



2023\0133(COD)

28.11.2023

OPINION

of the Committee on International Trade

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: Danuta Maria Hübner

PA_Legam

AMENDMENTS

The Committee on International Trade calls on the Committee on Legal Affairs, as the committee responsible, to take the following into account:

Amendment 1

Proposal for a regulation Recital 2

Text proposed by the Commission

(2) This Regulation aims at improving the licensing of SEPs, by addressing the causes of inefficient licensing such as insufficient transparency with regard to SEPs, fair, reasonable and non-discriminatory (FRAND) terms and conditions and licensing in the value chain, and limited use of dispute resolution procedures for resolving FRAND disputes. All these together reduce the overall fairness and efficiency of the system and result in excess administrative and transactional costs. By improving the licensing of SEPs, the Regulation aims to incentivise participation by European firms in the standard development process and the broad implementation of such standardised technologies, particularly in Internet of Things (IoT) industries. Therefore, this Regulation pursues objectives that are complementary to, but different from that of protecting undistorted competition, guaranteed by Articles 101 and 102 TFEU. This Regulation should also be without prejudice to national competition rules.

Amendment

(2) This Regulation aims at improving the licensing of SEPs, by addressing the causes of inefficient licensing such as insufficient transparency with regard to SEPs, fair, reasonable and non-discriminatory (FRAND) terms and conditions and licensing in the value chain, and limited use of dispute resolution procedures for resolving FRAND disputes. All these together reduce the overall fairness and efficiency of the system and result in excess administrative and transactional costs. By improving the licensing of SEPs, the Regulation aims to incentivise participation by European firms in the standard development process and the broad implementation of such standardised technologies, particularly in Internet of Things (IoT) industries. Therefore, this Regulation pursues objectives that are complementary to, but different from that of protecting undistorted competition, guaranteed by Articles 101 and 102 TFEU. This Regulation should also be without prejudice to national competition rules , ***as well as in line with the European Union's commitment to promote a rule-based, multilateral trading system under the WTO. In particular, the measures introduced by this Regulation must be compliant with WTO rules and the TRIPS Agreement, and must take into account the possible response of the Union's trade partners and ensure that the enforcement***

of the measure is not perceived as a unilateral protectionist measure.

Amendment 2

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 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 ***in force within the European Union*** 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

Proposal for a regulation

Recital 4

Text proposed by the Commission

(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.

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, 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.

Amendment 4

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,***

Amendment

deleted

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

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 and FRAND determination may refer to global FRAND determinations, or as otherwise agreed by the notifying stakeholders or the parties to the proceedings.

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

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, 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.

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 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 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 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

Amendment

deleted

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

Amendment

(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 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,

deleted

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

Amendment

(20) ***In case of failure to register, the competence centre should notify the SEP holder that, in case of further delays in registering its patents, following a grace period of 2 months, the SEP holders would not be able to collect royalties and claim damages in relation to its patent, until the registration is completed.***

Amendment 11

Proposal for a regulation Recital 22

Text proposed by the Commission

(22) SEP holders should ensure that their SEP registration(s) are updated. Updates should be registered within 6 months for relevant status changes, including ownership, invalidation findings or other applicable changes resulting from contractual commitments or public authorities' decisions. Failure to update the registration *may lead to the suspension of the registration of the SEP from the register.*

Amendment

(22) SEP holders should ensure that their SEP registration(s) are updated. Updates should be registered within 6 months for relevant status changes, including ownership, invalidation findings or other applicable changes resulting from contractual commitments or public authorities' decisions. ***In case of failure to update the registration, the competence centre should notify the SEP holder that in case of further delays in updating its registration, following a grace period of 2 months, its SEP may be suspended.***

Amendment 12

Proposal for a regulation Recital 26

Text proposed by the Commission

(26) ***SEP holders or implementers may also designate annually up to 100 registered SEPs for essentiality checks.*** If the pre-selected SEPs are confirmed essential, the SEP holders may use this information in negotiations and as evidence in courts, without prejudicing the right of an implementer to challenge the essentiality of a registered SEP in court. The selected SEPs would have no bearing on the sampling process as the sample should be selected from all registered SEPs of each SEP holder. If a preselected SEP and a SEP selected for the sample set are the same, only one essentiality check should be done. Essentiality checks should not be repeated on SEPs from the same

Amendment

(26) If the pre-selected SEPs are confirmed essential, the SEP holders may use this information in negotiations and as evidence in courts, without prejudicing the right of an implementer to challenge the essentiality of a registered SEP in court. The selected SEPs would have no bearing on the sampling process as the sample should be selected from all registered SEPs of each SEP holder. If a preselected SEP and a SEP selected for the sample set are the same, only one essentiality check should be done. Essentiality checks should not be repeated on SEPs from the same patent family.

patent family.

Amendment 13

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 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.**

Amendment

(33) **Given that a properly functioning out-of-court dispute resolution mechanism to determine FRAND terms may offer significant benefits for all parties, and that at the same time the fundamental right of access to Court for all parties must be respected,** the FRAND determination **should** be a mandatory step before a **national competent Court proceeds with assessing the merit of a patent infringement claim, initiated by a SEP holder, or proceeds with the** determination or assessment of FRAND terms and conditions, **as requested by an implementer.**

Amendment 14

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

Amendment

(34) Each party may choose whether it wishes to engage in the procedure. Where a party does not reply to the FRAND determination request, 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

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 15

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

further proceedings.

