



**2023/0133(COD)**

5.12.2023

## OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Legal Affairs

on the proposal for a regulation of the European Parliament and of the Council  
on Standard essential patents and amending Regulation (EU)2017/1001  
(COM(2023)0232 – C9-0147/2023 – 2023/0133(COD))

Rapporteur for opinion: Dita Charanzová

PA\_Legam

## SHORT JUSTIFICATION

IMCO fully supports the objective of the draft proposal to improve the licensing of standard essential patents (SEPs). Such improvement aligns with our European goals of fostering innovation, enhancing the digital transition, and ensuring that Europe is a frontrunner in new technologies, thereby encouraging the voluntary participation of European businesses in the European standardization process and ensuring the broadest possible implementation of standardized technologies.

SEPs play a pivotal role in the broader objectives of achieving a seamless single market and ensuring Europe's global competitiveness. Their central role in promoting technological innovation aligns with the emphasis on socio-economic recovery and encourages businesses to invest in the research and development of new technologies, which benefits our entire economy. At the same time we should ensure that SMEs, crucial for the Single Market, are not left behind in the technological race, that access to these technologies remains fair, and that patent holders do not abuse their power to hinder competition.

Given this broader context, which underscores the importance of integrating technology, innovation, and fair competition within the European -technological landscape, it is clear that standard essential patents (SEPs) are vital in achieving these goals. The proposal's overarching objective, which is to streamline and improve the licensing of SEPs, is certainly commendable in light of these ambitions. It aligns with the larger vision of fostering a more cohesive, innovative, and competitive European Union. However, while its intentions are in the right direction, specific areas within the proposal need closer examination.

First, the scope of the Regulation should include all SEPs, present and future. Without such inclusivity, the benefits of transparency and reduced litigation will not be fully realized. They will continue to be subject to the issues this regulation seeks to address, including protracted litigation over the appropriate FRAND values for these SEPs. It is, therefore, imperative to extend the scope of application to all SEPs.

Existing SEPs should be allowed to be registered to ensure that legacy technologies remain both accessible and competitive. The current agreement should still be enforceable even if an existing SEP is not registered. It is only upon submission to the register that all related rules should apply. Consequently, Article 24 of the proposal should be revised to eliminate penalties associated with non-registration of these SEPs.

Second, both SEP holders and implementers should be able to request checks and determinations, and they should be able to do so with a lower threshold, particularly for SME implementers.

In keeping our commitment to transparency and inclusivity, the SEP information database must be accessible to all. While it is understandable to impose fees for specialized checks—like determining a patent's essentiality or FRAND value - the overarching costs for the database's upkeep should fall to the EUIPO. This ensures that a diverse group, from researchers to the general public, can access the information without bearing the financial burden. However, in case of certain type of information in the database, like non-confidential information on FRAND determinations, expert opinions referred to in Article 18 or non-

confidential reports of the conciliators, access to it may be subject to the payment of a fee where justified.

Lastly, the draft opinion introduces technical corrections and clarifications to the proposal. In addition to correcting the terminology, this involves clarifying that the mechanisms to determine a SEP's FRAND value and essentiality are separate from the standardization process itself.

## AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Legal Affairs, as the committee responsible, to take the following into account:

### Amendment 1

#### Proposal for a regulation Recital 3

##### *Text proposed by the Commission*

(3) SEPs are patents that protect technology that is ***incorporated in*** a standard. SEPs are ‘essential’ in the sense that implementation of the standard requires use of the inventions covered by SEPs. The success of a standard depends on its wide implementation and as such every stakeholder should be allowed to use a standard. To ensure wide implementation and accessibility of standards, standard development organisations ***demand the SEP holders that participate in*** standard development to commit to license those patents on FRAND terms and conditions to implementers that chose to use the standard. The FRAND commitment is a voluntary contractual commitment given by the SEP holder for the benefit of third parties, and it should be respected as such also by subsequent SEP holders. This Regulation should apply to patents ***that are*** essential to a standard that has been published by a standard development organisation, to which the SEP holder has made a commitment to license its SEPs on ***fair, reasonable and non-discriminatory*** (FRAND) terms and conditions and that ***is*** not subject to a royalty-free intellectual property policy, ***after the entry into force of this Regulation.***

##### *Amendment*

(3) SEPs are patents that protect ***any*** technology that is ***involved in the use of*** a standard. SEPs are ‘essential’ in the sense that implementation of the standard ***is reported to require*** use of the inventions covered by SEPs. The success of a standard depends on its wide implementation and as such every stakeholder should be allowed to use a standard. To ensure wide implementation and accessibility of standards, standard development organisations ***should only proceed with the publication of a*** standard ***if the identified patent holders*** commit to license those patents on FRAND terms and conditions to implementers that chose to use the standard. The FRAND commitment is a voluntary contractual commitment given by the SEP holder for the benefit of third parties, and it should be respected as such also by subsequent SEP holders. ***The FRAND commitment should therefore not cease to apply in the event of a change in SEPs ownership so that even if the current SEP holder did not initially make the commitment, the SEP Regulation still applies to patents for which the FRAND terms was made previously.*** This Regulation should apply to patents ***in force in one or more Member States and have been declared*** essential to a standard that has been published by a standard development organisation, to which the SEP holder ***or a previous holder of the SEPs in question*** has made a commitment

to license its SEPs on FRAND terms and conditions and that **are** not subject to a royalty-free intellectual property policy.

## Amendment 2

### Proposal for a regulation

#### Recital 4

*Text proposed by the Commission*

*Amendment*

**(4) There are well established commercial relationships and licensing practices for certain use cases of standards, such as the standards for wireless communications, with iterations over multiple generations leading to considerable mutual dependency and significant value visibly accruing to both SEP holders and implementers. There are other, typically more novel use cases – sometimes of the same standards or subsets thereof - with less mature markets, more diffuse and less consolidated implementer communities, for which unpredictability of royalty and other licensing conditions and the prospect of complex patent assessments and valuations and related litigation weigh more heavily on the incentives to deploy standardised technologies in innovative products. Therefore, in order to ensure a proportionate and well targeted response, certain procedures under this Regulation, namely the aggregate royalty determination and the compulsory FRAND determination prior to litigation, should not be applied to identified use cases of certain standards or parts thereof for which there is sufficient evidence that SEP licensing negotiations on FRAND terms do not give rise to significant difficulties or inefficiencies.**

**deleted**

## Amendment 3

**Proposal for a regulation**  
**Recital 5**

*Text proposed by the Commission*

(5) Whereas transparency in SEP licensing should stimulate a balanced investment environment, along entire Single Market value chains, in particular for emerging technology ***use cases*** underpinning Union objectives of green, digital and resilient growth, the Regulation should also apply to standards or parts thereof, published before its entry into force ***where inefficiencies in the licensing of the relevant SEPs severely distort*** the functioning of the internal market. This is particularly relevant for market failures hindering investment in the Single Market, the roll-out of innovative technologies or the development of ***nascent technologies and emerging use cases***. ***Therefore, taking into account those criteria, the Commission should determine by a delegated act the standards or parts thereof that have been published before the entry into force of this Regulation and the relevant use cases, for which SEPs can be registered.***

*Amendment*

(5) Whereas transparency in SEP licensing should stimulate a balanced investment environment, along entire Single Market value chains, in particular for emerging technology underpinning Union objectives of green, digital and resilient growth, the Regulation should also apply to standards or parts thereof, published before its entry into force ***if any implementer and any holder of a SEP declared to be essential to a standard that has been published before the entry into force of this Regulation, notifies it to the competence centre. The inclusion of these standards, such as those regarding Long Term Evolution (LTE), may be of particular importance to the roll-out of new technologies, including the Internet of Things (IoT), and will help to avoid distortions of the functioning of the internal market. This is particularly relevant for transparency purposes and the need to diminish the risk of market failures hindering investment in the Single Market, the roll-out of innovative technologies or the development of technologies. The exceptions to the exclusive rights of SEP holders are thus consistent with the objectives of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to promote technological innovation and the dissemination of technology to the mutual advantage of the SEP holder and the user of the technology. It would also be consistent with its principles of preventing the abuse of intellectual property rights and adopting measures for public interest reasons. In particular, Article 30 of the TRIPS provides that an exception to the exclusive rights conferred by a patent is justified if it complies with three conditions: it has to be “limited”, it should not “unreasonably conflict with a***

*normal exploitation of the patent”, and it should not “unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties”. However, the inclusion of pre-existing standards should not impact licences that are already in force.*

#### Amendment 4

##### Proposal for a regulation

##### Recital 7

*Text proposed by the Commission*

(7) Licensing on FRAND terms and conditions includes licensing royalty-free. Given that most issues arise with royalty-bearing licensing policies, this Regulation does not apply to royalty-free licensing.

*Amendment*

(7) Licensing on FRAND terms and conditions includes licensing royalty-free, ***as they are key in the development of the digital society***. Given that most issues arise with royalty-bearing licensing policies, this Regulation does not apply to royalty-free licensing.

#### Amendment 5

##### Proposal for a regulation

##### Recital 8

*Text proposed by the Commission*

(8) In view of the global character of SEP licensing, references to aggregate royalty and FRAND determination may refer to global aggregate royalties and global FRAND determinations, or as otherwise agreed by the ***notifying stakeholders or the parties to the proceedings***.

*Amendment*

(8) In view of the global character of SEP licensing, references to aggregate royalty and FRAND determination may refer to global aggregate royalties and global FRAND determinations, or as otherwise agreed by the parties, ***between a SEP holder and an implementer. When referring to aggregate royalty and FRAND determination it is necessary to take into account the trade circumstances.***

#### Amendment 6

##### Proposal for a regulation

##### Recital 13



*Text proposed by the Commission*

(13) The competence centre should set up and administer an electronic register and an electronic database containing detailed information on SEPs in force in one or more Member States, including essentiality check results, opinions, reports, available case-law from jurisdictions across the globe, rules relating to SEPs in third countries, and results of studies specific to SEPs. In order to raise awareness and facilitate SEP licensing for SMEs, the competence centre should offer assistance **to SMEs**. The setting up and administering a system for essentiality checks and processes for aggregate royalty determination and FRAND determination by the competence centre should include actions improving the system and the processes on a continuous basis, including through the use of new technologies. In line with this objective, the competence centre should establish training procedures for evaluators of essentiality and conciliators for providing opinions on aggregate royalty as well as on FRAND determination and should encourage consistency in their practices.

*Amendment*

(13) The competence centre should set up and administer an electronic register and an electronic database containing detailed information on SEPs in force in one or more Member States, including essentiality check results, opinions, reports, available case-law from jurisdictions across the globe, rules relating to SEPs in third countries, and results of studies specific to SEPs. In order to raise awareness and facilitate SEP licensing for SMEs, **and microenterprises and start-ups**, the competence centre should offer **them particular** assistance. The setting up and administering a system for essentiality checks and processes for aggregate royalty determination and FRAND determination by the competence centre should include actions improving the system and the processes on a continuous basis, including through the use of new technologies. In line with this objective, the competence centre should establish training procedures for evaluators of essentiality and conciliators for providing opinions on aggregate royalty as well as on FRAND determination and should encourage consistency in their practices.

**Amendment 7**

**Proposal for a regulation**

**Recital 15**

*Text proposed by the Commission*

(15) Knowledge of the potential total royalty for all SEPs covering a standard (aggregate royalty) applicable to the implementations of that standard is important for the assessment of the royalty amount for a product, which plays a significant role for the manufacturer's cost determinations. It also helps SEP **holder** to plan expected return on investment. The

*Amendment*

(15) Knowledge of the potential total royalty for all SEPs covering a standard (aggregate royalty) applicable to the implementations of that standard is important for the assessment of the royalty amount for a product, which plays a significant role for the manufacturer's cost determinations. It also helps SEP **holders** to plan expected return on investment **and**

publication of the expected aggregate royalty and the standard licensing terms and conditions for a particular standard would facilitate SEP licensing and reduce the cost of SEP licensing. Thus, it is necessary to make public the information on total royalty rates (aggregate royalty) and the standard FRAND terms and conditions of licensing.

