Basic information

2023/0133(COD)

COD - Ordinary legislative procedure (ex-codecision procedure)
Regulation

Standard essential patents

Amending Regulation 2017/1001 2016/0345(COD)

Subject

2.10.03 Standardisation, EC/EU standards and trade mark, certification, compliance
3.50.16 Industrial property, European patent, Community patent, design and pattern

Legislative priorities

Joint Declaration 2023-24

Awaiting Council's 1st reading position

The proposal was formally withdrawn by the Commission in October 2025. In November 2025, Parliament approved the decision to maintain its action before the Court of Justice for the annulment of the Commission's decision to withdraw the proposal.

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	WALSMANN Marion (EPP)	18/11/2024
	Shadow rapporteur WÖLKEN Tiemo (S&D) ZŁOTOWSKI Kosma (ECR) FURORE Mario (The Left)	

Former committee responsible	Former rapporteur	Appointed
JURI Legal Affairs	WALSMANN Marion (EPP)	26/06/2023

Former committee for opinion	Former rapporteur for opinion	Appointed
INTA International Trade (Associated committee)	HÜBNER Danuta Maria (EPP)	19/07/2023
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	CHARANZOVÁ Dita (Renew)	23/08/2023

Council of the European Union	
European Commission	Commission DG: Internal Market, Industry, Entrepreneurship and SMEs — Commissioner: BRETON Thierry
European Economic and Social Committee	

Key events

Date	Event	Reference	Summary
27/04/2023	Legislative proposal published	COM(2023)0232	Summary
15/06/2023	Committee referral announced in Parliament, 1st reading		
05/10/2023	Referral to associated committees announced in Parliament		
24/01/2024	Vote in committee, 1st reading		
30/01/2024	Committee report tabled for plenary, 1st reading	A9-0016/2024	Summary
27/02/2024	Debate in Parliament		
28/02/2024	Decision by Parliament, 1st reading	T9-0100/2024	Summary
28/02/2024	Results of vote in Parliament		
13/11/2024	Resumption of business from the previous parliamentary term		

Technical information

Procedure reference	2023/0133(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation 2017/1001 2016/0345(COD)
Legal basis	Rules of Procedure EP 57_o Treaty on the Functioning of the European Union TFEU 114 Treaty on the Functioning of the European Union TFEU 114-p3
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	JURI/9/11893

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE753.697	02/10/2023	
Amendments tabled in committee		PE755.032	31/10/2023	
Amendments tabled in committee		PE755.977	31/10/2023	
Committee opinion	INTA	PE753.729	04/12/2023	
Committee opinion	IMCO	PE753.649	05/12/2023	
Committee report tabled for plenary, 1st reading/single reading		A9-0016/2024	30/01/2024	Summary
Text adopted by Parliament, 1st reading/single reading		T9-0100/2024	28/02/2024	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2023)0232	27/04/2023	Summary
Document attached to the procedure	SEC(2023)0174	27/04/2023	
Document attached to the procedure	SWD(2023)0123	27/04/2023	
Document attached to the procedure	SWD(2023)0124	27/04/2023	
Document attached to the procedure	SWD(2023)0125	27/04/2023	
Commission response to text adopted in plenary	SP(2024)270	08/07/2024	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	CZ_CHAMBER	COM(2023)0232	05/09/2023	
Contribution	RO_SENATE	COM(2023)0232	08/11/2023	
Contribution	FI_PARLIAMENT	COM(2023)0232	27/11/2023	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N9-0083/2023 OJ C 000 14.11.2023, p. 0000	19/06/2023	
EESC	Economic and Social Committee: opinion, report	CES2306/2023	20/09/2023	