Amendment

(35) The obligation to initiate FRAND determination should not be detrimental to the effective protection of the parties' rights. 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

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, should be available to parties.

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.

Amendment 16

Proposal for a regulation Recital 36

Text proposed by the Commission

(36) When the parties enter into the FRAND determination, they should select a **conciliator** for the FRAND determination from the roster. In case of disagreement, the competence centre would select the conciliator. The FRAND determination should be concluded within 9 months. This time would be necessary for a procedure that ensures that the rights of the parties are respected and at the same time is sufficiently swift to avoid delays in concluding licences. Parties may settle at any time during the process, which results in the termination of the FRAND determination.

Amendment

(36) When the parties enter into the FRAND determination, they should select a **panel of conciliators** for the FRAND determination from the roster. **The panel should be composed of three conciliators, one selected by the SEP holder and one selected by the implementer from the roster of conciliators made available by the competence centre. The third conciliator should be mutually agreed upon by both parties.** In case of disagreement, the competence centre would select the conciliator. The FRAND determination should be concluded within 9 months. This time would be necessary for a procedure that ensures that the rights of the parties are respected and at the same time is sufficiently swift to avoid delays in concluding licences. Parties may settle at any time during the process, which results in the termination of the FRAND determination.

(The change from ‘conciliator’ to ‘panel of conciliators’ should be done consistently throughout the Commission proposal, where appropriate)

Amendment 17

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, ***the panel of conciliators***, or where ***they have*** not been appointed, the competence centre, should be able to terminate the procedure upon the request of ***any*** party.

Amendment 18

Proposal for a regulation

Recital 44

Text proposed by the Commission

(44) When ***determining the aggregate royalties and*** making FRAND determinations the conciliators should take into account in particular any Union acquis and judgments of the Court of Justice pertaining to SEPs as well as guidance issued under this Regulation, the Horizontal Guidelines⁴² and the Commission's 2017 Communication 'Setting out the EU approach to Standard Essential Patents'.⁴³ Furthermore, the conciliators should consider any expert opinion on ***the aggregate royalty*** or in the absence thereof, should request information from the parties before it

Amendment

(44) When making FRAND determinations, the conciliators should take into account, in particular, any Union acquis and judgments of the Court of Justice pertaining to SEPs, as well as guidance issued under this Regulation, the Horizontal Guidelines⁴² and the Commission's 2017 Communication 'Setting out the EU approach to Standard Essential Patents'.⁴³ Furthermore, the ***panel of*** conciliators should consider any expert opinion on ***FRAND determination*** or in the absence thereof, should request information from the parties before it makes its final proposals well as guidance

makes its final proposals well as guidance issued under this Regulation, as well as guidance issued under this Regulation.

⁴² Communication from the Commission – Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements, OJ C 11, 14.01.2011, pp. 1 (currently under review)

⁴³ Communication on Setting out the EU approach to Standard Essential Patents, COM(2017)712 final, 29.11.2017.

issued under this Regulation, as well as guidance issued under this Regulation.

⁴² Communication from the Commission – Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements, OJ C 11, 14.01.2011, pp. 1 (currently under review)

⁴³ Communication on Setting out the EU approach to Standard Essential Patents, COM(2017)712 final, 29.11.2017.

Amendment 19

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, ***including through meaningful engagement of stakeholders. The competence centre should also, where appropriate, engage in knowledge exchange with relevant actors in the value chain.*** 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 competence centre should actively collect feedback provided by stakeholders in and outside the EU on challenges in complying with the Regulation, collect information regarding circumvention, and regarding impact on end-users. The competence centre should also contribute to ensure that the new EU licensing rules and their implementation***

do not undermine the EU innovation and technological leadership.

Amendment 20

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 exemptions from FRAND royalties.

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 *should also* facilitate the licensing of their SEP *to ensure a fair return on their investment and encourage SME participation in standards development.* Additional conditions are necessary to relieve the cost burden on such SMEs such as reduced *administration burden*, 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. 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 exemptions from FRAND royalties.

Amendment 21

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

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 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-Making⁴⁴. 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.

⁴⁴ OJ L 123, 12.5.2016, p. 1.

be delegated to the Commission 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-Making⁴⁴. 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.

⁴⁴ OJ L 123, 12.5.2016, p. 1.

Amendment 22

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

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. 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.⁴⁵

⁴⁵ 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.)

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.⁴⁵

⁴⁵ 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 23

Proposal for a regulation Recital 49

Text proposed by the Commission

(49) Regulation (EU) 2017/1001 of the European Parliament and of the Council⁴⁶ should be amended to empower EUIPO to take on the tasks under this Regulation. The functions of the Executive Director should also be expanded to include the powers conferred on him under this Regulation. Furthermore, the EUIPO's arbitration and mediation centre should be empowered to set up processes such as the ***aggregate royalty determination and the FRAND determination.***

⁴⁶ Regulation (EU) 2017/1001 of the

Amendment

(49) Regulation (EU) 2017/1001 of the European Parliament and of the Council⁴⁶ should be amended to empower EUIPO to take on the tasks under this Regulation. The functions of the Executive Director should also be expanded to include the powers conferred on him under this Regulation. Furthermore, the EUIPO's arbitration and mediation centre should be empowered to set up processes such as the FRAND determination.

⁴⁶ Regulation (EU) 2017/1001 of the

European Parliament and of the Council of
14 June 2017 on the European Union trade
mark (OJ L 154, 16.6.2017, p. 1.)

