquire or ask for the license. The German SC favored this defence and prescribed the test of 'true licensee' to examine a prudent license fee that is market-friendly and payment mechanisms. However, the Hague District Court<sup>11</sup> dismissed the claims by the defendant and observed that, since they never inquired about the licensing, they cannot rely upon the FRAND terms to place their defense. The Dutch court finally came to an inference and observed that *the duty is on the corporation which aims to exploit or use the patented product to regularly inquire about the FRAND terms for licensing. Nevertheless, the effect of patent law remains applicable to all parties.*

### **C. Interpretation of SEP Litigation and FRAND Rates**

The license agreements between the holders of the SEPs and the developer of the SEP will not establish an agreement attributable to the ambiguous existence of FRAND terminology as well as the dearth of standards set to decide them; such a condition also contributed to a

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<sup>9</sup> *Philips v. SK Kassetten* BGH, 5-6-2009-KZR 39/06 (2010)..

<sup>10</sup> European Commission Treaty, Art. 82.

<sup>11</sup> District Court The Hague, The Netherlands, 17-03-2010, Joint cases No. 316533/HA ZA 08-2522 and 316535/HA ZA 08-2524.

variety of patents related lawsuits around the globe.

In a landmark judgment of *Merc. Exchange, L.L.C. v. eBay, Inc.*<sup>12</sup>, the SC observed that there are certainly important components to tick before giving injunction:

- a) The plaintiff must prove that he has received irreversible damages/injuries,
- b) The law is insufficient to provide compensation for such injuries,
- c) In consideration of the difficulties faced by both parties, and equity is awarded,
- d) The injunction does not erode the essence of public interest.

These points were examined in one of the earliest precedents that determined the FRAND royalty rates and made an interpretation of SEPs. It was the case of *Microsoft Corp. v Motorola Inc*<sup>13</sup> in the United States court in 2013 where, in 2010, Motorola proposed to license certain important patents for the application of certain specifications to Microsoft. The laws of the ITU, as well as IEEE, provide that the royalty for patents covering the above Standards, have to conform to RAND<sup>14</sup> criteria. There was a dispute over the royalty rate offered by Motorola and Microsoft accused Motorola of violation of the agreement, alleging that Motorola's offered terms seemed grossly unfair and breached its RAND obligation.

Thereafter the court decided for the FRAND royalty rates to be fixed by Microsoft for SEPs persistent in the matter. Justice Robart's judgment is recognized as a significant verdict since it settled the extremely divisive question of FRAND rate evaluation and has established a basic layout for the potential study of RAND disagreements. When the licensee has a genuine obligation to consent to an examination, then pursuing an injunction becomes unfair. In such cases, pursuing an injunction could disrupt licensing agreements and result in unequal contract terms for licensing, including a detrimental effect on customer preference and costs.<sup>15</sup>

In the case *Innovation IP Ventures*<sup>16</sup>, the corporation brought in a suit alleging various coffee shops, bars, hotels as well as certain private establishments for the unauthorized use of its WiFi requirements, FRAND prices also were decided. It recommended a 6% baseline royalty rate calculated towards a final material benefit, integrating wireless features, balanced by a "value variable" that represented the wireless device's significance to the final output.

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<sup>12</sup> *Merc. Exchange, L.L.C. v. eBay, Inc.*, 401 F.3d 1323, 1339 (2005/06).

<sup>13</sup> *Microsoft Corp. v. Motorola Inc.*, 696 F 3d 872. (2012).

<sup>14</sup> REASONABLE AND NON-DISCRIMINATORY.

<sup>15</sup> Directorate Gen. for Competition (EC), *Competition policy brief and SEPs*, Issue 8 EU PUBL., (June 2014), <https://op.europa.eu/en/publication-detail/-/publication/c57ffbf7-9aeb-11e6-868c-01aa75ed71a1>.

<sup>16</sup> *Ericsson v. D-Link, E.D. Tex.* (6 August 2013); *Realtek v. LSI*, Case No. 13-16070 (9th Cir. 2014).

Nevertheless, that occasion of license holdup had been demonstrated by this requirement and the fair royalties were estimated to be just \$0.0956 per component. The study was focused on updated Georgia Pacific factors from Judge Robart and was primarily driven by considerations relevant to the value and technological performance of the patented technology to the standard, presumed infringer's charged goods, and equivalent licenses.<sup>17</sup>

There are two important parties i.e., implementors and Innovators (Qualcomm, Nokia, etc.). The SSO makes arrangements and negotiations as per certain Fair, Reasonable and nondiscriminatory i.e., FRAND terms. *For instance*, no mobile phone manufacturer would want to make a 5G phone without being able to proceed without using technology.