Additional information		

Source	Document	Date
European Parliament	Briefing	09/11/2023
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency				
Name	Role	Committee	Date	Interest representatives
WÖLKEN Tiemo	Shadow rapporteur	JURI	16/10/2025	Volkswagen Aktiengesellschaft
WALSMANN Marion	Rapporteur	JURI	21/06/2025	Intel
WALSMANN Marion	Rapporteur	JURI	26/05/2025	IP2Innovate
WALSMANN Marion	Rapporteur	JURI	20/05/2025	ACT The App Association
WALSMANN Marion	Rapporteur	JURI	29/04/2025	FTI Consulting Belgium
WALSMANN Marion	Rapporteur	JURI	20/02/2025	Continental AG
ZŁOTOWSKI Kosma	Shadow rapporteur	JURI	22/10/2024	Intel Corporation
WALSMANN Marion	Rapporteur	JURI	03/10/2024	FTI Consulting Belgium
WÖLKEN Tiemo	Shadow rapporteur	JURI	30/09/2024	Fair Standards Alliance
WALSMANN Marion	Rapporteur	JURI	25/09/2024	APCO Worldwide
WALSMANN Marion	Rapporteur	JURI	16/02/2024	Orange
WALSMANN Marion	Rapporteur	JURI	08/02/2024	Xiaomi Technology Netherlands B.V.
WALSMANN Marion	Rapporteur	JURI	08/02/2024	HMD Global
WÖLKEN Tiemo	Shadow rapporteur	JURI	14/12/2023	Association des Constructeurs Européens d'Automobiles
WALSMANN Marion	Rapporteur	JURI	13/12/2023	Fraunhofer-Gesellschaft zur Förderung der angewandten Forschung e.V.
JORON Virginie	Shadow rapporteur for opinion	IMCO	11/12/2023	AQUA - Association Européenne des Fabricants de Compteurs d'Eau et d'Energie Thermique
WALSMANN Marion	Rapporteur	JURI	05/12/2023	Dell
WALSMANN Marion	Rapporteur	JURI	05/12/2023	Finnish Permanent Representation
WÖLKEN Tiemo	Shadow rapporteur	JURI	30/11/2023	Dolby Laboratories, Inc.
WÖLKEN Tiemo	Shadow rapporteur	JURI	30/11/2023	Avanci, LLC
VÁZQUEZ LÁZARA Adrián	Shadow rapporteur	JURI	30/11/2023	EUIPO
WÖLKEN Tiemo	Shadow rapporteur	JURI	30/11/2023	AQUA - Association Européenne des Fabricants de Compteurs d'Eau et d'Energie Thermique Association of European Manufactures of Gas Metering Equipment, Gas Pressure Regulators and associated Safety Devices

WÖLKEN Tiemo	Shadow rapporteur	JURI	29/11/2023	Europäische Kommission
VÁZQUEZ LÁZARA Adrián	Shadow rapporteur	JURI	29/11/2023	EUIPO
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Continental AG
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Nokia
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Bundesverband Deutscher Leasing-Unternehmen e. V.
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Volkswagen Aktiengesellschaft
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Mercedes-Benz Group AG
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Siemens AG
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Wirtschaftsrat der CDU e.V.
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Verband der Automobilindustrie
WALSMANN Marion	Rapporteur	JURI	29/11/2023	QUALCOMM Incorporated
WALSMANN Marion	Rapporteur	JURI	29/11/2023	Robert Bosch GmbH
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CARVALHO Maria da Graça	Shadow rapporteur for opinion	IMCO	14/11/2023	Fair Standards Alliance
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VÁZQUEZ LÁZARA Adrián	Shadow rapporteur	JURI	10/11/2023	Ericsson
VÁZQUEZ LÁZARA Adrián	Shadow rapporteur	JURI	08/11/2023	AmCham
VÁZQUEZ LÁZARA Adrián	Shadow rapporteur	JURI	08/11/2023	QUALCOMM Incorporated
WALSMANN Marion	Rapporteur	JURI	06/11/2023	Technische Universität München
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur for opinion	IMCO	24/10/2023	Forward Global
HÜBNER Danuta Maria	Rapporteur for opinion	INTA	20/10/2023	Fair Standards Alliance
HÜBNER Danuta Maria	Rapporteur for opinion	INTA	20/10/2023	European Association Automotive Suppliers
HÜBNER Danuta Maria	Rapporteur for opinion	INTA	20/10/2023	European Smart Energy Solution Providers
WALSMANN Marion	Rapporteur	JURI	18/10/2023	Nokia
WÖLKEN Tiemo	Shadow rapporteur	JURI	18/10/2023	Volkswagen Aktiengesellschaft
HÜBNER Danuta Maria	Rapporteur for opinion	INTA	18/10/2023	Ericsson Nokia
HÜBNER Danuta Maria	Rapporteur for opinion	INTA	18/10/2023	Association for Competitive Technology