European Parliament and of the Council of
14 June 2017 on the European Union trade
mark (OJ L 154, 16.6.2017, p. 1.)

Amendment 24

Proposal for a regulation Article 1 – paragraph 2

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,

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

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

Amendment

2. This Regulation shall ***only*** apply to patents :

(a) ***that are in force in one or more Member States;***

(b) that are essential to a standard that has been published by a standard development organisation ***after the entry into force of this Regulation; and***

(c) 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, ***or equivalent,*** intellectual property policy

Amendment 25

Proposal for a regulation Article 1 – paragraph 3

Text proposed by the Commission

3. ***Articles 17 and 18 and*** Article 34(1) shall not apply to SEPs to the extent that they are implemented for use cases identified by the Commission in

Amendment

3. Article 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

accordance with paragraph 4.

4.

Amendment 26

Proposal for a regulation

Article 1 – paragraph 4

Text proposed by the Commission

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.

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, **by [18 months after the entry into force of this Regulation], and** 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.

Amendment 27

Proposal for a regulation

Article 1 – paragraph 5

Text proposed by the Commission

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

Amendment

deleted

Amendment 28

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

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

Amendment

(1) ‘standard essential patent’ or ‘SEP’ means any patent that is ***in force in one or more Member States, that is*** essential to a

standard, *and for which the SEP holder has made a commitment to license its SEP on FRAND terms and conditions*;

Amendment 29

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 *in one or more Member States*;

Amendment 30

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘*aggregate royalty*’ means the *maximum amount of royalty for all patents essential to a standard*;

Amendment

deleted

Amendment 31

Proposal for a regulation

Article 2 – paragraph 1 – point 16

Text proposed by the Commission

(16) ‘patent family’ means a collection of patent *documents that cover* the same *invention and whose members have the same priorities*;

Amendment

(16) ‘patent family’ means a collection of patent *applications covering* the same *or similar technical content and related to each other through priority claims*.

Amendment 32

Proposal for a regulation

Article 3 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) administer a process for aggregate royalty determination;

deleted

Amendment 33

Proposal for a regulation Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. Using the powers conferred by Article 157 of Regulation (EU) 2017/1001, the Executive Director of the EUIPO shall adopt the internal administrative instructions and shall publish the notices that are necessary for the fulfilment of all the tasks entrusted to the competence centre by this Regulation.

3. ***The competence centre shall be set up and fully functional 24 months after the entry into force of this Regulation, and it shall ensure that it regularly exchanges information with regional and global IP organisations.*** Using the powers conferred by Article 157 of Regulation (EU) 2017/1001, the Executive Director of the EUIPO shall adopt the internal administrative instructions and shall publish the notices that are necessary for the fulfilment of all the tasks entrusted to the competence centre by this Regulation.

Amendment 34

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) information on whether an essentiality check or peer evaluation have been performed, ***unless not possible due to contractual restraints agreed upon by the parties,*** and reference to the result;

Amendment 35

Proposal for a regulation Article 4 – paragraph 4 – point f

Text proposed by the Commission

Amendment

(f) date of publication of information pursuant to Article 19(1) in conjunction with Article 14(7), **Article 15(4) and Article 18(11)**;

(f) date of publication of information pursuant to Article 19(1) in conjunction with Article 14(7);

Amendment 36

Proposal for a regulation

Article 5 – paragraph 2 – point d

Text proposed by the Commission

Amendment

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

(d) information regarding known products, processes, services or systems and implementations pursuant to Article 7;

Amendment 37

Proposal for a regulation

Article 5 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) **information on aggregate royalties pursuant to Articles 15, 16 and 17;**

deleted

Amendment 38

Proposal for a regulation

Article 5 – paragraph 2 – point h

Text proposed by the Commission

Amendment

(h) **expert opinions referred to in Article 18;**

deleted

Amendment 39

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, ***so far as reasonably possible***, 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.

Justification

Data expressed by numerical values such as royalty rates, product volumes, etc cannot be reduced to a non-confidential form.

Amendment 40

Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Implementers shall provide to the competence centre information as regards the products, processes, services or systems available in the Union market that they provide or intend to provide that are compliant with a standard published by a standard development organization that requires a FRAND commitment, identifying the standard concerned.

Amendment 41

Proposal for a regulation
Article 8

Text proposed by the Commission

Amendment

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

A SEP holder shall provide to the competence centre ***information on a final decision on essentiality for a registered***

and referenced in the register:

SEP made by a competent court of a Member State within 6 months from the publication of such decision. Such information shall be included in the database and referenced in the register without undue delay.

(a) a final decision on essentiality for a registered SEP made by a competent court of a Member State within 6 months from the publication of such decision.

(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 42

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

1. The competence centre shall collect and publish in the database information on any SEP related rules in any third country.

Amendment

1. The competence centre shall collect and ***promptly*** publish in the database, ***after having it duly verified***, information on any SEP related rules in any third country. ***The competence centre shall also collect information on compliance and circumvention of this Regulation in or by third countries, as well as monitoring the impact on end-users.***

Amendment 43

Proposal for a regulation Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. In order to facilitate effective implementation of this Regulation, the competence centre may cooperate, engage

and exchange information with, amongst others, authorities of third countries and international organisations dealing with SEPs, in particular as regards the information on SEP related rules in third countries or the prevention of parallel proceedings.