***SEP implementers to estimate the cost of standard integration in their products.***

The publication of the expected aggregate royalty and the standard licensing terms and conditions for a particular standard would facilitate SEP licensing and reduce the cost of SEP licensing. Thus, it is necessary to make public the information on total royalty rates (aggregate royalty) and the standard FRAND terms and conditions of licensing.

## Amendment 8

### Proposal for a regulation

#### Recital 16

##### *Text proposed by the Commission*

(16) SEP holders should have the opportunity to first inform the competence centre of the publication of the standard or the aggregate royalty which they have agreed upon among themselves. ***Except for those use cases of standards for which the Commission establishes that there are well established and broadly well-functioning licensing practices of SEPs,*** the competence centre may assist the parties in the relevant aggregate royalty determination. In this context, if there is no agreement on an aggregate royalty among SEP holders, certain SEP holders may request the competence centre to appoint a conciliator to assist the SEP holders willing to participate in the process in determining an aggregate royalty for the SEPs covering the relevant standard. In this case, the role of the conciliator would be to facilitate the decision-making by the participating SEP holders without making any recommendation for an aggregate royalty. Finally, it is important to ensure that there is a third independent party, an expert, that could recommend an aggregate royalty. Therefore, SEP holders ***and/or*** implementers should be able to request the competence centre for an expert opinion on

##### *Amendment*

(16) SEP holders should have the opportunity to first inform the competence centre of the publication of the standard ***for which they claim essentiality,*** or the aggregate royalty which they have agreed upon among themselves ***outside the standard development process.*** The competence centre may assist the parties in the relevant aggregate royalty determination. In this context, if there is no agreement on an aggregate royalty among SEP holders, certain SEP holders may request the competence centre to appoint a conciliator to assist the SEP holders willing to participate in the process in determining an aggregate royalty for the SEPs covering the relevant standard. In this case, the role of the conciliator would be to facilitate the decision-making by the participating SEP holders without making any recommendation for an aggregate royalty. Finally, it is important to ensure that there is a third independent party, an expert, that could recommend an aggregate royalty. Therefore, SEP holders ***and*** implementers should ***both*** be able to request the competence centre for an expert opinion on an aggregate royalty. When such a request is made, the competence centre should

an aggregate royalty. When such a request is made, the competence centre should appoint a panel of conciliators and administer a process in which all interested stakeholders are invited to participate. After receiving information from all of the participants, the panel should provide a non-binding expert opinion for an aggregate royalty. The expert opinion on the aggregate royalty should contain a non-confidential analysis of the expected impact of the aggregate royalty on the SEP holders and the stakeholders in the value chain. Important in this respect would be to consider factors such as, efficiency of SEP licensing, including insights from any customary rules or practices for licensing of intellectual property in the value chain and cross-licensing, and impact on incentives to innovate of SEP holders and different stakeholders in the value chain.

appoint a panel of conciliators and administer a process in which all interested stakeholders are invited to participate. After receiving information from all of the participants, the panel should provide a non-binding expert opinion for an aggregate royalty. The expert opinion on the aggregate royalty should contain a non-confidential analysis of the expected impact of the aggregate royalty on the SEP holders and the stakeholders in the value chain. Important in this respect would be to consider factors such as, efficiency of SEP licensing, including insights from any customary rules or practices for licensing of intellectual property in the value chain and cross-licensing, and impact on incentives to innovate of SEP holders and different stakeholders in the value chain.

## Amendment 9

### Proposal for a regulation Recital 18

*Text proposed by the Commission*

(18) Once a standard has been notified ***or an aggregate royalty is specified, whichever is made first***, the competence centre will open the registration of SEPs by holders of SEPs in force in one or more Member States.

*Amendment*

(18) Once a standard has been notified, the competence centre will open the registration of SEPs by holders of SEPs in force in one or more Member States.

## Amendment 10

### Proposal for a regulation Recital 20

*Text proposed by the Commission*

(20) SEP holders may register after the indicated time limit. However, in that case, SEP holders should not be able to ***collect***

*Amendment*

(20) SEP holders may register after the indicated time limit. However, in that case, SEP holders should not be able to ***license***

*royalties and claim damages* for the period of delay.

*or implement such SEPs or have any claim for infringements* for the period of delay. ***It should be without prejudice to SEPs licensed before the entry into force of this Regulation.***

## Amendment 11

### Proposal for a regulation Recital 23

#### *Text proposed by the Commission*

(23) A SEP holder may also request the modification of a SEP registration. An interested stakeholder may also request the modification of a SEP registration, if it can demonstrate that the registration is inaccurate based on a definitive decision by a public authority. A SEP can only be removed from the register at the request of the SEP holder, if the patent is expired, was invalidated or found non-essential by a final decision or ruling of a competent court of a Member State or found non-essential under this Regulation.

#### *Amendment*

(23) A SEP holder may also request the modification of a SEP registration. An interested stakeholder may also request the modification of a SEP registration, if it can demonstrate that the registration is inaccurate based on a definitive decision by a public authority. A SEP can only be removed from the register at the request of the SEP holder, if the patent is expired, was invalidated or found non-essential by a final decision or ruling of a competent court of a Member State or found non-essential under this Regulation. ***A record of any modifications to the SEP register should be made publicly available to maintain transparency.***

## Amendment 12

### Proposal for a regulation Recital 24

#### *Text proposed by the Commission*

(24) To further ensure the quality of the register and avoid over-registration, essentiality checks should also be conducted randomly by independent evaluators selected according to objective criteria to be determined by the Commission. Only one SEP from the same patent family should be checked for essentiality.

#### *Amendment*

(24) To further ensure the quality of the register and avoid over-registration, essentiality checks should also be conducted randomly ***and anonymously*** by independent ***and impartial*** evaluators selected according to objective criteria to be determined by the Commission. Only one SEP from the same patent family should be checked for essentiality.

## Amendment 13

### Proposal for a regulation Recital 25 a (new)

*Text proposed by the Commission*

*Amendment*

***(25 a) While advantages should be granted to micro, small and medium enterprises, the advantages made available to these enterprises should not be open for cases of misuses. In this regard, patent assertion entities may be characterised by an “obtain and assert” business model, with the purpose of generating revenues through licensing fees, royalties and damage compensation should not benefit from exemption under this Regulation.***

## Amendment 14

### Proposal for a regulation Recital 31

*Text proposed by the Commission*

*Amendment*

(31) The purpose of the FRAND commitment is to facilitate adoption and use of the standard by making SEPs available to implementers on fair ***and*** reasonable terms and to provide the SEP holder a fair and reasonable return for its innovation. Thus, the ultimate goal of enforcement actions by SEP holders or actions brought by implementers based on a SEP holder’s refusal to license should be to conclude a FRAND licence agreement. The main objective of the Regulation in this regard is to facilitate the negotiations and out of court dispute resolution that can benefit both parties. Ensuring access to swift, fair and cost-efficient ways of resolving disputes on FRAND terms and conditions should benefit SEP holders and implementers alike. As such, a properly

(31) The purpose of the FRAND commitment is to facilitate adoption and use of the standard by making SEPs available to implementers on fair reasonable ***and non-discriminatory*** terms and to provide the SEP holder a fair and reasonable return for its innovation. Thus, the ultimate goal of enforcement actions by SEP holders or actions brought by implementers based on a SEP holder’s refusal to license should be to conclude a FRAND licence agreement. The main objective of the Regulation in this regard is to facilitate the negotiations and out of court dispute resolution that can benefit both parties. Ensuring access to swift, fair and cost-efficient ways of resolving disputes on FRAND terms and conditions should benefit SEP holders and

functioning out-of-court dispute resolution mechanism to determine FRAND terms (FRAND determination) may offer significant benefits for all parties. A party may request a FRAND determination in order to demonstrate that its offer is FRAND or to provide a security, when they engage in good faith.

implementers alike. As such, a properly functioning out-of-court dispute resolution mechanism to determine FRAND terms (FRAND determination) may offer significant benefits for all parties. A party may request a FRAND determination in order to demonstrate that its offer is FRAND or to provide a security, when they engage in good faith.

## Amendment 15

### Proposal for a regulation Recital 32

#### *Text proposed by the Commission*

(32) The FRAND determination should simplify and speed up negotiations concerning FRAND terms and reduce costs. The EUIPO should administer the procedure. The competence centre should create a roster of conciliators that satisfy established competence and independence criteria, as well as a repository of non-confidential reports (the confidential version of the reports will be accessible only by the parties and the conciliators). The conciliators should be neutral persons with extensive experience in dispute resolution and substantial understanding of the economics of licensing on FRAND terms and conditions.

#### *Amendment*

(32) The FRAND determination should simplify and speed up negotiations concerning FRAND terms and reduce costs. The EUIPO should administer the procedure. The competence centre should create a roster of conciliators that satisfy established competence and independence criteria, as well as a repository of non-confidential reports (the confidential version of the reports will be accessible only by the parties and the conciliators). The conciliators should be neutral **and impartial** persons with extensive experience in dispute resolution and substantial understanding of the economics of licensing on FRAND terms and conditions.

## Amendment 16

### Proposal for a regulation Recital 33

#### *Text proposed by the Commission*

(33) The FRAND determination **would** be a mandatory step before a SEP holder would be able to initiate patent infringement proceedings or an

#### *Amendment*

(33) ***In case one or more parties initiate it***, the FRAND determination **should** be a mandatory step before a SEP holder would be able to initiate patent infringement

implementer could request a determination or assessment of FRAND terms and conditions concerning a SEP before a competent court of a Member State.

***However, the obligation to initiate FRAND determination before the relevant court proceedings should not be required for SEPs covering those use cases of standards for which the Commission establishes that there are no significant difficulties or inefficiencies in licensing on FRAND terms.***

proceedings or an implementer could request a determination or assessment of FRAND terms and conditions concerning a SEP before a competent court of a Member State. ***Therefore, before initiating any patent infringement proceedings or claims proceedings before an EU court, the parties should undertake a conciliation procedure to determine the FRAND terms and conditions. This conciliation procedure should not exceed 9 months and its outcome should not be binding.***

## Amendment 17

### Proposal for a regulation Recital 34

#### *Text proposed by the Commission*

(34) Each party may choose whether it wishes to engage in the procedure and commit to comply with its outcome. ***Where a party does not reply to the FRAND determination request or does not commit to comply with the outcome of the FRAND determination, the other party should be able to request either the termination or the unilateral continuation of the FRAND determination. Such a party should not be exposed to litigation during the time of the FRAND determination. At the same time, the FRAND determination should be an effective procedure for the parties to reach agreement before litigation or to obtain a determination to be used in further proceedings. Therefore, the party or parties that commit to complying with the outcome of the FRAND determination and duly engage in the procedure should be able to benefit from its completion.***

#### *Amendment*

(34) Each party may choose whether it wishes to engage in the procedure and commit to comply with its outcome. The FRAND determination should be an effective procedure for the parties to reach ***an agreement and settle any pending dispute*** or to obtain a determination to be used in further proceedings. Therefore, the party or parties that ***comply*** with the outcome of the FRAND determination and duly engage in the procedure should be able to benefit from its completion.

## Amendment 18



## Proposal for a regulation

### Recital 35

#### *Text proposed by the Commission*

(35) The obligation to initiate FRAND determination should not be detrimental to the effective protection of the parties' rights. ***In that respect, the party that commits to comply with the outcome of the FRAND determination while the other party fails to do so should be entitled to initiate proceedings before the competent national court pending the FRAND determination. In addition, either party should be able to request a provisional injunction of a financial nature before the competent court.*** In a situation where a FRAND commitment has been given by the relevant SEP holder, provisional injunctions of an adequate and proportionate financial nature should provide the necessary judicial protection to the SEP holder who has agreed to license its SEP on FRAND terms, while the implementer should be able to contest the level of FRAND royalties or raise a defence of lack of essentiality or of invalidity of the SEP. In those national systems that require the initiation of the proceedings on the merits of the case as a condition to request the interim measures of a financial nature, it should be possible to initiate such proceedings, but the parties should request that the case be suspended during the FRAND determination. When determining what level of the provisional injunction of financial nature is to be deemed adequate in a given case, account should be taken, inter alia, of the economic capacity of the applicant and the potential effects for the effectiveness of the measures applied for, in particular for SMEs, also in order to prevent the abusive use of such measures. It should also be clarified that once the FRAND determination is terminated, the whole range of measures, including provisional, precautionary and corrective measures,

#### *Amendment*

(35) The obligation to initiate FRAND determination should not be detrimental to the effective protection of the parties' rights. In a situation where a FRAND commitment has been given by the relevant SEP holder, provisional injunctions of an adequate and proportionate financial nature should provide the necessary judicial protection to the SEP holder who has agreed to license its SEP on FRAND terms, while the implementer should be able to contest the level of FRAND royalties or raise a defence of lack of essentiality or of invalidity of the SEP. In those national systems that require the initiation of the proceedings on the merits of the case as a condition to request the interim measures of a financial nature, it should be possible to initiate such proceedings, but the parties should request that the case be suspended during the FRAND determination. When determining what level of the provisional injunction of financial nature is to be deemed adequate in a given case, account should be taken, inter alia, of the economic capacity of the applicant and the potential effects for the effectiveness of the measures applied for, in particular for SMEs, ***microenterprises and start-ups***, also in order to prevent the abusive use of such measures. It should also be clarified that once the FRAND determination is terminated, the whole range of measures, including provisional, precautionary and corrective measures, should be available to parties.



should be available to parties.

