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Reasonable and non-discriminatory terms, also known as fair, reasonable, and non-discriminatory terms, denote a voluntary licensing commitment that standards organizations often request from the owner of an intellectual property right that is, or may become, essential to practice a technical standard. Put differently, a F/RAND commitment is a voluntary agreement between the standard-setting organization and the holder of standard-essential patents. U.S. courts, as well as courts in other jurisd

Reasonable and non-discriminatory licensing - Wikipedia

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meaning of a commitment by the holder of patents ' essential ' to the practice of a standard to license such patents on ' fair, reasonable, and nondiscriminatory ' (FRAND) terms and conditions. The body of legal literature addressing this question is by now substantial, and growing.

In attempting to define the true meaning of "fair, reasonable and non-discriminatory terms" - also known as FRAND - one is reminded of the parable of two political parties arguing before the elections about who is right and who is wrong, although they both know that there is no such thing as one truth and that it

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utterly depends on the individual perspective. Given the very substantial legal and business concerns involved within the telecommunication standardization environment, the conflicting interpretations of FRAND terms and conditions seem to be unavoidable. This paper is based on the author's master thesis as part of the LL.M. in Intellectual Property and Competition Law. The analysis presented shows that the FRAND debate is very controversial and that many questions related to the enforcement of FRAND commitments under EC competition law remain unsolved. In essence, this paper demonstrates that FRAND commitments can be used as a powerful defense in order to prevent dominant patent holders from abusively exploiting their standard-essential patents. However, when determining the impact of FRAND commitments under Article 102 TFEU (Treaty on the Functioning of the European Union), it should be kept in mind that the test that complainants need to meet is not merely a test based on the rationale of FRAND commitments under the relevant standards-setting organization rules. In other words, in the absence of dominance, even if a patentee in fact does not fulfill his FRAND commitments and asks for exorbitant royalty rates, this does not automatically provide complainants with an antitrust remedy under the EC competition law. Master Thesis.

Die Arbeit diskutiert die Auswirkungen der Durchsetzung von Standard-Patenten für das Wettbewerbsrecht. Die formale Standardeinstellung hat das Potenzial, zu nahezu optimalen Investitionen in Forschung und Entwicklung und gleichzeitig zur schnellen Umsetzung innovativer Standards zu führen.

Patent Challenges for Standard-Setting in the Global Economy: Lessons from Information and Communication Technology examines how leading national and multinational standard-setting organizations (SSOs) address patent disclosures, licensing terms, transfers of patent ownership, and other issues that arise in connection with developing technical standards for consumer and other microelectronic products, associated software and components, and communications networks including the Internet. Attempting to balance the interests of patent holders, other participants in standard-setting, standards implementers, and consumers, the report calls on SSOs to develop more explicit policies to avoid patent holdup and royalty-stacking, ensure that licensing commitments carry over to new owners of the patents incorporated in standards, and limit injunctions for infringement of patents with those licensing commitments. The report recommends government measures to increase the transparency of patent ownership and use of standards information to improve patent quality and to reduce conflicts of laws across countries.

Patent holders are increasingly making voluntary, public commitments to limit the enforcement and other exploitation of their patents. The best-known form of patent pledge is the so-called FRAND commitment, in which a patent holder commits to license patents to manufacturers of standardized products on terms that are “ fair, reasonable and non-discriminatory. ” Patent pledges have also been appearing in fields well beyond technical standard-setting, including open source software, green technology and the biosciences. This book explores the motivations, legal characteristics and policy goals of these increasingly popular private ordering tools.

Through a collaboration among twenty legal scholars from North America, Europe and Asia, this book presents an international consensus on the use of patent remedies for complex products such as smartphones, computer networks, and the Internet of Things. This title is also available as Open Access on Cambridge Core.

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This book is a very useful reference guide on how de jure and de facto standards are being developed and how these standards compete against each other. The book also looks at how FRAND commitments are being determined across countries, how these disputes have played out, especially in Asia, and how they can be better dealt with in future globally. The book gives a broad overview of the business model of dominant SEP patentees and analyzes some standards for FRAND licensing of SEPs which are converging in major Asian jurisdictions. It highlights the need for ex ante regulation in the FRAND licensing of SEPs and suggests how we can reconcile conflicts which may arise from different legal standards. This book provides detailed and comprehensive analysis of recent SEP cases with an emphasis on Asia and will interest anyone who wishes to have more insight into the legal, policy, industrial and economic implications of such issues.

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This book is open access under a CC BY 4.0 license. With technology standards becoming increasingly common, particularly in the information and communications technology (ICT) sector, the complexities and contradictions at the interface of intellectual property law and competition law have emerged strongly. This book talks about how the regulatory agencies and courts in the United States, European Union and India are dealing with the rising allegations of anti-competitive behaviour by standard essential patent (SEP) holders. It also discusses the role of standards setting organizations / standards developing organizations (SSO/SDO) and the various players involved in implementing the standards that influence practices and internal dynamics in the ICT sector. This book includes discussions on fair, reasonable and non-discriminatory (FRAND) licensing terms and the complexities that arise when both licensors and licensees of SEPs differ on what they mean by “ fair ” , “ reasonable ” and “ non-discriminatory ” terms. It also addresses topics such as the appropriate royalty base, calculation of FRAND rates and concerns related to FRAND commitments and the role of Federal Trade Commission (FTC) in collaborative standard setting process. This book provides a wide range of valuable information and is a useful tool for graduate students, academics and researchers.

Technical standards are ubiquitous in the modern networked economy. They allow products made and sold by different vendors to interoperate with little to no consumer effort and enable new market entrants to innovate on top of established technology platforms. This groundbreaking volume, edited by Jorge L. Contreras, assesses and analyzes the legal aspects of technical standards and standardization. Bringing together more than thirty leading international scholars, advocates, and policymakers, it focuses on two of the most contentious and critical areas pertaining to standards today in key jurisdictions around the world: antitrust/competition law and patent law. (A subsequent volume will focus on international trade, copyright, and administrative law.) This comprehensive, detailed examination sheds new light on the standards that shape the global technology marketplace and will serve as an indispensable tool for scholars, practitioners, judges, and policymakers everywhere.