Amendment 44

Proposal for a regulation Article 15

Text proposed by the Commission

Amendment

Article 15

deleted

Notification of an aggregate royalty to the competence centre

1. Holders of SEPs in force in one or more Member States for which FRAND commitments have been made may jointly notify the competence centre the aggregate royalty for the SEPs covering a standard.

2. The notification made in accordance with paragraph (1) shall contain the information on the following:

(a) the commercial name of the standard;

(b) the list of technical specifications that define the standard;

(c) the names of the SEP holders making the notification referred to in paragraph (1);

(d) the estimated percentage the SEP holders referred to in paragraph (1) represent from all SEP holders;

(e) the estimated percentage of SEPs they own collectively from all SEPs for the standard;

(f) the implementations known to the SEP holders referred to in point (c);

(g) the global aggregate royalty,

unless the notifying parties specify that the aggregate royalty is not global;

(h) any period for which the aggregate royalty referred to in paragraph (1) is valid.

3. The notification referred to in paragraph (1) shall be made at the latest 120 days after:

(a) the publication of a standard by the standard development organisation for implementations known to the SEP holders referred to in paragraph (2), point (c); or

(b) a new implementation of the standard becomes known to them.

4. The competence centre shall publish in the database the information provided under paragraph (2).

Any reference to ‘aggregate royalty’ should be taken out throughout the Commission proposal.

Amendment 45

Proposal for a regulation Article 16

Text proposed by the Commission

Amendment

Article 16

deleted

Revision of aggregate royalty

1. In case of revision of the aggregate royalty, the SEP holders shall notify the competence centre about the revised aggregate royalty and the reasons for the revision.

2. The competence centre shall publish in the database the initial aggregate royalty, the revised aggregate royalty and the reasons for the revision in the register.

Amendment 46

Proposal for a regulation Article 17

Text proposed by the Commission

Amendment

Article 17

deleted

Process for facilitating agreements on aggregate royalty determinations

- 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.*
- 2. Such a request shall be made no later than 90 days following the publication of the standard or no later than 120 days following the first sale of new implementation on the Union market for implementations not known at the time of publication of the standard.*
- 3. The request shall contain the following information:*
 - (a) the commercial name of the standard;*
 - (b) the date of publication of the latest technical specification or the date of the first sale of new implementation on the Union market;*
 - (c) the implementations known to the SEP holders referred to in paragraph (1);*
 - (d) the names and contact details of the SEP holders supporting the request;*
 - (e) the estimated percentage of SEPs they own individually and collectively from all potential SEPs claimed for the standard.*
- 4. The competence centre shall notify the SEP holders referred to in paragraph (3), point (d) and request them to express*

their interest in participating in the process and to provide their estimated percentage of SEPs from all SEPs for the standard.

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.

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 information submitted in confidence.

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.

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

Amendment 47

Proposal for a regulation Article 18

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 48

Proposal for a regulation Article 19 – paragraph 1

Text proposed by the Commission

Amendment

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

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 **publication**

the *following events*:

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

(b) publication by the competence centre of an aggregate royalty and related information pursuant to Article 15(4) and Article 18(11).

by the competence centre of the standard and related information pursuant to Article 14(7).

Amendment 49

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. 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 50

Proposal for a regulation Article 22 – paragraph 3

Text proposed by the Commission

3. Where the registration does not contain the information in accordance with Articles 4 and 5 or contains incomplete or inaccurate information, the competence centre shall request the SEP holder to provide the complete and accurate information within the set time limit of no less than 2 months.

Amendment

3. Where the registration does not contain the information in accordance with Articles 4 and 5 or contains incomplete or inaccurate information, the competence centre shall request the SEP holder to provide the complete and accurate information within the set time limit of no less than 6 months.

Amendment 51

Proposal for a regulation Article 22 – paragraph 4

Text proposed by the Commission

4. If the SEP holder fails to provide the correct and complete information, the registration shall be suspended from the register, until such time as the incompleteness or inaccuracy is remedied.

Amendment

4. If the SEP holder fails to provide the correct and complete information, the ***competence centre shall notify the SEP holder about its failure to provide the correct and complete information and that, following a grace period of 2 months during which the SEP holder could still provide the required information, its*** registration shall be suspended from the register , until such time as the incompleteness or inaccuracy is remedied.

Amendment 52

Proposal for a regulation Article 23 – paragraph 3

Text proposed by the Commission

3. The competence centre shall notify the request to the SEP holder and invite the SEP holder to correct the entry in the register or the information submitted for the database, where relevant within a time limit no less than **2** months.

Amendment

3. The competence centre shall notify the request to the SEP holder and invite the SEP holder to correct the entry in the register or the information submitted for the database, where relevant within a time limit no less than **6** months.

Amendment 53

Proposal for a regulation Article 23 – paragraph 4 – introductory part

Text proposed by the Commission

4. The competence centre shall notify the SEP holder and invite the SEP holder to correct the entry in the register or the information submitted for the database, where relevant within a time limit no less than **2** months, when the competence

Amendment

4. The competence centre shall notify the SEP holder and invite the SEP holder to correct the entry in the register or the information submitted for the database, where relevant within a time limit no less than **6** months, when the competence

centre is informed by a competent court of a Member State pursuant to Article 10(1) or a patent office or any third party of:

centre is informed by a competent court of a Member State pursuant to Article 10(1) or a patent office or any third party of:

Amendment 54

Proposal for a regulation Article 23 – paragraph 5

Text proposed by the Commission

5. If the SEP holder fails to correct the entry in the register or the information submitted for the database within the given time limit, the registration shall be suspended from the register, until such time as the incompleteness or inaccuracy is remedied.