In *Micromax Informatics Limited v. Telefonaktiebolaget LM Ericsson*, the judges took a completely different approach by highlighting that only the incremental value of the innovation must be considered. The question is how one patent can be determined to be better than the other? The answer lies in the fact that the popularity of standards is never taken for a patent holder. In an important case-based in the UK, *Unwired Planet International Ltd & Anr. v.*

*Huawei Technologies*<sup>18</sup>, the UK port stated that FRAND is a global rate even though patents and IPR in their entirety are territorial.

Even 5G is an uncertain invention as of today, however, SEPs are going to back their place very soon as a vital hot topic in India with the advent of new and innovative technologies. In reference to the case at the European Union, the European Court of Justice introduced legal protection against patent infringement in *Huawei v. ZTE*<sup>19</sup> (July 2015).<sup>26</sup> In principle, a SEP holder, firstly, warns the potentially infringing party of the alleged violation, before pursuing a suit and determines the manner whereby the patent was exploited. Secondly, once the suspected accused has demonstrated the readiness to negotiate a licensing arrangement within the conditions of FRAND, the alleged infringer may be relieved of responsibility for making a particular formal statement for a license indicating the royalty and estimation procedure.

#### **D. FRAND in India**

In the last two decades, standardization has contributed to increased efficiency and integration and has lowered cellular network costs as well as data charges by more than 90 percent, resulting in enormous customer benefits.

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<sup>17</sup> Rajiv Kr. Choudhry, Searching for FRAND in FRAND valuations, SPICYIP, (Dec. 12, 2013), <http://www.spicyip.com/2013/12/searching-for-frand-in-frand-valuations-part-2-3.html>.

<sup>18</sup> *Unwired Planet International Ltd & anr. v. Huawei Technologies*, UKSC 2018/0214 (2018).

<sup>19</sup> *Huawei Techs. Co. v. ZTE Corp.*, Case No. C-170/13 (2015).

FRAND entered Indian courts when **Telefonaktibolaget LM Ericsson** ('Ericsson'), one of the world's biggest telecommunications firms having several greatest amounts of wireless patents, many being SEPs, sued regional Indian player Micromax<sup>20</sup> in exploiting its proprietary inventions for many specifications of wireless technological innovations like GSM, EDGE, and 3G neglecting the necessity for royalty payments. The discussions amongst the parties were futile over a three-year term. Ericsson sought Rs. 1 billion sums as a compensatory liability and an ex-parte and permanent injunction against Microsoft. An ex-parte interim injunction 16, comprised of steps for forfeiture by customs officials of Micromax's security shipment, was issued by the Single Judge Bench of the Delhi High Court. Micromax was also required by the Court to submit a deposit amount of 1.25%-2% of said selling price hampered by Customs as a requirement accompanying the sale of those goods. In response, Micromax filed a complaint under the jurisdiction of the Competition Commission of India (CCI) acknowledging the fact that Ericsson dominated with exploitation against it.

While Micromax wrote to the CCI to revoke its case, the Delhi High Court observed that the CCI would be free to continue against Ericsson for any alleged violation of its superior role, despite the revocation.<sup>21</sup> The CCI argued that "binding" a party to enforce a confidentiality contract as well as imposing unreasonable and unequal royalty rates "constituted" prima facie "misuse of superiority and infringement of Section 4 of the Indian Competition Act"<sup>22</sup>, as would the imposition of a tribunal that prohibited licensees from adjudicating conflicts throughout the nation in which the parties involved had been in the company.

In an important step towards spreading awareness about this concept of SEP and FRAND, the Department of Industrial Policy and Promotion (DIPP) published a discussion paper in 2016<sup>23</sup> that highlighted the necessity of FRAND and SEP regulations to enhance technological developments in India incoherence to the legal system. Suggestions were prescribed regarding the FRAND and royalty rates and it was stated that the rate must apply to a component as a whole rather than on individual devices or creations<sup>24</sup>.

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<sup>20</sup> Ericsson v. Micromax, CS(OS) 442/2013 (2013).