## **Amendment 19**

### **Proposal for a regulation**

#### **Recital 37**

##### *Text proposed by the Commission*

(37) Upon appointment, the conciliation centre should refer the FRAND determination to the conciliator, who should examine whether the request contains the necessary information, and communicate the schedule of procedure to the parties ***or the party requesting the continuations of the FRAND determination.***

##### *Amendment*

(37) Upon appointment, the conciliation centre should refer the FRAND determination to the conciliator, who should examine whether the request contains the necessary information, and communicate the schedule of procedure to the parties.

## **Amendment 20**

### **Proposal for a regulation**

#### **Recital 40**

##### *Text proposed by the Commission*

(40) If a party initiates a procedure in a jurisdiction outside the Union resulting in legally binding and enforceable decisions regarding the same standard that is subject to FRAND determination and its implementation, or including SEPs from the same patent family as SEPs subject to FRAND determination and involving one or more of the parties to the FRAND determination as a party; before or during of the FRAND determination by a party, the conciliator, or where he/she has not been appointed has not been established, the competence centre, should be able to terminate the procedure upon the request of ***the other*** party.

##### *Amendment*

(40) If a party initiates a procedure in a jurisdiction outside the Union resulting in legally binding and enforceable decisions regarding the same standard that is subject to FRAND determination and its implementation, or including SEPs from the same patent family as SEPs subject to FRAND determination and involving one or more of the parties to the FRAND determination as a party; before or during of the FRAND determination by a party, the conciliator, or where he/she has not been appointed has not been established, the competence centre, should be able to terminate the procedure upon the request of ***any*** party.

## **Amendment 21**

**Proposal for a regulation**  
**Recital 45**

*Text proposed by the Commission*

(45) SEP licensing may cause friction in the value chains that have so far not been exposed to SEPs. It is, therefore, important that the competence centre raises awareness concerning SEP licensing in the value chain through any of the tools at its disposal. Other factors would include the ability of upstream manufacturers to pass the cost of a SEP licence downstream and any potential impact of existing indemnification clauses within a value chain.

*Amendment*

(45) SEP licensing may cause friction in the value chains that have so far not been exposed to SEPs. It is, therefore, important that the competence centre raises awareness concerning SEP licensing in the value chain through any of the tools at its disposal. Other factors would include the ability of upstream manufacturers to pass the cost of a SEP licence downstream and any potential impact of existing indemnification clauses within a value chain. ***The framework foreseen in this Regulation shall promote the EU's technological leadership in innovation.***

**Amendment 22**

**Proposal for a regulation**  
**Recital 46**

*Text proposed by the Commission*

(46) SMEs may be involved in SEP licensing both as SEP holders and implementers. While there are currently a few SME SEP holders, the efficiencies produced with this Regulation are likely to facilitate the licensing of their SEP. Additional conditions are necessary to relieve the cost burden on such SMEs such as reduced administration fees and potentially reduced fees for essentiality checks and conciliation in addition to free support and trainings. The SEPs of micro and small enterprises should not be the subject of sampling for essentiality check, but they should be able to propose SEPs for essentiality checks if they wish to. SME implementers should likewise benefit from reduced access fees and free support and trainings. Finally, SEP holders should be encouraged to incentivise licensing by SMEs through low volume discounts or

*Amendment*

(46) SMEs may be involved in SEP licensing both as SEP holders and implementers. While there are currently a few SME SEP holders, the efficiencies produced with this Regulation are likely to facilitate the licensing of their SEP. Additional conditions are necessary to relieve the cost burden on such SMEs such as reduced administration fees and potentially reduced fees for essentiality checks and conciliation in addition to free support and trainings. The SEPs of ***start-ups***, micro and small enterprises should not be the subject of sampling for essentiality check, but they should be able to propose SEPs for essentiality checks if they wish to. SME ***and start-up*** implementers should likewise benefit from reduced access fees and free support and trainings. Finally, SEP holders should be encouraged to incentivise licensing by SMEs through low

exemptions from FRAND royalties.

volume discounts or exemptions from FRAND royalties.

## Amendment 23

### Proposal for a regulation

#### Recital 47

##### *Text proposed by the Commission*

(47) In order to supplement certain non-essential elements of this Regulation, the power to adopt acts, in accordance with Article 290 of the Treaty on the Functioning of the European Union, should be delegated to the Commission in respect of the items to be entered in the register ***or in respect of determining the relevant existing standards or to identify use cases of standards or parts thereof for which the Commission establishes that there are no significant difficulties or inefficiencies in licensing on FRAND terms.*** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>44</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

---

<sup>44</sup> OJ L 123, 12.5.2016, p. 1.

##### *Amendment*

(47) In order to supplement certain non-essential elements of this Regulation, the power to adopt acts, in accordance with Article 290 of the Treaty on the Functioning of the European Union, should be delegated to the Commission in respect of the items to be entered in the register. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>44</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

---

<sup>44</sup> OJ L 123, 12.5.2016, p. 1.

## Amendment 24

**Proposal for a regulation**  
**Recital 48**

*Text proposed by the Commission*

(48) In order to ensure uniform conditions for the implementation of the relevant provisions of this Regulation, implementing powers should be conferred on the Commission to adopt the detailed requirements for the selection of evaluators and conciliators, as well as adopt the rules of procedure and Code of Conduct for evaluators and conciliators. The Commission should also adopt the technical rules for the selection of a sample of SEPs for essentiality checks and the methodology for the conduct of such essentiality checks by evaluators and peer evaluators. The Commission should also determine any administrative fees for its services in relation to the tasks under this Regulation and fees for the services evaluators, experts and conciliators, derogations thereof and payment methods and adapt them as necessary. ***The Commission should also determine the standards or parts thereof that have been published before the entry into force of this Regulation, for which SEPs can be registered.*** Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.<sup>45</sup>

---

<sup>45</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13.)

*Amendment*

(48) In order to ensure uniform conditions for the implementation of the relevant provisions of this Regulation, implementing powers should be conferred on the Commission to adopt the detailed requirements for the selection of evaluators and conciliators, as well as adopt the rules of procedure and Code of Conduct for evaluators and conciliators. ***Evaluators and conciliators should be, at all times, of good repute and possess sufficient knowledge, skills and experience to perform their duties.*** The Commission should also adopt the technical rules for the selection of a sample of SEPs for essentiality checks and the methodology for the conduct of such essentiality checks by evaluators and peer evaluators. The Commission should also determine any administrative fees for its services in relation to the tasks under this Regulation and fees for the services evaluators, experts and conciliators, derogations thereof and payment methods and adapt them as necessary. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.<sup>45</sup>

---

<sup>45</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13.)

**Amendment 25**

**Proposal for a regulation**  
**Article 1 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. This Regulation shall apply to patents that are essential to a standard that has been published by a standard development organisation, to which the SEP holder has made a commitment to license its SEPs on fair, reasonable and non-discriminatory (FRAND) terms and conditions and that *is* not subject to a royalty-free intellectual property policy,

*Amendment*

2. This Regulation shall apply to patents that are ***in force in one or more Member States and have been declared*** essential to a standard that has been published by a standard development organisation, to which the ***current SEP holder or a former*** SEP holder has made a commitment to license its SEPs on fair, reasonable and non-discriminatory (FRAND) terms and conditions and that ***are*** not subject to a royalty-free intellectual property policy.

**Amendment 26**

**Proposal for a regulation**

**Article 1 – paragraph 2 – point a**

*Text proposed by the Commission*

***(a) after the entry into force of this Regulation, with the exceptions provided in paragraph 3;***

*Amendment*

***deleted***

**Amendment 27**

**Proposal for a regulation**

**Article 1 – paragraph 2 – point b**

*Text proposed by the Commission*

***(b) before the entry into force of this Regulation, in accordance with Article 66.***

*Amendment*

***deleted***

**Amendment 28**

**Proposal for a regulation**

**Article 1 – paragraph 3**

*Text proposed by the Commission*

***3. Articles 17 and 18 and Article***

*Amendment*

***deleted***

*34(1) shall not apply to SEPs to the extent that they are implemented for use cases identified by the Commission in accordance with paragraph 4.*

## **Amendment 29**

### **Proposal for a regulation Article 1 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4.** *Where there is sufficient evidence that, as regards identified use cases of certain standards or parts thereof, SEP licensing negotiations on FRAND terms do not give rise to significant difficulties or inefficiencies affecting the functioning of the internal market, the Commission shall, after an appropriate consultation process, by means of a delegated act pursuant to Article 67, establish a list of such use cases, standards or parts thereof, for the purposes of paragraph 3.* **deleted**

## **Amendment 30**

### **Proposal for a regulation Article 1 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5.** *This Regulation shall apply to holders of SEP in force in one or more Member States.* **deleted**

## **Amendment 31**

### **Proposal for a regulation Article 2 – paragraph 1 – point 1**

*Text proposed by the Commission*

*Amendment*

(1) ‘standard essential patent’ or ‘SEP’ means any patent that is essential to a

(1) ‘standard essential patent’ or ‘SEP’ means any patent that is **declared to be**

standard;

essential to a standard;

## Amendment 32

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 2

##### *Text proposed by the Commission*

(2) ‘essential to a standard’ means that the patent ***contains*** at least one claim for which it is not possible on technical grounds to make or use an implementation or method which complies with a standard, including options therein, without infringing the patent under the current state of the art and normal technical practice;

##### *Amendment*

(2) ‘essential to a standard’ means that the patent ***declared to contain*** at least one claim for which it is not possible on technical grounds to make or use an implementation or method which complies with a ***published*** standard, including options therein, without infringing the patent under the current state of the art and normal technical practice;

## Amendment 33

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7

##### *Text proposed by the Commission*

(7) ‘implementer’ means a natural or legal person that implements, or intends to implement, a standard in a product, process, service or system;

##### *Amendment*

(7) ‘implementer’ means a natural or legal person that implements, or intends to implement, a standard in a product, process, service or system ***on the European Union market***;

## Amendment 34

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 11

##### *Text proposed by the Commission*

(11) ‘patent pool’ means an entity created by an agreement between two or more SEP holders to license one or more of their patents to one another or to third parties;

##### *Amendment*

(11) ‘patent pool’ means an entity created by an agreement ***or consortium*** between two or more SEP holders to license one or more of their patents to one another or to third parties, ***on an ongoing basis***;

## Amendment 35

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 18 a (new)

*Text proposed by the Commission*

*Amendment*

***(18 a) ‘patent assertion entity’ means an entity that derives its revenue from the enforcement or licensing of patents, including any damages or monetary awards from the assertion of such patents, and that does not engage in the production, manufacture, sale, or distribution of goods or services utilising the patented inventions or in the research and development of such inventions, that is not an educational or research institution, or a technology transfer organisation facilitating the commercialisation of technological innovations generated by them, and that is not an individual inventor asserting patents originally granted to that inventor or patents that cover technologies originally developed by that inventor.***