Amendment

5. If the SEP holder fails to correct the entry in the register or the information submitted for the database within the given time limit, ***the competence centre shall notify the SEP holder about its failure to correct the entry and that, following a grace period of 2 months during which the SEP holder could still provide the required information,*** the registration shall be suspended from the register, until such time as the incompleteness or inaccuracy is remedied.

Amendment 55

Proposal for a regulation Article 26 – paragraph 2

Text proposed by the Commission

2. A conciliator shall ***conduct the following tasks:***
(a) mediate among parties in establishing an aggregate royalty;
(b) provide a non-binding opinion on an aggregate royalty ;
(c) serve in a FRAND determination.

Amendment

2. A conciliator shall serve in a FRAND determination.

Amendment 56

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 57

Proposal for a regulation

Article 26 – paragraph 5 – point b

Text proposed by the Commission

(b) the procedures pursuant to Articles **17, 18**, 31 and 32 and Title VI.

Amendment

(b) the procedures pursuant to Articles 31 and 32 and Title VI.

Amendment 58

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 suitable candidates for evaluators or conciliators. There **shall** be different rosters of evaluators and conciliators depending on the technical area of their specialisation or expertise.

Amendment 59

Proposal for a regulation

Article 29 – paragraph 5

Text proposed by the Commission

5. ***Each SEP holder may voluntarily propose annually up to 100 registered***

Amendment

deleted

SEPs from different patent families to be checked for essentiality with regard to each specific standard for which SEP registration was made.

Amendment 60

Proposal for a regulation Article 29 – paragraph 6

Text proposed by the Commission

Amendment

6. *Any implementer may voluntarily propose annually up to 100 registered SEPs from different patent families to be checked for essentiality with regard to each specific standard for which SEP registrations have been made.* **deleted**

Amendment 61

Proposal for a regulation Article 36 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) the commercial name of the standard and the name of the standard developing organisation. (d) the commercial name of the standard and the name of the **relevant** standard developing organisation.

Amendment 62

Proposal for a regulation Article 36 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) references to any other FRAND determination, if applicable. (f) references to any other **related** FRAND determination, if applicable.

Amendment 63

Proposal for a regulation Article 37 – paragraph 2

Text proposed by the Commission

Amendment

2. ***The period for the time barring of claims before a competent court of a Member State shall be suspended for the duration of the FRAND determination.*** ***deleted***

Amendment 64

Proposal for a regulation

Article 38 – paragraph 2

Text proposed by the Commission

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 ***whether it commits to comply with its outcome.***

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 participation.***

Amendment 65

Proposal for a regulation

Article 38 – paragraph 3 – introductory part

Text proposed by the Commission

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, ***or not to commit to comply with the outcome,*** the following shall apply:

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 66

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

(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 67

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

(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.

Amendment 68

Proposal for a regulation

Article 38 – paragraph 4 – introductory part

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 69

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 70

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 FRAND determination.

Amendment 71

Proposal for a regulation
Article 38 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(a) the competence centre shall notify the requesting party thereof and request to inform the competence centre within seven days;

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.

Amendment

4 a. Both parties may declare a commitment to comply with the outcome of the FRAND determination at any time during the process. The commitment may be unilateral or contingent upon the other

party's agreement. The commitment shall have no impact on the outcome or continuation of the FRAND determination process.

Amendment 72

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 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.

Amendment

5. Where either party commits to comply with the outcome of the FRAND determination, the 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.

Amendment 73

Proposal for a regulation Article 39

Text proposed by the Commission

Selection of conciliators

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 parties or party shall select one of the proposed candidates as a conciliator for***

Amendment

Selection of **the panel of** conciliators

1. Following the ***continuation of*** 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 ***requesting and responding parties*** shall ***each nominate one conciliator from the roster of conciliators referred to in Article 27(2) to the panel of conciliators. Both conciliators shall jointly agree on one***

the FRAND determination.

2. If the parties do not agree on *a* conciliator, the competence centre shall select one candidate from the roster of conciliators referred to in Article 27(2).

Amendment 74

Proposal for a regulation Article 42 – paragraph 1

Text proposed by the Commission

1. After the case is referred to the **conciliator** in accordance with Article 40(2), **he/she** shall examine whether the request contains the information required under Article 36 in accordance with the Rules of procedure.

Amendment 75

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 76

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

further conciliator for the FRAND determination from the roster of conciliators referred to **in** Article 27(2).

2. If **the two conciliators nominated by** the parties do not agree on **the third** conciliator, the competence centre shall select one candidate from the roster of conciliators referred to in Article 27(2).

Amendment

1. After the case is referred to the **panel of conciliators** in accordance with Article 40(2), **they** shall examine whether the request contains the information required under Article 36 in accordance with the Rules of procedure.

Amendment

2. **They** 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

1. A party may submit an objection stating that the **panel of conciliators** is

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.

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 77

Proposal for a regulation Article 44 – paragraph 2

Text proposed by the Commission

2. The ***conciliator*** shall decide on the objection and either reject it as unfounded before considering the merits of the case or join it to the examination of the merits of the FRAND determination. If the ***conciliator*** overrules the objection or joins it to the examination of the merits of the determination of FRAND terms and conditions, it shall resume consideration of the determination of FRAND terms and conditions.