<sup>21</sup> AZB & Partners, SEPs in India, IPAR-The Law Reviewers, (Aug 21, 2019), <https://www.lexology.com/library/detail.aspx?g=e439bb96-9972-4ed1-93bf-1f5ba739e4c5>.

<sup>22</sup> Competition Act, 2002, Section 4.

<sup>23</sup> GoI, Dept. of Industrial Policy and Promotion, Ministry of Commerce and Industry, Discussion paper on SEPs and their availability on FRAND terms, (April 22, 2016), <https://cis-india.org/a2k/blogs/discussion-paper-on-standard-essential-patents-and-their-availability-on-frand-terms>.

<sup>24</sup> Philips supra note 9.

#### **IV. COMMENTS ON THE INDIAN LEGISLATURE**

India has always been on a higher scale in adapting technological innovations and developments. However, as society comes out of its shell thereby gradually touching nuances of technology, regulations have to become stricter to tackle its complexities. In this instance, the arguments of the Ericsson case may apply to introduce a regulation that balances the relationship between the SEP holders and SSOs. The aim should be on equalizing the regulations for the protection of patent infringement or misuse by SEP holders and the protection of consumers and manufacturers from unaffordable high costs.

In India, the Intellectual Property Appellate Board (IPAB) and the CCI stand as 2 major regulatory authorities for IP-related cases. Predominantly, both bodies prescribe a different mechanism for similar matters. However, it is important to safeguard the local Non-SEP holders as well as the international portfolio holders in India. Taking due cognizance of this, the Commercial Courts, Commercial Division, and Commercial Appellate Division of High Courts Act 2015 (CC Act) was introduced in India for speedy disposal of IPR related cases. But the problem of insufficient expertise is still haunting several vulnerable tech-creators from freely contacting SSOs for SEPs.

#### **V. CHALLENGES WITH FRAND**

India needs to develop clarity in its patented technologies and create a framework on FRAND terms without relying on the US, UK, or other developed nations. It's indeed critical that IP rights are issued in some kind of a reasonable time beyond unnecessary delay to ensure the continued advancement of technological innovation and successful monetization of intellectual property (IP). Although the lifespan of technologies in the ICT industry is short in a world of rapid technical development, the market period accessible to patent holders is far too limited, whilst the expense of production is much too huge.

The Indian government's recent attempts to expand the staff of the patent offices whilst also recruiting a wide group of assessors are praiseworthy. Successful implementation of IP protections in India performs an important function in encouraging increasing foreign direct investment, which enhances economic competitiveness. Presently, the regulation of a conventional simple patent remains one of the major issues plaguing the nation's telecommunications development. In sweeping away the rights of the SEP holders, tainting the IP system will discourage India's target of becoming self-reliant instead of purchase-reliant concerning manufacturing industries. A sustainable eco-system that acknowledges the requirement towards a prompt and equitable return on investment through a comprehensive

and successful IP framework will contribute to a continuing net income in India.

Licensing SEPs is also confounded by its possibility that 14 standards can be implemented by goods and also most standards are protected by several SEPs. Hundreds of thousands of proclaimed SEPs are drawn by complicated structures such as Wi-Fi and 3G wireless telecommunications. The FRAND can address this dilemma technically, only if the FRAND royalty is focused upon the collective valuation of all related SEPs, instead of the individual SEP owner's gradual commitment, which is viewed in particular, and only if the royalty is objectively fair.

## **VI. SUGGESTIONS AND CONCLUSION**

If an organization focuses upon implementing an unreasonable ban on rates to IPRs, to assess the appropriate fair royalty, it might resort to a hypothetical negotiating process as established by U.S. patent law<sup>25</sup>. Nevertheless, this is a nuanced approach designed to be used by the judiciary in the creation of a comprehensive report, which typically involves extensive professional analyses and witness incentives to appear and be cross-examined. In reaction to potential challenges, Indian decision-makers and administrators appear ready and willing to render a range of revolutionary modifications to FRAND licensing. That being said, the empirical evidence does not indicate that FRAND licensing activities are monopolistic or require legislative action in some other way.

Perhaps, before altering the deliberately regulated FRAND environment, the flourishing existence of the telecommunications industry indicates warnings. The data is evident that perhaps the responsibility is sufficiently assigned to promoters of increased interference to show that wellbeing will be enhanced by new interventions.