## Amendment 36

### Proposal for a regulation

#### Article 2 a (new)

*Text proposed by the Commission*

*Amendment*

#### ***Article 2 a***

#### ***Obligation to license on FRAND terms and conditions***

***Holders of patents essential to a standard within the scope of this Regulation pursuant to Article 1(2) shall not refuse a licence in an unfounded way to any party willing to accept licence based FRAND terms and conditions.***



## Amendment 37

### Proposal for a regulation

#### Article 3 – paragraph 2 – point a

*Text proposed by the Commission*

(a) set up and maintain an electronic register and an electronic database for SEPs;

*Amendment*

(a) set up and maintain an electronic register and an electronic database for SEPs ***complying with the General Data Protection Regulation***;

## Amendment 38

### Proposal for a regulation

#### Article 3 – paragraph 2 – point c

*Text proposed by the Commission*

(c) set up and administer a system for assessment of the essentiality of SEPs;

*Amendment*

(c) set up and administer a system for assessment of the essentiality of SEPs ***based on explicit and verifiable criteria***;

## Amendment 39

### Proposal for a regulation

#### Article 3 – paragraph 2 – point f

*Text proposed by the Commission*

(f) administer a process for aggregate royalty determination;

*Amendment*

(f) administer a process for ***facilitating agreements on*** aggregate royalty determination;

## Amendment 40

### Proposal for a regulation

#### Article 3 – paragraph 2 – point h

*Text proposed by the Commission*

(h) provide training, support and general advice on SEPs to SMEs;

*Amendment*

(h) provide training, support and general advice on SEPs, ***in particular*** to SMEs, ***microenterprises and start-ups***;

## Amendment 41

### Proposal for a regulation

#### Article 3 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3 a. The competence centre shall be equipped with the right expertise and resources and coordinated with both regional and global IP organisations, such as the European Patent Organisation and the World Intellectual Property Organisation.**

## Amendment 42

### Proposal for a regulation

#### Article 4 – paragraph 3 – point i

*Text proposed by the Commission*

*Amendment*

(i) the existence of any public standard terms and conditions for SEP licensing to SMEs;

(i) the existence of any public standard terms and conditions for SEP licensing to SMEs, **microenterprises and start-ups**;

## Amendment 43

### Proposal for a regulation

#### Article 4 – paragraph 4 – point c

*Text proposed by the Commission*

*Amendment*

(c) information on **whether** an essentiality check or peer evaluation **have been** performed and **reference to** the result;

(c) **any** information on an essentiality check or peer evaluation performed **before the registration** and the result **of the essentiality check**;

## Amendment 44

### Proposal for a regulation

#### Article 4 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4 a. Prior to registering their patents, SEP holders may voluntarily submit their SEPs for essentiality checking to the competence centre, which may accept or refuse to do so.**

## **Amendment 45**

### **Proposal for a regulation Article 5 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The competence centre shall establish and maintain an electronic database for SEPs.

1. The competence centre shall establish and maintain an electronic database for SEPs, ***complying with the General Data Protection Regulation.***

## **Amendment 46**

### **Proposal for a regulation Article 5 – paragraph 2 – introductory part**

*Text proposed by the Commission*

*Amendment*

2. The following information in the database shall be accessible to any third party subject to the registration with the competence centre:

2. The following information in the database shall be accessible to any third party, ***including courts and other public authorities,*** subject to the registration with the competence centre:

## **Amendment 47**

### **Proposal for a regulation Article 5 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) public standard terms and conditions for SEP licensing to SMEs pursuant to Article 62(1), if available;

(c) public standard terms and conditions for SEP licensing to SMEs, ***microenterprises and start-ups*** pursuant to Article 62(1), if available;

## Amendment 48

### Proposal for a regulation

#### Article 5 – paragraph 2 – point d

*Text proposed by the Commission*

(d) information regarding known products, processes, services or systems and implementations pursuant to Article 7, ***first paragraph, point (b)***;

*Amendment*

(d) information regarding known products, processes, services or systems and implementations ***and where available projected pricing, expected sales volumes and any other relevant market data*** pursuant to Article 7;

## Amendment 49

### Proposal for a regulation

#### Article 5 – paragraph 2 – point k

*Text proposed by the Commission*

(k) the date and the grounds for removal of the SEP from the database pursuant to Article 25;

*Amendment*

(k) the date and the grounds for removal of the SEP from the database pursuant to Article 25, ***and a record of all relevant information on the removed SEP***;

## Amendment 50

### Proposal for a regulation

#### Article 5 – paragraph 3

*Text proposed by the Commission*

3. Access to the information pursuant to paragraph (2), points (f), (h), (i), (j) and (k) may be subject to the payment of a fee.

*Amendment*

3. Access to the information pursuant to paragraph (2), points (f), (h), (i), (j) and (k) may be subject to the payment of a fee ***where justified***.

## Amendment 51

### Proposal for a regulation

#### Article 6 – paragraph 1

*Text proposed by the Commission*

1. When a party requests that data and documents of the database be kept confidential, that party shall provide a non-confidential version of the information submitted in confidence in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. The competence centre may disclose that non-confidential version.

*Amendment*

1. When a party requests that data and documents of the database be kept confidential, that party shall provide **a reasoned statement justifying this confidentiality and** a non-confidential version of the information submitted in confidence in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. The competence centre may disclose that non-confidential version.

**Amendment 52**

**Proposal for a regulation**

**Article 7 – paragraph 1 – introductory part**

*Text proposed by the Commission*

**A SEP** holder shall provide to the competence centre the following information:

*Amendment*

**Any holder of a patent in force in one or more Member States and which is essential to a standard for which FRAND commitments have been made** shall provide to the competence centre the following information:

**Amendment 53**

**Proposal for a regulation**

**Article 7 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) information as regards the products, processes, services or systems in which the subject-matter of the SEP may be incorporated or to which it is intended to be applied, for all existing or potential implementations of a standard, to the extent such information is known to the SEP holder.

*Amendment*

(a) information as regards the products, processes, services or systems in which the subject-matter of the SEP may be incorporated or to which it is intended to be applied, for all existing or potential implementations of a standard, to the extent **and as soon as** such information is known to the SEP holder.

## Amendment 54

### Proposal for a regulation

#### Article 7 – paragraph 1 – point b

*Text proposed by the Commission*

(b) where available, its standard terms and conditions for SEP licensing, including its royalty and discount policies, within 7 months from the opening of the registration for the ***relevant standard and implementation*** by the competence centre.

*Amendment*

(b) where available, its standard terms and conditions for SEP licensing, including its royalty and discount policies, within 7 months from the opening of the registration for the ***SEP*** by the competence centre.

## Amendment 55

### Proposal for a regulation

#### Article 7 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***A SEP implementer may also voluntarily provide the competence centre with information regarding the products, processes, services or systems in which the subject-matter of the SEP may be incorporated or to which it is intended to be applied, as well as projected pricing, expected sales volumes and any other relevant market data.***

## Amendment 56

### Proposal for a regulation

#### Article 8 – paragraph 1 – introductory part

*Text proposed by the Commission*

***A SEP*** holder shall provide to the competence centre the following information to be included in the database and referenced in the register:

*Amendment*

***Any holder of a patent in force in one or more Member States and which is essential to a standard for which FRAND commitments have been made*** shall provide to the competence centre the following information to be included in the database and referenced in the register:

## Amendment 57

### Proposal for a regulation

#### Article 8 – paragraph 1 – point b

*Text proposed by the Commission*

(b) any essentiality check prior to [OJ: please insert the date = 24 months from entry into force of this regulation] by an independent evaluator in the context of a pool, identifying the SEP registration number, the identity of the patent pool and its administrator, and the evaluator.

*Amendment*

(b) any essentiality check prior to [OJ: please insert the date = 24 months from entry into force of this regulation] by an independent evaluator in the context of a pool, identifying the SEP registration number, the identity of the patent pool and its administrator, and the evaluator;

## Amendment 58

### Proposal for a regulation

#### Article 8 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(b a) any information on essentiality check or peer evaluation performed before the registration of the standard essential patent as described under Article 4(4)(c).***

## Amendment 59

### Proposal for a regulation

#### Article 9 – paragraph 1 – point g

*Text proposed by the Commission*

(g) list of products, services and processes that may be licensed through the patent pool ***or the entity***;

*Amendment*

(g) list of products, services and processes that may be licensed through the patent pool;

## Amendment 60

### Proposal for a regulation

#### Article 9 – paragraph 1 – point h

*Text proposed by the Commission*

(h) royalties and discount policy per product category;

*Amendment*

(h) royalties, ***including, if applicable, aggregate royalty retained and detailed, per SEP owner in the pool, their method of calculation*** and discount policy per product category;

## **Amendment 61**

### **Proposal for a regulation**

#### **Article 9 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. By way of derogation from paragraph 1, patent pools, in case of confidentiality agreements and confidential procedures, shall provide the protected information directly to the competence centre.***

## **Amendment 62**

### **Proposal for a regulation**

#### **Article 9 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. The competence centre shall verify and report on the accuracy of the information published by patent pools in accordance with paragraph 1 on a regular basis and at least once a year, based on a publicly available methodology ensuring thorough, transparent and consistent verification.***

## **Amendment 63**

### **Proposal for a regulation**

#### **Article 11 – paragraph 1**



*Text proposed by the Commission*

1. Persons involved in alternative dispute resolution proceedings concerning SEPs in force in a Member State shall disclose to the competence centre within **6** months from the termination of the procedure the standards and the implementations concerned, the methodology used for the calculation of FRAND terms and conditions, information on the name of the parties, and on specific licensing rates determined.

*Amendment*

1. Persons involved in alternative dispute resolution proceedings concerning SEPs in force in a Member State shall disclose to the competence centre within **4** months from the termination of the procedure the standards and the implementations concerned, the methodology used for the calculation of FRAND terms and conditions, information on the name of the parties, and on specific licensing rates determined.

**Amendment 64**

**Proposal for a regulation  
Article 12 – paragraph 2**

*Text proposed by the Commission*

2. Any person may provide the competence centre with such information as well as information on updates, corrections and public consultations. The competence centre shall ***publish*** that information in the database.

*Amendment*

2. Any person may provide the competence centre with such information as well as information on updates, corrections and public consultations. The competence centre shall ***verify as far as possible*** that information ***before publishing it*** in the database.

**Amendment 65**

**Proposal for a regulation  
Article 13 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(c a) informing the public and any interested parties of the existence of standards, with easily accessible research tools;***

**Amendment 66**

## Proposal for a regulation

### Article 14 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. Holders of a patent in force in one or more Member States which is essential to a standard for which FRAND commitments have been made shall notify to the competence centre, ***where possible through the standard development organisation or*** through a joint notification, the following information:

*Amendment*

1. Holders of a patent in force in one or more Member States which is ***declared to be*** essential to a standard for which FRAND commitments have been made shall notify to the competence centre, through a joint notification, the following information:

## Amendment 67

## Proposal for a regulation

### Article 14 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4 a. Any implementer or any holder, of a SEP in force in one or more Member State that is declared to be essential to a standard that has been published before the entry into force of this Regulation, in the absence of notification under paragraph (1), (3) or under paragraph (4), may notify, to the competence centre the information referred to in paragraph (1).***

## Amendment 68

## Proposal for a regulation

### Article 14 – paragraph 5

*Text proposed by the Commission*

5. The competence centre shall also notify the relevant standard development organisation of the publication. In case of notification pursuant to paragraphs (3) and (4), it shall also notify, where possible, known SEP holders individually ***or request confirmation from the standard***

*Amendment*

5. The competence centre shall also notify the relevant standard development organisation of the publication. In case of notification pursuant to paragraphs (3) and (4), it shall also notify, where possible, known SEP holders individually.

*development organisation that it has duly notified the SEP holders.*

## **Amendment 69**

### **Proposal for a regulation Article 14 – paragraph 6**

*Text proposed by the Commission*

6. The competence centre shall publish on the EUIPO website the notifications made pursuant to paragraphs (1), (3) **and (4)** for comments by stakeholders. Stakeholders may submit their comments to the competence centre within 30 days from the publication of the list.

*Amendment*

6. The competence centre shall publish on the EUIPO website the notifications made pursuant to paragraphs (1), (3), **(4) and (4a)** for comments by stakeholders. Stakeholders may submit their comments to the competence centre within 30 days from the publication of the list.