Amendment

2. The ***panel of conciliators*** shall decide on the objection and either reject it as unfounded before considering the merits of the case or join it to the examination of the merits of the FRAND determination. If the ***panel of conciliators*** overrules the objection or joins it to the examination of the merits of the determination of FRAND terms and conditions, it shall resume consideration of the determination of FRAND terms and conditions.

Amendment 78

Proposal for a regulation Article 44 – paragraph 3

Text proposed by the Commission

3. If the ***conciliator*** decides that the objection is founded, it shall terminate the FRAND determination and shall draw up a report stating the reasons of the decision.

Amendment

3. If the ***panel of conciliators*** decides that the objection is founded, it shall terminate the FRAND determination and shall draw up a report stating the reasons of the decision.

Amendment 79

Proposal for a regulation Article 45 – paragraph 1

Text proposed by the Commission

1. The **conciliator** shall assist the parties in an independent and impartial manner in their endeavour to reach a determination of FRAND terms and conditions.

Amendment

1. The **panel of conciliators** shall assist the parties in an independent and impartial manner in their endeavour to reach a determination of FRAND terms and conditions.

Amendment 80

**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 with **him/her** orally or in writing.

Amendment

2. The **panel of conciliators** may invite the parties or the party requesting the continuation of the FRAND determination to meet with **them** or may communicate with **them** orally or in writing.

Amendment 81

**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 shall cooperate in good faith with the **panel of conciliators** and, in particular, shall attend the meetings, comply with **their** 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 82

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

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 ***panel of conciliators*** shall terminate the FRAND determination.

Amendment 83

Proposal for a regulation

Article 46 – paragraph 1 – point a

Text proposed by the Commission

(a) fails to comply with any request of the ***conciliator***, Rules of procedure or schedule of procedure referred to in Article 42(2),

Amendment

(a) fails to comply with any request of the ***panel of conciliators***, Rules of procedure or schedule of procedure referred to in Article 42(2),

Amendment 84

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 85

Proposal for a regulation

Article 46 – paragraph 1 – subparagraph 2

Text proposed by the Commission

the ***conciliator*** shall inform both parties thereof.

Amendment

the ***panel of conciliators*** shall inform both parties thereof.

Amendment 86

Proposal for a regulation

Article 46 – paragraph 2 – introductory part

Text proposed by the Commission

2. Having received the notification of the **conciliator**, the complying party may ask the **conciliator** to take one of the following actions:

Amendment

2. Having received the notification of the **panel of conciliators**, the complying party may ask the **panel of conciliators** to take one of the following actions:

Amendment 87

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 **they have** not been appointed, the competence centre, shall terminate the FRAND determination upon the request of any party.

Amendment 88

Proposal for a regulation

Article 50 – paragraph 1

Text proposed by the Commission

1. At any time during the FRAND determination, the **conciliator** or a party on its own motion or by invitation of the **conciliator** may submit proposals for a determination of FRAND terms and conditions

Amendment

1. At any time during the FRAND determination, the **panel of conciliators** or a party on its own motion or by invitation of the **panel of conciliators** may submit proposals for a determination of FRAND terms and conditions

Amendment 89

Proposal for a regulation

Article 50 – paragraph 3

Text proposed by the Commission

3. When submitting suggestions for FRAND terms and conditions, the **conciliator** shall take into account the impact of the determination FRAND terms and conditions on the value chain and on the incentives to innovation of both the SEP holder and the stakeholders in the relevant value chain. To that end, the **conciliator may rely on the expert opinion referred to in Article 18 or, in case of absence of such an opinion** request additional information and hear experts or stakeholders.

Amendment

3. When submitting suggestions for FRAND terms and conditions, the **panel of conciliators** shall take into account the impact of the determination FRAND terms and conditions on the value chain and on the incentives to innovation of both the SEP holder and the stakeholders in the relevant value chain. To that end, the **panel of conciliators may** request additional information and hear experts or stakeholders.

Amendment 90

**Proposal for a regulation
Article 55 – paragraph 1**

Text proposed by the Commission

1. At the latest 45 days before the end of the time limit referred to in Article 37, the **conciliator** shall submit a reasoned proposal for a determination of FRAND terms and conditions to the parties or, as applicable, the party requesting the continuation of the FRAND determination.

Amendment

1. At the latest 45 days before the end of the time limit referred to in Article 37, the **panel of conciliators** shall submit a reasoned proposal for a determination of FRAND terms and conditions to the parties or, as applicable, the party requesting the continuation of the FRAND determination.

Amendment 91

**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

Amendment

2. Either party may submit observations to the proposal and suggest amendments to the proposal by the **panel of conciliators**, 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.

requesting the continuation of the FRAND determination, as applicable, of such reformulation.

Amendment 92

Proposal for a regulation

Article 56 – paragraph 1 – point b

Text proposed by the Commission

(b) a written declaration is signed by the parties accepting the reasoned proposal for a determination of FRAND terms and conditions by the **conciliator** referred to in Article 55;

Amendment

(b) a written declaration is signed by the parties accepting the reasoned proposal for a determination of FRAND terms and conditions by the **panel of conciliators** referred to in Article 55;

Amendment 93

Proposal for a regulation

Article 56 – paragraph 1 – point c

Text proposed by the Commission

(c) a written declaration is made by a party not to accept the reasoned proposal of a determination of FRAND terms and conditions by the **conciliator** referred to in Article 55;

Amendment

(c) a written declaration is made by a party not to accept the reasoned proposal of a determination of FRAND terms and conditions by the **panel of conciliators** referred to in Article 55;

Amendment 94

Proposal for a regulation

Article 56 – paragraph 1 – point d

Text proposed by the Commission

(d) a party has not submitted a reply to the reasoned proposal of a determination of FRAND terms and conditions by the **conciliator** referred to in Article 55.