To guarantee patent rights to help in fostering creativity as well as consumer protection, the goal for antitrust regulators would be to appropriately calculate the regulatory efforts and market activism. Authorities may achieve that aim by reflecting upon this purpose and mutual embodiment of the FRAND<sup>26</sup> agreement as patents are integrated into standards.

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<sup>25</sup> Patent Act (35 U.S. Code).

<sup>26</sup> Reflections on the Role of Competition Agencies When Patents Become Essential, US Dept. of Justice, (Sept. 11, 2015), <https://www.justice.gov/opa/speech/assistant-attorney-general-bill-baer-delivers-remarks-19thannual-international-bar>.

## VII. BIBLIOGRAPHY

### Case Laws

1. Philips v. SK Kassetten (2010) BGH, 5-6-2009-KZR 39/06.
2. MercExchange, L.L.C. v. eBay, Inc., (2005/06) 401 F.3d 1323, 1339).
3. Microsoft Corp. v. Motorola Inc., 696 F 3d 872. (2012).
4. Ericsson v D-Link,(E.D. Tex. 6 August 2013); Realtek v LSI, Case No. 13-16070 (9th Cir. 2014).
5. Unwired Planet International Ltd & Anr. v. Huawei Technologies, UKSC 2018/0214 (2018).
6. Ericsson v Micromax, CS(OS) 442/2013 (2013).

### Books

1. ELIZABETH VERKEY, INTELLECTUAL PROPERTY, (EBC, edition 1, 2015)
2. SUMEET MALIK, PATENT LAW MANUAL, (EBC, edition 2, 2014).
3. MATHEW THOMAS, PATENT PROSECUTION, (EBC, edition 1, 2019).
4. N.S GOPALAKRISHNAN & T.G AGITHA, PRINCIPLES OF IP, (EBC, edition 2, 2014).

### Journals, Reports, and Research papers

1. Mark Lemley and Timothy Simcoe, *How essential are SEPs*, 104 CORNELL L.REV. 607, 607-615 (2019).
2. Chryssoula Pentheroudakis, Justus A. Baron, Licensing Terms of SEPs, JRC European Commission, (policy report 2017).
3. Mark A. Lemley, IPR and SSOs, California Law Review, Vol. 90, No. 6, page:18891980.
4. Abraham Kasdan and Michael J. Kasdan, Recent Developments In The Licensing Of SEPs, The National Law Review, Vol. X, No. 228.
5. AZB & Partners, *SEPs in India*, IPAR-The Law Reviewers, (Aug 21, 2019), <https://www.lexology.com/library/detail.aspx?g=e439bb96-9972-4ed1-93bf1f5ba739e4c5>.

### Other sources

- 1 Geeta, *SEPs and FRAND Licensing*, MONDAQ (May 11 2020), <https://www.mondaq.co>

- [m/india/patent/930032/standard-essential-patents-seps-andfrand-licensing](https://www.india/patent/930032/standard-essential-patents-seps-andfrand-licensing).
- 2 Brad Biddle and ors, *How Many Standards in a Laptop?* SSRN (2010) [https://wr.perma-archives.org/public/q42ssdnz/20180916184958mp\\_/https://dx.doi.org/10.2139/ssrn.1619440](https://wr.perma-archives.org/public/q42ssdnz/20180916184958mp_/https://dx.doi.org/10.2139/ssrn.1619440).
  - 3 David J. Goodman & Robert A. Myers, *3G Cellular Standards and Patents*, (2005), <http://eeweb.poly.edu/dgoodman/wirelesscom2005.pdf>.
  - 4 Directorate Gen. for Competition (EC), *Competition policy brief and SEPs*, Issue 8 EU PUBL., (June 2014), <https://op.europa.eu/en/publication-detail/-/publication/c57ffbf79aeb-11e6-868c-01aa75ed71a1>.
  - 5 Rajiv Kr. Choudhry, *Searching for FRAND in Frand valuations*, SPICYIP, (December 12, 2013), <http://www.spicyip.com/2013/12/searching-for-frand-in-frand-valuationspart-2-3.html>.
  - 6 GoI, Dept. of Industrial Policy and Promotion, Ministry of Commerce and Industry, a *Discussion paper on SEPs and their availability on FRAND terms*, (April 22, 2016), <https://cis-india.org/a2k/blogs/discussion-paper-on-standard-essential-patents-andtheir-availability-on-frand-terms>.

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