## **Amendment 70**

### **Proposal for a regulation Article 17 – paragraph 1**

*Text proposed by the Commission*

1. Holders of SEPs in force in one or more Member States ***representing at least 20 % of all SEPs of a standard*** may request the competence centre to appoint a conciliator from the roster of conciliators to mediate the discussions for a joint submission of an aggregate royalty.

*Amendment*

1. Holders of SEPs in force in one or more Member States may request the competence centre to appoint a conciliator from the roster of conciliators to mediate the discussions for a joint submission of an aggregate royalty.

## **Amendment 71**

### **Proposal for a regulation Article 17 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2 a. In case of a standard published before the entry into force of this Regulation the request referred to in paragraph (1) of this Article may be made***

*no later than 150 days following the publication by the competence centre of the information pursuant to Article 14(7).*

## Amendment 72

### Proposal for a regulation

#### Article 17 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4 a.** *The competence centre shall publish a call for expression of interest to invite other holders of SEPs for the standard, current implementers and implementers intending to place products with the standard on the market to participate in the process.*

## Amendment 73

### Proposal for a regulation

#### Article 17 – paragraph 5

*Text proposed by the Commission*

*Amendment*

5. The competence centre shall appoint a conciliator from the roster of conciliators and inform all SEP holders that expressed interest to participate in the process.

5. The competence centre shall appoint a conciliator from the roster of conciliators and inform all SEP holders **and implementers** that expressed interest to participate in the process.

## Amendment 74

### Proposal for a regulation

#### Article 17 – paragraph 6

*Text proposed by the Commission*

*Amendment*

6. SEP holders that submit to the conciliator confidential information shall provide a non-confidential version of the information submitted in confidence in sufficient detail to permit a reasonable understanding of the substance of the

6. SEP holders **and implementers** that submit to the conciliator confidential information shall provide a non-confidential version of the information submitted in confidence in sufficient detail to permit a reasonable understanding of the

information submitted in confidence.

substance of the information submitted in confidence.

## Amendment 75

### Proposal for a regulation Article 17 – paragraph 7

#### *Text proposed by the Commission*

7. Where the SEP holders fail to make **a** joint notification within 6 months from the appointment of the conciliator, the conciliator shall terminate the process.

#### *Amendment*

7. Where the SEP holders fail to make ***an agreement regarding the joint notification submission of an aggregate royalty*** within 6 months from the appointment of the conciliator, the conciliator shall terminate the process.

## Amendment 76

### Proposal for a regulation Article 17 – paragraph 8

#### *Text proposed by the Commission*

8. If the **contributors** agree on a joint notification, the procedure set out in Article 15(1), (2) and (4) shall apply.

#### *Amendment*

8. If the **SEP holders** agree on a joint notification, the procedure set out in Article 15(1), (2) and (4) shall apply.

## Amendment 77

### Proposal for a regulation Article 18 – paragraph 1

#### *Text proposed by the Commission*

1. A SEP holder or an implementer may request the competence centre for a non-binding expert opinion on **a global** aggregate royalty.

#### *Amendment*

1. A SEP holder or an implementer may request the competence centre for a non-binding expert opinion on ***an*** aggregate royalty. ***An implementer shall be able to make this request, even if an agreement amongst SEP holders had already been reached, including through the procedure described in Article 15 to 17.***

## Amendment 78

### Proposal for a regulation

#### Article 18 – paragraph 2 – introductory part

*Text proposed by the Commission*

2. The request referred to in paragraph (1) shall be made no later than 150 days after:

*Amendment*

2. The request ***made by a SEP holder as*** referred to in paragraph (1) shall be made no later than 150 days after:

## Amendment 79

### Proposal for a regulation

#### Article 18 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2 a. In the case of a standard published before the entry into force of this Regulation, the request referred to in paragraph (1) shall be made no later than 150 days following the publication by the competence centre of the information pursuant to Article 14(7).***

## Amendment 80

### Proposal for a regulation

#### Article 18 – paragraph 3 – point d a (new)

*Text proposed by the Commission*

*Amendment*

***(d a) description of the final product in which it should be implemented.***

## Amendment 81

### Proposal for a regulation

#### Article 18 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. The competence centre shall notify ***the relevant standard development***

4. The competence centre shall notify all known stakeholders of the request. It

**organisation and** all known stakeholders of the request. It shall publish the request on EUIPO's website and invite stakeholders to express interest in participating in the process within 30 days from the day when the request was published.

shall publish the request on EUIPO's website and invite stakeholders to express interest in participating in the process within 30 days from the day when the request was published.

## Amendment 82

### Proposal for a regulation Article 18 – paragraph 5

#### *Text proposed by the Commission*

5. Any stakeholder may request to participate in the process after explaining the basis of its interest. SEP holders shall provide their estimated percentage of those SEPs of all SEPs for a standard. Implementers shall provide information on any relevant implementations of the standard, including any relevant market share in the Union.

#### *Amendment*

5. Any stakeholder may request to participate in the process after explaining the basis of its interest. SEP holders shall provide their estimated percentage of those SEPs of all SEPs for a standard. Implementers shall provide information on any relevant **current or potential** implementations of the standard, including any relevant market share in the Union.

## Amendment 83

### Proposal for a regulation Article 18 – paragraph 6

#### *Text proposed by the Commission*

6. If the requests for participation include SEP holders representing collectively **at least an estimated 20% of** all SEPs for the standard, **and** implementers **holding collectively at least 10% relevant market share in the Union** or at least **10 SMEs**, the competence centre shall appoint a panel of three conciliators selected from the roster of conciliators **with the appropriate background from** the relevant field of technology.

#### *Amendment*

6. If the requests for participation include **at least 5** SEP holders representing collectively all SEPs for the standard, **or a minimum of 3** implementers or at least **5 SMEs or start-ups**, the competence centre shall appoint a panel of three conciliators selected from the roster of conciliators **having appropriate experience in** the relevant field of technology.

## Amendment 84

**Proposal for a regulation**

**Article 18 – paragraph 8 – introductory part**

*Text proposed by the Commission*

8. Following the appointment, the panel shall request the participating SEP holders to, ***within one month***:

*Amendment*

8. ***Within one month*** following the appointment, the panel shall request the participating SEP holders, ***as well as the participating implementers or the non-participants***, to:

**Amendment 85**

**Proposal for a regulation**

**Article 18 – paragraph 8 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(b a) provide any evidence or observations to assist the panel in determining an opinion on aggregate royalty.***

**Amendment 86**

**Proposal for a regulation**

**Article 18 – paragraph 11**

*Text proposed by the Commission*

*Amendment*

11. ***The*** expert opinion shall include a summary of the information provided in the request, the information referred to in Article 15(2), the names of the conciliators, the procedure, the reasons for the opinion on the aggregate royalty and the underlying methodology. The reasons for any divergent views shall be specified in an annex to the expert opinion.

11. ***The*** expert opinion shall include ***the recommended aggregate royalty rate***, a summary of the information provided in the request, the information referred to in Article 15(2), the names of the conciliators, the procedure, the reasons for the opinion on the aggregate royalty and the underlying methodology. The reasons for any divergent views shall be specified in an annex to the expert opinion.

**Amendment 87**



## Proposal for a regulation

### Article 19 – paragraph 1 – introductory part

#### *Text proposed by the Commission*

1. The competence centre shall create an entry in the register for a standard for which FRAND commitments have been made within 60 days from the earliest of the following events:

#### *Amendment*

1. The competence centre shall create an entry in the register for a standard ***or part thereof***, for which FRAND commitments have been made within 60 days from the earliest of the following events:

## Amendment 88

### Proposal for a regulation

#### Article 19 – paragraph 1 – point a

#### *Text proposed by the Commission*

(a) publication by the competence centre of the ***standard and related*** information pursuant to Article 14(7);

#### *Amendment*

(a) publication by the competence centre of the information pursuant to Article 14(7);

## Amendment 89

### Proposal for a regulation

#### Article 19 – paragraph 2

#### *Text proposed by the Commission*

2. The competence centre shall publish a notice on the EUIPO website informing stakeholders that an entry in the register has been made and refer to the publications referred to in paragraph (1). The competence centre shall notify known SEP holders individually by electronic means ***and the relevant standard development organisation*** of the notice in this paragraph.

#### *Amendment*

2. The competence centre shall publish a notice on the EUIPO website informing stakeholders that an entry in the register has been made and refer to the publications referred to in paragraph (1). The competence centre shall notify known SEP holders individually by electronic means of the notice in this paragraph.

## Amendment 90

### Proposal for a regulation

#### Article 20 – paragraph 1

*Text proposed by the Commission*

1. Upon request of a SEP holder the competence centre shall register any ***patent*** in force in one or more Member States ***and falling within the scope of this Regulation that is essential for a standard***, for which the competence centre has published a notice pursuant to Article 19(2).

*Amendment*

1. Upon request of a SEP holder the competence centre shall register any ***SEP*** in force in one or more Member States for which the competence centre has published a notice pursuant to Article 19(2).

**Amendment 91**

**Proposal for a regulation  
Article 22 – paragraph 1**

*Text proposed by the Commission*

1. A sample of SEP registrations ***shall be checked annually for*** completeness and correctness.

*Amendment*

1. ***Annually, the EUIPO shall check*** a sample of SEP registrations ***in order to verify their*** completeness and correctness.

**Amendment 92**

**Proposal for a regulation  
Article 22 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4 a. If the SEP has been suspended from the register pursuant to paragraph 4, the date of registration shall be the date when the incompleteness or inaccuracy has been effectively and completely remedied.***

**Amendment 93**

**Proposal for a regulation  
Article 24 – paragraph 2**

*Text proposed by the Commission*

2. A SEP holder that has not registered its SEPs within the time-limit set

*Amendment*

2. A SEP holder that has not registered its SEPs within the time-limit set

out in Article 20(3) shall not be entitled to ***receive royalties or seek damages for infringement*** of such SEPs in relation to the implementation of the standard for which registration is required, from the time-limit set out in Article 20(3) until its registration in the register.

out in Article 20(3) shall not be entitled to ***have no claim for infringements*** of such SEPs in relation to the implementation of the standard for which registration is required, from the time-limit set out in Article 20(3) until its registration in the register.

## **Amendment 94**

### **Proposal for a regulation**

#### **Article 24 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2 a. Paragraphs (1) and (2) are without prejudice to provisions included in contracts setting a royalty for patents declared to be essential to a standard concluded and applied before the entry into force of this Regulation.***

## **Amendment 95**

### **Proposal for a regulation**

#### **Article 24 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. Paragraphs (1) and (2) are without prejudice to provisions included in contracts setting a royalty for a broad portfolio of patents, present or future, stipulating that the invalidity, non-essentiality or unenforceability of a limited number thereof shall not affect the overall amount and enforceability of the royalty or other terms and conditions of the contract.***

***deleted***

## **Amendment 96**

### **Proposal for a regulation**

#### **Article 25 – paragraph 3**

*Text proposed by the Commission*

3. The competence centre shall remove the SEP from the register and the database.

*Amendment*

3. The competence centre shall remove the SEP from the register and the database. ***The competence centre shall maintain and make publicly available information on any SEP that had been removed from the register.***

**Amendment 97**

**Proposal for a regulation  
Article 26 – paragraph 4**

*Text proposed by the Commission*

4. The competence centre shall appoint [10] evaluators from the roster of evaluators as peer evaluators for a period of [three] years.

*Amendment*

4. The competence centre shall appoint [10] evaluators from the roster of evaluators as peer evaluators for a period of [three] years ***that shall act in anonymity.***

**Amendment 98**

**Proposal for a regulation  
Article 26 – paragraph 5 – introductory part**

*Text proposed by the Commission*

5. By [OJ: please insert the date = 18 months from entry into force of this regulation], the Commission shall by means of an implementing act adopted in accordance with the examination procedure referred to in , lay down the practical and operational arrangements concerning:

*Amendment*

5. By [OJ: please insert the date = 18 months from entry into force of this regulation], the Commission shall by means of an implementing act adopted in accordance with the examination procedure referred to in ***Article 68(2)***, lay down the practical and operational arrangements concerning:

**Amendment 99**

**Proposal for a regulation  
Article 26 – paragraph 5 – point a**

*Text proposed by the Commission*

- (a) the requirements for evaluators or conciliators, including a Code of Conduct;

*Amendment*

- (a) the requirements for evaluators or conciliators, including a Code of Conduct ***and necessary qualifications, experience, and criteria for impartiality;***

**Amendment 100**

**Proposal for a regulation**

**Article 27 – paragraph 1**

*Text proposed by the Commission*

1. The competence centre shall conduct a procedure of selecting candidates based on the requirements established in the implementing act referred to in Article 26(5).