CARVALHO Maria da Graça	Shadow rapporteur for opinion	IMCO	17/10/2023	Dolby Laboratories, Inc.
CARVALHO Maria da Graça	Shadow rapporteur for opinion	IMCO	11/10/2023	Maghame IP Consulting
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur for opinion	IMCO	11/10/2023	Apple Inc.
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur for opinion	IMCO	11/10/2023	Ericsson
CARVALHO Maria da Graça	Shadow rapporteur for opinion	IMCO	05/10/2023	European Smart Energy Solution Providers
WÖLKEN Tiemo	Shadow rapporteur	JURI	04/10/2023	European Commission
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur for opinion	IMCO	04/10/2023	European Smart Energy Solution Providers
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur for opinion	IMCO	02/10/2023	Fair Standards Alliance
LEITÃO-MARQUES Maria-Manuel	Shadow rapporteur for opinion	IMCO	02/10/2023	Nokia
WÖLKEN Tiemo	Shadow rapporteur	JURI	27/09/2023	Continental AG European Association Automotive Suppliers
WÖLKEN Tiemo	Shadow rapporteur	JURI	27/09/2023	IP Europe
CARVALHO Maria da Graça	Shadow rapporteur for opinion	IMCO	27/09/2023	Avanci, LLC
CARVALHO Maria da Graça	Shadow rapporteur for opinion	IMCO	27/09/2023	Ericsson InterDigital, Inc. Nokia QUALCOMM Incorporated
WALSMANN Marion	Rapporteur	JURI	27/09/2023	Ingenico
CARVALHO Maria da Graça	Shadow rapporteur for opinion	IMCO	26/09/2023	Fair Standards Alliance
WALSMANN Marion	Rapporteur	JURI	26/09/2023	Ericsson
WÖLKEN Tiemo	Shadow rapporteur	JURI	22/09/2023	Bundesjustizministerium
WALSMANN Marion	Rapporteur	JURI	22/09/2023	Cisco Systems Inc.
WALSMANN Marion	Rapporteur	JURI	22/09/2023	4iP Council EU AISBL
WALSMANN Marion	Rapporteur	JURI	21/09/2023	Fiorentini
WALSMANN Marion	Rapporteur	JURI	20/09/2023	Apple Inc.
WALSMANN Marion	Rapporteur	JURI	20/09/2023	European association of smart energy solution providers
WALSMANN Marion	Rapporteur	JURI	20/09/2023	Dolby Laboratories, Inc.
WÖLKEN Tiemo	Shadow rapporteur	JURI	19/09/2023	Fair Standards Alliance
WÖLKEN Tiemo	Shadow rapporteur	JURI	19/09/2023	ACEA
WALSMANN Marion	Rapporteur	JURI	19/09/2023	European Association of Automotive Suppliers
WALSMANN Marion	Rapporteur	JURI	19/09/2023	Continental AG

WÖLKEN Tiemo	Shadow rapporteur	JURI	18/09/2023	QUALCOMM Incorporated
WALSMANN Marion	Rapporteur	JURI	15/09/2023	Marconi
WALSMANN Marion	Rapporteur	JURI	15/09/2023	Permanent Representation of Germany
WALSMANN Marion	Rapporteur	JURI	14/09/2023	Verband der deutschen Automobilindustrie
WALSMANN Marion	Rapporteur	JURI	13/09/2023	CEN-CENELEC
WALSMANN Marion	Rapporteur	JURI	13/09/2023	BusinessEurope
WALSMANN Marion	Rapporteur	JURI	13/09/2023	EuroCommerce
WÖLKEN Tiemo	Shadow rapporteur	JURI	11/09/2023	Nokia
WALSMANN Marion	Rapporteur	JURI	08/09/2023	European Commission DG Grow
WALSMANN Marion	Rapporteur	JURI	07/09/2023	Permanent Representation of Spain
WALSMANN Marion	Rapporteur	JURI	05/09/2023	Fraunhofer Institut
WALSMANN Marion	Rapporteur	JURI	05/09/2023	BMW
WALSMANN Marion	Rapporteur	JURI	01/09/2023	Fair Standards Alliance
WALSMANN Marion	Rapporteur	JURI	31/08/2023	European Automobile Manufacturers' Association
WALSMANN Marion	Rapporteur	JURI	30/08/2023	OpenForum Europe
WALSMANN Marion	Rapporteur	JURI	29/08/2023	Public Interest Patent Law Institute
WALSMANN Marion	Rapporteur	JURI	12/07/2023	ACT The App Association
WALSMANN Marion	Rapporteur	JURI	12/07/2023	Tholos Foundation
WALSMANN Marion	Rapporteur	JURI	06/07/2023	InterDigital
WALSMANN Marion	Rapporteur	JURI	08/06/2023	IP Europe
WALSMANN Marion	Rapporteur	JURI	08/06/2023	Philips
WALSMANN Marion	Rapporteur	JURI	08/06/2023	Nokia
WALSMANN Marion	Rapporteur	JURI	08/06/2023	Ericsson
WALSMANN Marion	Rapporteur	JURI	08/06/2023	Fraunhofer Institut
WALSMANN Marion	Rapporteur	JURI	01/06/2023	ACT The App Association
WALSMANN Marion	Rapporteur	JURI	19/04/2023	QUALCOMM Incorporated
WALSMANN Marion	Rapporteur	JURI	19/04/2023	Audi Aktiengesellschaft
WALSMANN Marion	Rapporteur	JURI	19/04/2023	Xiaomi Technology Netherlands B.V.
WALSMANN Marion	Rapporteur	JURI	08/02/2023	Volkswagen Aktiengesellschaft

