



Tech Standardization and SEPs – Trends

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Standards and Standards Essential Patents

- What are SEPs?
 - Standards
 - (Codecs, Wifi, 3G/4G/5G, USB, etc)
 - IETF, IP, and other royalty free standards
 - Technical in nature, not legal
 - Essential
 - Optional, implementation
 - Patent
 - When to disclose (Rambus, Qualcomm-Broadcom)
- Why are SEPs so important?
 - Interoperability

RAND and FRAND

Reasonable and
non-discriminatory

Fair, reasonable and
non-discriminatory

A voluntary
agreement between
a SSO and the
holder of the SEP

Reasonable

A reasonable licensing rate is a rate charged on licenses which would not result in an unreasonable aggregate rate if all licensees were charged a similar rate. (*ex-ante*)

A reasonable licensing rate is a rate agreed to in an arms length negotiation between two sophisticated parties

Negotiation → Litigation

Hold-up

Hold-out



Patent
Litigation

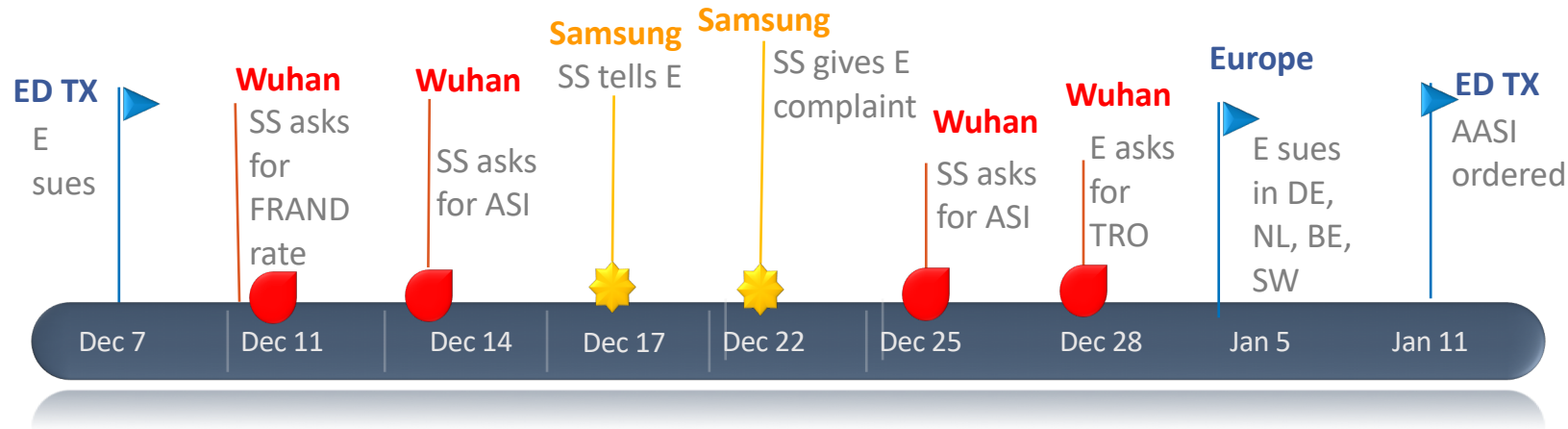


anti anti anti anti anti anti anti anti anti Suit Injunctions

- Licensing negotiations fail;
- a patent owner brings patent infringement proceedings in one or more courts;
- while the alleged infringer starts an action in another court claiming that the patent owner has not offered a license on FRAND terms.

Microsoft – Motorola
Huawei – Conversant
Continental – Nokia
Xiaomi – Interdigital
Oppo – Sharp
Samsung - Ericsson

Ericsson Samsung Dispute



12/7/20 SS files in Wuhan to determine global FRAND rate (Ericsson not informed)

12/11/20 Ericsson sues SS in EDTX for breach of FRAND

12/14/20 SS filed a Behavior Preservation Application in Wuhan, requesting an anti-suit injunction

12/17/20 SS informs Ericsson of the Chinese Action but didn't provide any court filings

12/22/20 SS provided the civil complaint to Ericsson

12/25/20 Wuhan Court issues anti-suit injunction

12/28/20 E asks Wuhan court for TRO until arguments can be held, which Wuhan grants

1/5/21 E sues SS in Germany, Netherlands, Belgium and Sweden for patent infringement

1/11/21 Judge Gilstrap orders an anti-anti injunction, ordering SS to take no action in the Chinese action that would interfere with EDTx jurisdiction

Where are SEPs headed?

Better way to
resolve?

Learnings/future
for BR and CO?

How can other
ASIPi regions
get involved?



Thank you