*Amendment*

1. The competence centre shall conduct a ***transparent*** procedure of selecting candidates based on the requirements established in the implementing act referred to in Article 26(5).

**Amendment 101**

**Proposal for a regulation**

**Article 27 – paragraph 2**

*Text proposed by the Commission*

2. The competence centre shall establish a roster of ***suitable*** candidates for evaluators or conciliators. There may be different rosters of evaluators and conciliators depending on the technical area of their specialisation or expertise.

*Amendment*

2. The competence centre shall establish a roster of ***qualified, experienced and impartial*** candidates for evaluators or conciliators. There may be different rosters of evaluators and conciliators depending on the technical area of their specialisation or expertise.

**Amendment 102**

**Proposal for a regulation**

**Article 28 – paragraph 2**

*Text proposed by the Commission*

2. The essentiality check shall be

*Amendment*

2. The essentiality check shall be

conducted by an evaluator selected pursuant to Article 27. Evaluators shall conduct essentiality checks of registered SEPs for the standard for which they are registered.

conducted by an evaluator selected pursuant to Article 27. Evaluators shall conduct essentiality checks of registered SEPs for the standard for which they are registered. ***The essentiality check shall not be conducted before the adoption of the standard to which the patents is declared to be essential.***

## Amendment 103

### Proposal for a regulation Article 29 – paragraph 1

#### *Text proposed by the Commission*

1. The competence centre shall select annually a sample of registered SEPs from different patent families from each SEP holder and with regard to each specific standard in the register for essentiality checks. Registered SEPs of micro and small enterprises shall be excluded from the annual sampling process. The checks shall be conducted based on a methodology that ensures the establishment of a fair and statistically valid selection that can produce sufficiently accurate results about the essentiality rate in all registered SEPs of a SEP holder with regard to each specific standard in the register. By [OJ: please insert the date = 18 months from entry into force of this regulation] the Commission shall, by means of an implementing act, determine the detailed methodology. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 68(2).

#### *Amendment*

1. The competence centre shall select annually a sample of registered SEPs from different patent families from each SEP holder and with regard to each specific standard in the register for essentiality checks. Registered SEPs of micro and small enterprises shall be excluded from the annual sampling process, ***unless they are a patent assertion entity or directly or indirectly controlled by a legal person that does not satisfy the definition of a micro or small enterprise.*** The checks shall be conducted based on a methodology that ensures the establishment of a fair and statistically valid selection that can produce sufficiently accurate results about the essentiality rate in all registered SEPs of a SEP holder with regard to each specific standard in the register. By [OJ: please insert the date = 18 months from entry into force of this regulation] the Commission shall, by means of an implementing act, determine the detailed methodology. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 68(2).

## Amendment 104

**Proposal for a regulation**  
**Article 29 – paragraph 2**

*Text proposed by the Commission*

2. The competence centre shall notify the SEP holders about the SEPs selected for essentiality checks. Within the time limit established by the competence centre, the SEP holders may submit within the same time period ***a claim chart with a maximum amount of five correspondences between the SEP and the relevant standard***, any additional technical information that may facilitate the essentiality check and translations of the patent requested by the competence centre.

**Amendment 105**

**Proposal for a regulation**  
**Article 29 – paragraph 4**

*Text proposed by the Commission*

4. If a SEP selected for essentiality check was already the subject of a previous or ongoing essentiality check pursuant to This title or of an essentiality decision or check ***referred to in Article 8***, no additional essentiality check shall be done. The result from the previous essentiality check or decision shall be used for the determination of the percentage of sampled per SEP holder and per specific registered standard that has passed successfully the essentiality check.

**Amendment 106**

**Proposal for a regulation**  
**Article 29 – paragraph 4 a (new)**

*Amendment*

2. The competence centre shall notify the SEP holders about the SEPs selected for essentiality checks. Within the time limit established by the competence centre, the SEP holders may submit within the same time period any additional technical information that may facilitate the essentiality check and translations of the patent requested by the competence centre.

*Amendment*

4. If a SEP selected for essentiality check was already the subject of a previous or ongoing essentiality check pursuant to this Title or of an essentiality decision or check ***performed, in good faith, by an independent evaluator in the context of a patent pool***, no additional essentiality check shall be done, ***if verified the criteria foreseen in Article 29 (4a)***. The result from the previous essentiality check or decision shall be used for the determination of the percentage of sampled per SEP holder and per specific registered standard that has passed successfully the essentiality check.

*Text proposed by the Commission*

*Amendment*

**4 a. Patent pools shall transmit to the competence centre all the information about the methodology of the essentiality check and the criteria used for the selection of the evaluators.**

## **Amendment 107**

### **Proposal for a regulation Article 31 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The evaluator may invite the SEP holder concerned to file observations, within a period to be fixed by the evaluator.

2. The evaluator may invite the SEP holder **or implementer** concerned to file observations, within a period to be fixed by the evaluator.

## **Amendment 108**

### **Proposal for a regulation Article 32 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

6. The competence centre shall notify the final reasoned opinion to the SEP holder.

6. The competence centre shall notify the final reasoned opinion to the SEP holder **and all other parties which have provided observations or evidence.**

## **Amendment 109**

### **Proposal for a regulation Article 33 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The competence centre shall enter the result of the essentiality check or of the peer evaluation in the register and the reasoned opinion and final reasoned opinion in the database. The result of the

1. The competence centre shall enter the result of the essentiality check or of the peer evaluation in the register and the reasoned opinion and final reasoned opinion in the database. The result of the



essentiality check under this Regulation shall be valid for all SEPs from the same patent family.

essentiality check under this Regulation shall be valid for all **relevant** SEPs from the same patent family.

## Amendment 110

### Proposal for a regulation

#### Article 34 – paragraph 1 – introductory part

##### *Text proposed by the Commission*

1. The FRAND determination in respect of ***a standard and implementation*** for which an entry in the register has been created, shall be initiated by any of the following persons:

##### *Amendment*

1. The FRAND determination in respect of ***any standards and implementations*** for which an entry in the register has been created, shall be initiated by any of the following persons:

## Amendment 111

### Proposal for a regulation

#### Article 34 – paragraph 4

##### *Text proposed by the Commission*

4. The obligation to initiate FRAND determination pursuant to paragraph 1 prior to the court proceedings is without prejudice to the possibility for either party to request, pending the FRAND determination, the competent court of a Member State to issue a provisional injunction ***of a financial nature*** against the alleged infringer. ***The provisional injunction shall exclude the seizure of property of the alleged infringer and the seizure or delivery up of the products suspected of infringing a SEP.*** Where national law provides that the provisional injunction of a financial nature can only be requested where a case is pending on the merits, either party may bring a case on the merits before the competent court of a Member State for that purpose. However, the parties shall request the competent court of a Member State to suspend the proceedings on the merits for the duration

##### *Amendment*

4. The obligation to initiate FRAND determination pursuant to paragraph 1 prior to the court proceedings is without prejudice to the possibility for either party to request, pending the FRAND determination, the competent court of a Member State to issue a provisional injunction against the alleged infringer. Where national law provides that the provisional injunction of a financial nature can only be requested where a case is pending on the merits, either party may bring a case on the merits before the competent court of a Member State for that purpose. However, the parties shall request the competent court of a Member State to suspend the proceedings on the merits for the duration of the FRAND determination. In deciding whether to grant the provisional injunction, the competent court of a Member States shall consider that a procedure for FRAND determination is

of the FRAND determination. In deciding whether to grant the provisional injunction, the competent court of a Member States shall consider that a procedure for FRAND determination is ongoing.

ongoing.

## Amendment 112

### Proposal for a regulation Article 37 – paragraph 1

#### *Text proposed by the Commission*

1. Unless otherwise agreed by the parties, the period from the date of the submission of the request to continue the FRAND determination in accordance with Article **38(5)(b)** or Article 38(3)(c) or Article 38(4)(a), second sentence, or Article 38(4)(c), as applicable, until the date of the termination of the procedure shall not exceed 9 months.

#### *Amendment*

1. Unless otherwise agreed by the parties, the period from the date of the submission of the request to continue the FRAND determination in accordance with Article **38(3)(b)** or Article 38(3)(c) or Article 38(4)(a), second sentence, or Article 38(4)(c), as applicable, until the date of the termination of the procedure shall not exceed 9 months.

## Amendment 113

### Proposal for a regulation Article 38 – paragraph 2

#### *Text proposed by the Commission*

2. The responding party shall notify the competence centre within 15 days from the receipt of the notification of the request for FRAND determination from the competence centre in accordance with paragraph (1). The response shall indicate whether the responding party agrees to the FRAND determination and *whether it commits to comply with its outcome*.

#### *Amendment*

2. The responding party shall notify the competence centre within 15 days from the receipt of the notification of the request for FRAND determination from the competence centre in accordance with paragraph (1). The response shall indicate whether the responding party agrees to the FRAND determination and, *in case of disagreement, include the reasons for declining to participate*.

## Amendment 114

### Proposal for a regulation Article 38 – paragraph 3 – introductory part

*Text proposed by the Commission*

3. Where the responding party does not reply within the time limit laid down in paragraph (2) or informs the competence centre of its decision not to participate in the FRAND determination, ***or not to commit to comply with the outcome***, the following shall apply:

**Amendment 115**

**Proposal for a regulation**

**Article 38 – paragraph 3 – point a**

*Text proposed by the Commission*

(a) the competence centre shall notify the requesting party thereof and invite it to indicate within seven days whether it requests the continuation of the FRAND determination ***and whether it commits to comply with the outcome of the FRAND determination***;

**Amendment 116**

**Proposal for a regulation**

**Article 38 – paragraph 3 – point b**

*Text proposed by the Commission*

(b) where the requesting party requests the continuation of the FRAND determination ***and commits to its outcome***, the FRAND determination shall continue, but Article 34(1) shall not apply to the court proceedings for the requesting party in relation to the same subject matter.

**Amendment 117**

**Proposal for a regulation**

**Article 38 – paragraph 4 – introductory part**

*Amendment*

3. Where the responding party does not reply within the time limit laid down in paragraph (2) or informs the competence centre of its decision not to participate in the FRAND determination, the following shall apply:

*Amendment*

(a) the competence centre shall notify the requesting party thereof and invite it to indicate within seven days whether it requests the continuation of the FRAND determination;

*Amendment*

(b) where the requesting party requests the continuation of the FRAND determination, the FRAND determination shall continue, but Article 34(1) shall not apply to the court proceedings for the requesting party in relation to the same subject matter.

*Text proposed by the Commission*

4. Where the responding party agrees to the FRAND determination ***and commits to comply with its outcome*** pursuant to paragraph (2), ***including where such commitment is contingent upon the commitment of the requesting party to comply with the outcome of the FRAND determination***, the following shall apply:

*Amendment*

4. Where the responding party agrees to the FRAND determination pursuant to paragraph (2), the following shall apply:

**Amendment 118**

**Proposal for a regulation**

**Article 38 – paragraph 4 – point a**

*Text proposed by the Commission*

(a) the competence centre shall notify the requesting party thereof ***and request to inform the competence centre within seven days whether it also commits to comply with the outcome of the FRAND determination***. In case of acceptance of the commitment by the requesting party, the FRAND determination shall continue and the outcome shall be binding for both parties;

*Amendment*

(a) the competence centre shall notify the requesting party thereof. In case of acceptance of the commitment by the requesting party, the FRAND determination shall continue and the outcome shall be binding for both parties;

**Amendment 119**

**Proposal for a regulation**

**Article 38 – paragraph 4 – point b**

*Text proposed by the Commission*

(b) where the requesting party does not reply within the time limit referred to in subparagraph (a) ***or informs the competence centre of its decision not to commit to comply with outcome of the FRAND determination***, the competence centre shall notify the responding party and invite it to indicate within seven days whether it requests the continuation of the

*Amendment*

(b) where the requesting party does not reply within the time limit referred to in subparagraph (a), the competence centre shall notify the responding party and invite it to indicate within seven days whether it requests the continuation of the FRAND determination.