Amendment

(d) a party has not submitted a reply to the reasoned proposal of a determination of FRAND terms and conditions by the **panel of conciliators** referred to in Article 55.

Amendment 95

Proposal for a regulation
Article 56 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) a binding FRAND determination agreed between the parties pursuant to Article 38(4) shall terminate when the conciliator makes its final reasoned proposal under Article 55.

Amendment 96

Proposal for a regulation
Article 61

Text proposed by the Commission

Amendment

Training, advice and support

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

Training, advice and support

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

In particular, the competence centre shall work in close cooperation with the European Commission, national patent offices and governmental schemes that support SMEs, in order to offer practical guidance and advice to SMEs, whether these are SEP holders or implementers. The competence centre shall also regularly seeks input from SMEs on what training and support the competence centre should offer to them, as well as what studies in accordance with paragraph 2 would be most helpful to them.

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

2. The competence centre may commission studies, if it considers it necessary, to assist micro, small and medium-size enterprises 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. The competence centre may provide to SMEs estimates of licensing costs for such applications.

2a. The competence center shall require each SEP holder with a Registered SEP to report annually:

(a) all license agreements concluded with SMEs;

(b) all SMEs that sent it unsolicited requests it for an SEP license; and

(c) all SMEs to which it specifically directed a request to take an SEP license.

The competence center shall publish an annual report on SME SEP Licensing based on such reports.

2b. The competence centre shall invite SEP holders with a Registered SEP to identify an employee to the competence center, known as an “SME Ambassador,” to whom the competence center may direct inquiries under paragraphs 1 to 3. SEP holders may identify an SME Ambassador on a voluntary basis.

3. The costs of the services referred to in paragraph (1) and paragraph 2 shall be borne by the EUIPO.

3. The costs of the services referred to in paragraph (1) *to (2b)* shall be borne by the EUIPO. *The EUIPO shall ensure that this function is sufficiently funded and resourced.*

Amendment 97

Proposal for a regulation Article 63 – paragraph 2 – point a

Text proposed by the Commission

(a) for the conciliators facilitating

Amendment

deleted

*agreements on aggregate royalty
determinations in accordance with Article
17;*

Amendment 98

Proposal for a regulation Article 63 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) for the expert opinion on aggregate royalty in accordance with Article 18; *deleted*

Amendment 99

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

Text proposed by the Commission

Amendment

(a) the fees referred to in paragraph (2), point (a) by the SEP holders that participated in the process based on their estimated percentage of SEPs from all SEPs for the standard; *deleted*

Amendment 100

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; *deleted*

Amendment 101

Proposal for a regulation Article 64 – paragraph 2

Text proposed by the Commission

2. If the amounts requested are not paid in full within 10 days after the date of the request, the competence centre may notify the defaulting party and give it the opportunity to make the required payment within [5] days. It shall submit a copy of the request to the other party, in case of ***an aggregate royalty or FRAND*** determination.

Amendment

2. If the amounts requested are not paid in full within 10 days after the date of the request, the competence centre may notify the defaulting party and give it the opportunity to make the required payment within [5] days. It shall submit a copy of the request to the other party, in case of FRAND determination.

Amendment 102

Proposal for a regulation Article 66

Text proposed by the Commission

Article 66

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***

Amendment

deleted

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 103

Proposal for a regulation Article 68 – paragraph 2

Text proposed by the Commission

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Amendment

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ***In accordance with Article 5(4)(b) of that Regulation, where no committee opinion is delivered, the Commission shall not adopt the draft implementing act.***

Amendment 104

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 ***[6 months after the entry into force of this Regulation, the Commission shall set up an expert stakeholder group, comprised of independent external experts and a balanced representation of all interested parties, including SEP holders and implementers and SMEs. The expert stakeholder group shall be tasked with assessing the impact of this Regulation on the European and global IP and innovation ecosystem and on the European competitiveness, as well as the compatibility of this Regulation with the WTO agreements. The expert stakeholder group shall formulate its assessment and its recommendation in a report to the Commission no later than [12 months after the entry into force of this Regulation], and every three years thereafter. That report shall also be made public.***

Amendment 105

Proposal for a regulation
Article 70 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. By [OJ: please insert the date = 18 months from entry into force of this regulation], and every three years thereafter, the Commission shall review the application, enforcement and impact of this Regulation and present a report to the European Parliament and the Council. In its evaluation, the Commission shall adopt a global perspective when assessing the effectiveness and efficiency of measures impacting EU companies' innovation capacity. It shall also consider global competitiveness, document instances of circumvention and impact on end-users. In drafting its report, the Commission shall take into consideration the assessment and recommendations of the expert stakeholder group as referred to in paragraph 1a, and shall consult the EUIPO, EPO, the World Intellectual Property Organisation and other global stakeholders, including third country governments. The Commission report as referred to in the first subparagraph, shall in particular assess the following issues: a) the effectiveness of this Regulation in achieving its intended goal of increasing transparency and, in particular, the impact, effectiveness and efficiency of the competence centre and its working methods; b) the cost-benefit to SEP holders and implementers of this Regulation; c) the overall impact on the IP and innovation ecosystem in Europe and globally; d) the impact of this regulation on SMEs and micro enterprises; e) the impact on trade and on the competitiveness of the Union's industry; g) the impact in terms of administrative burdens for the economic operators; and h) whether the regulation goes against WTO compatibility and TRIPS. Where the Commission considers

it appropriate, the report shall be accompanied by relevant legislative proposals or repeal the existing regulation.