FRAND determination.

## Amendment 120

### Proposal for a regulation

#### Article 38 – paragraph 4 – point c

*Text proposed by the Commission*

(c) where the responding party requests the continuation of the FRAND determination, the FRAND determination shall continue, but Article 34(1) shall not apply to the court proceedings for by the responding party in relation to the same subject matter;

*Amendment*

(c) where the responding party, ***within the time-limit referred to in subparagraph (b)***, requests the continuation of the FRAND determination, the FRAND determination shall continue, but Article 34(1) shall not apply to the court proceedings for by the responding party in relation to the same subject matter;

## Amendment 121

### Proposal for a regulation

#### Article 38 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4 a. Each party may, at any time during the FRAND determination process, declare to commit to comply with its outcome. The declaring party may make its commitment to comply subject to the other party's commitment to the outcome. This shall not terminate the FRAND determination process.***

## Amendment 122

### Proposal for a regulation

#### Article 38 – paragraph 5

*Text proposed by the Commission*

5. Where either party commits to comply with the outcome of the FRAND determination, while the other party ***fails*** to do so ***within the applicable time limits***, the

*Amendment*

5. Where either party commits to comply with the outcome of the FRAND determination, while the other party ***rejects*** to do so, the competence centre shall adopt

competence centre shall adopt a notice of commitment to the FRAND determination and notify the parties within 5 days from the expiry of the time-limit to provide the commitment. The notice of commitment shall include the names of the parties, the subject-matter of the FRAND determination, a summary of the procedure and information on the commitment provided or on the failure to provide commitment for each party.

a notice of commitment to the FRAND determination and notify the parties within 5 days from the expiry of the time-limit to provide the commitment. The notice of commitment shall include the names of the parties, the subject-matter of the FRAND determination, a summary of the procedure and information on the commitment provided or on the failure to provide commitment for each party.

## Amendment 123

### Proposal for a regulation Article 38 – paragraph 6

#### *Text proposed by the Commission*

6. The FRAND determination shall concern a global SEP licence, unless otherwise specified by the parties in case both parties agree to the FRAND determination or by the party that requested the continuation of the FRAND determination. **SMEs** that are parties to the FRAND determination may request to limit the territorial scope of the FRAND determination.

#### *Amendment*

6. The FRAND determination shall concern a global SEP licence, unless otherwise specified by the parties in case both parties agree to the FRAND determination or by the party that requested the continuation of the FRAND determination, **as set out in paragraph (3). SMEs and start-ups** that are parties to the FRAND determination may request to limit the territorial scope of the FRAND determination.

## Amendment 124

### Proposal for a regulation Article 39 – paragraph 1

#### *Text proposed by the Commission*

1. Following the reply to the FRAND determination by the responding party in accordance with Article 38(2), or the request to continue in accordance with Article **38(5)**, the competence centre shall propose at least 3 candidates for the FRAND determination from the roster of conciliators referred to Article 27(2). The

#### *Amendment*

1. Following the reply to the FRAND determination by the responding party in accordance with Article 38(2), or the request to continue in accordance with Article **38(4) point (c)**, the competence centre shall propose at least 3 candidates for the FRAND determination from the roster of conciliators referred to Article

parties or party shall select one of the proposed candidates as a conciliator for the FRAND determination.

27(2). The parties or party shall select one of the proposed candidates as a conciliator for the FRAND determination.

## Amendment 125

### Proposal for a regulation Article 42 – paragraph 2

#### *Text proposed by the Commission*

2. He/she shall communicate to the parties or the party requesting the continuation of the FRAND determination the conduct as well as the schedule of procedure.

#### *Amendment*

2. He/she shall communicate to the parties or the party requesting the continuation of the FRAND determination, **as set out in Article 38 (3)**, the conduct as well as the schedule of procedure.

## Amendment 126

### Proposal for a regulation Article 44 – paragraph 1

#### *Text proposed by the Commission*

1. A party may submit an objection stating that the conciliator is unable to make a FRAND determination on legal grounds, such as a previous binding FRAND determination or agreement between the parties, **no later than in the first written submission**. The other party shall be given opportunity to submit its observations.

#### *Amendment*

1. A party may submit an objection stating that the conciliator is unable to make a FRAND determination on legal grounds, such as a previous binding FRAND determination or agreement between the parties **at any time**. The other party shall be given opportunity to submit its observations.

## Amendment 127

### Proposal for a regulation Article 45 – paragraph 2

#### *Text proposed by the Commission*

2. The conciliator may invite the parties or the party requesting the continuation of the FRAND determination to meet with him/her or may communicate

#### *Amendment*

2. The conciliator may invite the parties or the party requesting the continuation of the FRAND determination, **as set out in Article 38 (3)**, to meet with

with him/her orally or in writing.

him/her or may communicate with him/her orally or in writing.

## Amendment 128

### Proposal for a regulation Article 45 – paragraph 3

#### *Text proposed by the Commission*

3. The parties or the party requesting the continuation of the FRAND determination shall cooperate in good faith with the conciliator and, in particular, shall attend the meetings, comply with his/her requests to submit all relevant documents, information and explanations as well as use the means at their disposal to enable the conciliator to hear witnesses and experts whom the conciliator might call.

#### *Amendment*

3. The parties or the party requesting the continuation of the FRAND determination, ***as set out in Article 38 (3)***, shall cooperate in good faith with the conciliator and, in particular, shall attend the meetings, comply with his/her requests to submit all relevant documents, information and explanations as well as use the means at their disposal to enable the conciliator to hear witnesses and experts whom the conciliator might call.

## Amendment 129

### Proposal for a regulation Article 45 – paragraph 4

#### *Text proposed by the Commission*

4. The responding party may join the FRAND determination at any moment before its termination.

#### *Amendment*

4. The responding party, ***which failed to respond within the time limit laid down in Article 38 (2)***, may join the FRAND determination at any moment before its termination.

## Amendment 130

### Proposal for a regulation Article 45 – paragraph 5

#### *Text proposed by the Commission*

5. At any stage of the procedure upon request by both parties, or the party requesting the continuation of the FRAND

#### *Amendment*

5. At any stage of the procedure upon request by both parties, or the party requesting the continuation of the FRAND



determination, as applicable, the conciliator shall terminate the FRAND determination.

determination, as ***set out in Article 38 (3) and as*** applicable, the conciliator shall terminate the FRAND determination.

#### Amendment 131

##### Proposal for a regulation

##### Article 46 – paragraph 1 – point b

*Text proposed by the Commission*

***(b) withdraws its commitment to comply with the outcome of the FRAND determination as set out in Art. 38, or***

*Amendment*

***deleted***

#### Amendment 132

##### Proposal for a regulation

##### Article 46 – paragraph 3

*Text proposed by the Commission*

3. If the party requesting the continuation of the FRAND determination fails to comply with any request of the conciliator or in any other way fails to comply with a requirement relating to the FRAND determination, the conciliator shall terminate the procedure.

*Amendment*

3. If the party requesting the continuation of the FRAND determination, ***as set out in Article 38 (3)***, fails to comply with any request of the conciliator or in any other way fails to comply with a requirement relating to the FRAND determination, the conciliator shall terminate the procedure.

#### Amendment 133

##### Proposal for a regulation

##### Article 47 – paragraph 2

*Text proposed by the Commission*

2. Where a parallel proceeding has been initiated before or during the FRAND determination by a party, the conciliator, or where he/she has not been appointed, the competence centre, shall terminate the FRAND determination upon the request of any ***other*** party.

*Amendment*

2. Where a parallel proceeding has been initiated before or during the FRAND determination by a party, the conciliator, or where he/she has not been appointed, the competence centre, shall terminate the FRAND determination upon the request of any ***party, only if the party who requested***

*the establishment of the FRAND conditions gives its consent.*

## **Amendment 134**

### **Proposal for a regulation Article 48 – paragraph 2**

*Text proposed by the Commission*

2. The conciliator may examine publicly available information and the competence centre's register and confidential and non-confidential reports of other FRAND determinations, as well as non-confidential documents and information produced by or submitted to the competence centre.

*Amendment*

2. The conciliator may examine publicly available information and the competence centre's register and confidential and non-confidential reports of other FRAND determinations, ***aggregate royalty rates submitted pursuant to Article 15, non-binding expert opinions on aggregate royalty rates established pursuant to Article 18*** as well as non-confidential documents and information produced by or submitted to the competence centre.

## **Amendment 135**

### **Proposal for a regulation Article 55 – paragraph 2**

*Text proposed by the Commission*

2. Either party may submit observations to the proposal and suggest amendments to the proposal by the conciliator, who may reformulate its proposal to take into account the observations submitted by the parties and shall inform the parties or the party requesting the continuation of the FRAND determination, as applicable, of such reformulation.

*Amendment*

2. Either party may submit observations to the proposal and suggest amendments to the proposal by the conciliator, who may reformulate its proposal to take into account the observations submitted by the parties and shall inform the parties or the party requesting the continuation of the FRAND determination, as ***set out in Article 38 and as*** applicable, of such reformulation.

## **Amendment 136**

### **Proposal for a regulation Article 56 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. In addition to the termination of the FRAND determination for reasons provided for Article **38(4)**, Article 44(3), Article 45(5), Article 46(2), point (b), Article 46(3) and Article 47(2), the FRAND determination shall be terminated in any of the following ways:

*Amendment*

1. In addition to the termination of the FRAND determination for reasons provided for Article **38(3) point (c), 38(4) point (d)**, Article 44(3), Article 45(5), Article 46(2), point (b), Article 46(3) and Article 47(2), the FRAND determination shall be terminated in any of the following ways:

**Amendment 137**

**Proposal for a regulation  
Article 56 – paragraph 4**

*Text proposed by the Commission*

4. A competent court of a Member State, asked to decide on determination of FRAND terms and conditions, including in abuse of dominance cases among private parties, or SEP infringement claim concerning a SEP in force in one or more Member States subject to the FRAND determination shall not proceed with the examination of the merits of that claim, unless it has been served with a notice of termination of the FRAND determination, **or, in the cases foreseen in Article 38(3)(b) and Article 38(4)(c), with a notice of commitment pursuant to Article 38(5).**

*Amendment*

4. A competent court of a Member State, asked to decide on determination of FRAND terms and conditions, including in abuse of dominance cases among private parties, or SEP infringement claim concerning a SEP in force in one or more Member States subject to the FRAND determination shall not proceed with the examination of the merits of that claim, unless it has been served with a notice of termination of the FRAND determination.

**Amendment 138**

**Proposal for a regulation  
Article 60 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**1 a. The period specified in days ends on the last day, a period marked in weeks ends at the end of the day in the last week, a period specified in months ends on the expiry of the day corresponding to the**

*initial day of the period, and if there was no such day in the last month - then on the last day of that month, a period marked in years ends on the expiry of the day corresponding to the initial day of a given period, and if there was no such day, the end date will be the last day of that month.*

## Amendment 139

### Proposal for a regulation Article 61 – paragraph 1

#### *Text proposed by the Commission*

1. The competence centre shall offer training and support on SEP related matters for micro, small and medium-size enterprises free of charge.

#### *Amendment*

1. The competence centre shall offer training and support on SEP related matters for micro, small and medium-size enterprises *and start-ups* free of charge, *in particular to offer practical guidance and advice, whether they are SEP holder or implementers. The competence centre shall, on a regular basis, proactively seek input from micro, small and medium-size enterprises and start-ups on what training and support would be most helpful.*

## Amendment 140

### Proposal for a regulation Article 61 – paragraph 2

#### *Text proposed by the Commission*

2. The competence centre may commission studies, if it considers it necessary, to assist micro, small and medium-size enterprises on SEP related matters.

#### *Amendment*

2. The competence centre may commission studies, if it considers it necessary, to assist micro, small and medium-size enterprises *and start-ups* on SEP related matters. *Such studies may include requiring SEP holders and implementers to provide information regarding licenses entered into, royalties paid or collected, and products sold for IoT applications, and the competence centre may provide estimates of licensing*

*costs for such applications to micro, small and medium-size enterprises.*

#### **Amendment 141**

##### **Proposal for a regulation Article 61 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3 a.** *This Article shall not apply to patent assertion entities irrespective of their status as a micro, small or medium-sized enterprise.*

#### **Amendment 142**

##### **Proposal for a regulation Article 61 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

**3 b.** *The EUIPO shall ensure that this function is sufficiently funded and resourced.*

#### **Amendment 143**

##### **Proposal for a regulation Article 62 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. When negotiating a SEP licence with micro, small and medium-sized enterprises, SEP holders shall ***consider offering*** to them FRAND terms and conditions that are more favourable than the FRAND terms and conditions they offer to enterprises that are not micro, small and medium-sized for the same standard and implementations.

1. When negotiating a SEP licence with micro, small and medium-sized enterprises, SEP holders shall ***offer*** to them FRAND terms and conditions that are more favourable than the FRAND terms and conditions they offer to enterprises that are not micro, small and medium-sized for the same standard and implementations.

#### **Amendment 144**

**Proposal for a regulation**  
**Article 62 – paragraph 3**

*Text proposed by the Commission*

3. SEP holders shall also consider discounts or royalty-free licensing for low sales volumes irrespective of the size of the implementer taking the licence. Such discounts or royalty-free licensing shall be fair, reasonable and non-discriminatory and shall be available in the electronic database as set out in Article 5(2), point (b).

*Amendment*

3. SEP holders shall also consider discounts, ***spreading payments into interest-free instalments*** or royalty-free licensing for low sales volumes irrespective of the size of the implementer taking the licence. Such discounts or royalty-free licensing shall be fair, reasonable and non-discriminatory and shall be available in the electronic database as set out in Article 5(2), point (b).

**Amendment 145**

**Proposal for a regulation**  
**Article 62 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3 a. Any benefits granted to micro, small and medium-sized enterprises under this Regulation may be withheld or withdrawn in cases of circumvention or misuse.***

**Amendment 146**

**Proposal for a regulation**  
**Article 63 – paragraph 3 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the fees referred to in paragraph (2), point (b) equally by the parties that participated in the procedure of the expert opinion on aggregate royalty, unless they agree otherwise, or the panel suggests a different apportionment based on the size of the parties determined on the ***basis of*** their ***turnover***;

(b) the fees referred to in paragraph (2), point (b) equally by the parties that participated in the procedure of the expert opinion on aggregate royalty, unless they agree otherwise, or the panel suggests a different apportionment based on the size of the parties determined on the ***level of the parties' participation in the aggregate royalty determination and their economic***

*interest in the outcome of the procedure;*

## **Amendment 147**

### **Proposal for a regulation**

#### **Article 66**

*Text proposed by the Commission*

*Amendment*

#### **Article 66**

*deleted*

#### **Opening registration for an existing standard**

**1. Until [OJ: please insert the date = 28 months from the entry into force of this regulation] holders of SEPs essential to a standard published before the entry into force of this Regulation ('existing standards'), for which FRAND commitments have been made, may notify the competence centre pursuant to Articles 14, 15 and 17 of any of the existing standards or parts thereof that will be determined in the delegated act in accordance with paragraph (4). The procedures, notification and publication requirements set out in this Regulation apply mutatis mutandis.**

**2. Until [OJ: please insert the date = 28 months from entry into force of this regulation] implementers of a standard, standard published before the entry into force of this Regulation, for which FRAND commitments have been made may notify pursuant to Article 14(4) the competence centre of any of the existing standards or parts thereof, that will be determined in the delegated act in accordance with paragraph (4). The procedures, notification and publication requirements set out in this Regulation apply mutatis mutandis.**

**3. Until [OJ: please insert the date = 30 months from entry into force of this regulation] a SEP holder or an implementer may request an expert opinion pursuant to Article 18 regarding**

*SEPs essential to an existing standard or parts thereof, that will be determined in the delegated act in accordance with paragraph (4). The requirements and procedures set out in Article 18 apply mutatis mutandis.*

*4. Where the functioning of the internal market is severely distorted due to inefficiencies in the licensing of SEPs, the Commission shall, after an appropriate consultation process, by means of a delegated act pursuant to Article 67, determine which of the existing standards, parts thereof or relevant use cases can be notified in accordance with paragraph (1) or paragraph (2), or for which an expert opinion can be requested in accordance with paragraph (3). The delegated act shall also determine which procedures, notification and publication requirements set out in this Regulation apply to those existing standards. The delegated act shall be adopted within [OJ: please insert the date = 18 months from entry into force of this regulation].*

*5. This article shall apply without prejudice to any acts concluded and rights acquired by [OJ: please insert the date = 28 months from entry into force of this regulation].*

#### **Amendment 148**

##### **Proposal for a regulation Article 67 – paragraph 2**

*Text proposed by the Commission*

2. The power to adopt a delegated act referred to in *Articles 1(4), 4(5) and 66(4)* shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.

*Amendment*

2. The power to adopt a delegated act referred to in *Article 4(5)* shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.

#### **Amendment 149**



**Proposal for a regulation**  
**Article 67 – paragraph 3**

*Text proposed by the Commission*

3. The delegation of power referred to in **Articles 1(4), 4(5) and 66(4)** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

*Amendment*

3. The delegation of power referred to in **Article 4(5)** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

**Amendment 150**

**Proposal for a regulation**  
**Article 67 – paragraph 6**

*Text proposed by the Commission*

6. A delegated act adopted pursuant to **Articles 1(4), 4(5) and 66(4)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

*Amendment*

6. A delegated act adopted pursuant to **Article 4(5)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

**Amendment 151**

**Proposal for a regulation**  
**Article 70 – paragraph 1**

*Text proposed by the Commission*

1. By [OJ: please insert the date = 5 years from entry into force of this regulation] the Commission shall evaluate the ***effectiveness and efficiency of the SEP registration and*** the essentiality check system.

*Amendment*

1. By [OJ: please insert the date = 3 years from entry into force of this regulation] the Commission shall evaluate the ***impact that*** the essentiality check system ***and the FRAND determination system on the competitiveness of the Union SEP holders on a global level and on innovation in the Union.***

**Amendment 152**

**Proposal for a regulation  
Article 70 – paragraph 2**

*Text proposed by the Commission*

2. By [OJ: please insert the date = 8 years from entry into force of this regulation], and every ***five*** years thereafter, the Commission shall evaluate the implementation of this Regulation. The evaluation shall assess the operation of this Regulation, in particular the impact, effectiveness and efficiency of the competence centre and its working methods.

*Amendment*

2. By [OJ: please insert the date = 5 years from entry into force of this regulation], and every **3** years thereafter, the Commission shall evaluate the implementation of this Regulation. The evaluation shall assess the operation of this Regulation, in particular the impact, effectiveness and efficiency of the competence centre and its working methods.

## ANNEX: ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR FOR THE OPINION HAS RECEIVED INPUT

The rapporteur has received input from the following entities or persons in the preparation of the opinion:

Entity and/or person
ACEA (European Manufacturers' Association)
ACT (The App Association)
Airties
Amazon
Apple Inc.
Bayerische Motoren Werke AG
BURY Technologies
CEN-CENELEC
Cisco Systems Inc.
Continental AG
Copan Walter (former U.S. Undersecretary of Commerce for Standards and Technology)
Czech Automotive Industry Association
Czech Chamber of Commerce
Delrahim Makan (former U.S. Assistant Attorney General DOJ Antitrust)
Deutsche Telekom
DLA Piper
Dolby Laboratories
EARTO (European Association of Research and Technology Organisations)
EDPS (European Data Protection Supervisor)
Emporia
Ericsson
ESMIG (The European Smart Energy Solution Providers)
EPLAW (European Patent Lawyer Office)
European Patent Office
EVBox
Fairphone
Fair Standards Alliance
Forward Global
George Masson University – Professor Adam Mossof
German Association of the Automotive Industry (VDA)
Google
Harman International Industries
Honda Motor Co. Ltd
HP Inc.
Iancu Andrei (former Under Secretary of Commerce for Intellectual Property and Director of the USPTO)
Ingenico
Intel Corporation
IP Europe

Iskraemeco Group
Itron Inc.
Juniper Networks Inc.
Kamstrup A/S
Kappos David J. (former Under Secretary of Commerce for Intellectual Property and Director of the USPTO)
Landis & Gyr AG
Lenovo
Lucid Circus
Maghame IP Consulting - Taraneh Maghamé
Marconi - Avanci Platform
Mazda Motor Corporation
Mercedes Benz
Microsoft Corporation
Nissan Motor Co., Ltd.
Nokia
Nordic Semiconductor
Orange
Parliament of the Czech Republic
Permanent Representation of Finland to the EU
Phillips Noah J. (former U.S. Commissioner on the Federal Trade Commission)
PIPLI (Public Interest Patent Law Institute U.S.)
Qualcomm
Renault Group
Sagemcom
Schaeffler AG
Schneider Electric
Sequans Communication
Siemens
Sky
University of Skövde, Software Systems Research Group - Professor Björn Lundell
European Commission – SEPs Expert Group: - Barron Justus - Geradin Damien - Granata Sam - Heiden Bowman - Heinebrodt Martin - Hoffman Fabian - Kuźnicka-Cholewa Aleksandra - Maghame Taraneh - Magnusson Monica - Padilla Jorge - Peter Ruud - Schneider Matthias - Toffaletti Sebastino
Stellantis N.V.
Suzuki Motor Corporation

Telit Communications SPA
Toyota
u-blox AG
UCL Faculty of Laws - Sir Robin Jacob
Unified Patent Court of Appeal
Varney Christine A. (former U.S. Assistant Attorney General DOJ Antitrust)
Volkswagen AG
Volvo Group
4iP Council

The list above is drawn up under the exclusive responsibility of the rapporteur.

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Standard essential patents and amending Regulation (EU)2017/1001
<b>References</b>	COM(2023)0232 – C9-0147/2023 – 2023/0133(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 15.6.2023
<b>Opinion by</b> Date announced in plenary	IMCO 15.6.2023
<b>Rapporteur for the opinion</b> Date appointed	Dita Charanzová 23.8.2023
<b>Discussed in committee</b>	25.10.2023
<b>Date adopted</b>	4.12.2023
<b>Result of final vote</b>	+: 18 –: 5 0: 5
<b>Members present for the final vote</b>	Andrus Ansip, Pablo Arias Echeverría, Laura Ballarín Cereza, Biljana Borzan, Markus Buchheit, Dita Charanzová, Deirdre Clune, Sandro Gozi, Maria Grapini, Eugen Jurzyca, Maria-Manuel Leitão-Marques, Morten Løkkegaard, Antonius Manders, Anne-Sophie Pelletier, Miroslav Radačovský, René Repasi, Andreas Schwab, Róza Thun und Hohenstein, Tom Vandenkendelaere, Kim Van Sparrentak, Marion Walsmann
<b>Substitutes present for the final vote</b>	Maria da Graça Carvalho, Malte Gallée, Karen Melchior, Marco Zullo
<b>Substitutes under Rule 209(7) present for the final vote</b>	Estrella Durá Ferrandis, Włodzimierz Karpiński, Ska Keller

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

18	+
NI	Miroslav Radačovský
PPE	Pablo Arias Echeverría, Włodzimierz Karpiński, Marion Walsmann
Renew	Andrus Ansip, Dita Charanzová, Sandro Gozi, Morten Løkkegaard, Karen Melchior, Róza Thun und Hohenstein, Marco Zullo
S&D	Laura Ballarín Cereza, Biljana Borzan, Estrella Durá Ferrandis, Maria Grapini, Maria-Manuel Leitão-Marques, René Repasi
The Left	Anne-Sophie Pelletier

5	-
ECR	Eugen Jurzyca
PPE	Maria da Graça Carvalho, Deirdre Clune, Antonius Manders, Tom Vandenkendelaere

5	0
ID	Markus Buchheit
PPE	Andreas Schwab
Verts/ALE	Malte Gallée, Ska Keller, Kim Van Sparrentak

### Key to symbols:

+ : in favour

- : against

0 : abstention