Amendment 106

Proposal for a regulation Article 70 – paragraph 2

Text proposed by the Commission

Amendment

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.* **deleted**

Amendment 107

Proposal for a regulation Article 70 – paragraph 3

Text proposed by the Commission

Amendment

3. *When preparing the evaluation reports referred to in paragraphs (1) and (2), the Commission shall consult the EUIPO and stakeholders.* **deleted**

Amendment 108

Proposal for a regulation Article 70 – paragraph 4

Text proposed by the Commission

Amendment

4. *The Commission shall submit the evaluation reports referred to in paragraphs (1) and (2) together with its* **deleted**

conclusions drawn based on those reports to the European Parliament, to the Council, to the European Economic and Social Committee and to the Management Board of the EUIPO.

Amendment 109

Proposal for a regulation Article 72 – paragraph 2

Text proposed by the Commission

2. It shall apply from ... [OP: please insert the date = **24** months after the date of entry into force of this Regulation].

Amendment

2. It shall apply from ... [OP: please insert the date = **36** months after the date of entry into force of this Regulation].

Amendment 110

Proposal for a regulation Article 72 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. By way of derogation from paragraph 2, Article 3 shall apply from the date of entry into force of this Regulation, to the extent it is necessary for the establishment of the competence centre.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Standard essential patents and amending Regulation (EU)2017/1001						
References	COM(2023)0232 – C9-0147/2023 – 2023/0133(COD)						
Committee responsible Date announced in plenary	JURI 15.6.2023						
Opinion by Date announced in plenary	INTA 5.10.2023						
Associated committees - date announced in plenary	5.10.2023						
Rapporteur for the opinion Date appointed	Danuta Maria Hübner 19.7.2023						
Discussed in committee	19.9.2023						
Date adopted	28.11.2023						
Result of final vote	<table> <tr> <td>+: </td><td>30</td></tr> <tr> <td>–: </td><td>0</td></tr> <tr> <td>0: </td><td>4</td></tr> </table>	+:	30	–:	0	0:	4
+:	30						
–:	0						
0:	4						
Members present for the final vote	Barry Andrews, Anna-Michelle Asimakopoulou, Tiziana Beghin, Geert Bourgeois, Saskia Bricmont, Daniel Caspary, Paolo De Castro, Markéta Gregorová, Heidi Hautala, Danuta Maria Hübner, Karin Karlsbro, Martine Kemp, Miapetra Kumpula-Natri, Bernd Lange, Margarida Marques, Gabriel Mato, Sara Matthieu, Emmanuel Maurel, Carles Puigdemont i Casamajó, Samira Rafaela, Catharina Rinzema, Inma Rodríguez-Piñero, Helmut Scholz, Joachim Schuster, Mihai Tudose, Kathleen Van Brempt, Marie-Pierre Vedrenne, Jörgen Warborn, Iuliu Winkler, Jan Zahradil, Juan Ignacio Zoido Álvarez						
Substitutes present for the final vote	Michiel Hoogeveen, Javier Moreno Sánchez, Ralf Seekatz						

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

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that she has received input from the following entities or persons in the preparation of the opinion, until the adoption thereof in committee:

Entity and/or person
4IPcouncil
ACEA
ACT The App Association
Continental
DOLBY
Ericsson
European Association of Automotive Suppliers (CLEPA)
European Association of Smart Energy Solution Providers (ESMIG)
European Commission DG Grow, Unit of Intangible Economy
European Commission DG Trade, Unit for Investment and Intellectual Property
European Patent Office, President's Office
Fair Standards Alliance
Fraunhofer Institut
Ingenico
InterDigital
IP Europe
Marconi (Avanci platform)
Nokia
Phillips
Qualcomm
Xiaomi

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

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

30	+
NI	Tiziana Beghin, Carles Puigdemont i Casamajó
PPE	Anna-Michelle Asimakopoulou, Daniel Caspary, Danuta Maria Hübner, Martine Kemp, Gabriel Mato, Ralf Seekatz, Jörgen Warborn, Iuliu Winkler, Juan Ignacio Zoido Álvarez
Renew	Barry Andrews, Karin Karlsbro, Samira Rafaela, Catharina Rinzema, Marie-Pierre Vedrenne
S&D	Paolo De Castro, Miapetra Kumpula-Natri, Bernd Lange, Margarida Marques, Javier Moreno Sánchez, Inma Rodríguez-Piñero, Joachim Schuster, Mihai Tudose, Kathleen Van Brempt
The Left	Helmut Scholz
Verts/ALE	Saskia Bricmont, Markéta Gregorová, Heidi Hautala, Sara Matthieu

0	-

4	0
ECR	Geert Bourgeois, Michiel Hoogeveen, Jan Zahradil
The Left	Emmanuel Maurel

Key to symbols:

+ : in favour

- : against

0 : abstention