Other Members

Transparency

Name	Date	Interest representatives
ABADÍA JOVER Maravillas	27/10/2025	VOLKSWAGEN GROUP ITALIA
BONFRISCO Anna	27/02/2024	Farcogaz 450796749714-68 - AQUA 66027272133-77 - FTI Consulting Belgium 29896393398-67
KOVATCHEV Andrey	27/02/2024	Fair Standards Alliance
GRAPINI Maria	22/02/2024	InterDigital, Inc.
KAUCH Michael	20/02/2024	Continental AG
ROBERTI Franco	19/02/2024	Ericsson Forward Global Nokia
KAUCH Michael	19/02/2024	Association des Constructeurs Européens d'Automobiles
BILBAO BARANDICA Izaskun	15/02/2024	ANFAC
COLIN-OESTERLÉ Nathalie	15/02/2024	Orange
KARLESKIND Pierre	14/02/2024	Orange
ROBERTI Franco	14/02/2024	Hewlett Packard Enterprise SEC NEWGATE EU
ROBERTI Franco	14/02/2024	InterDigital, Inc.
RASMUSSEN Bergur Løkke	13/02/2024	Fair Standards Alliance
KAUCH Michael	13/02/2024	Verband der Automobilindustrie
DIDIER Geoffroy	13/02/2024	Dell Inc.
DANTI Nicola	12/02/2024	Association des Constructeurs Européens d'Automobiles
DIDIER Geoffroy	08/02/2024	European Patent Office
KARLESKIND Pierre	07/02/2024	Fair Standards Alliance
KARLESKIND Pierre	07/02/2024	Valeo
KARLESKIND Pierre	07/02/2024	Sagemcom
NIEBLER Angelika	30/01/2024	Bayerische Motoren Werke Aktiengesellschaft Schaeffler AG Verband der Automobilindustrie Volkswagen Aktiengesellschaft
CLUNE Deirdre	23/01/2024	Dell Inc.
NIEBLER Angelika	23/01/2024	Bayerische Motoren Werke Aktiengesellschaft
DIDIER Geoffroy	23/01/2024	PFA - Filière Automobile & Mobilités
NIEBLER Angelika	23/01/2024	Nokia
KUMPULA-NATRI Miapetra	17/01/2024	InterDigital, Inc.
ARIMONT Pascal	11/01/2024	Volvo AB
WARBORN Jörgen	11/01/2024	Volvo AB
CLUNE Deirdre	10/01/2024	Apple Inc.
DIDIER Geoffroy	13/12/2023	QUALCOMM Incorporated
NIEBLER Angelika	05/12/2023	Verband der Automobilindustrie
DIDIER Geoffroy	05/12/2023	European Patent Office
RINZEMA Catharina	01/12/2023	DigitalSMEs
RINZEMA Catharina	01/12/2023	Ingenico

NIEBLER Angelika	29/11/2023	European Patent Office
KOVATCHEV Andrey	29/11/2023	Fair Standards Alliance
RINZEMA Catharina	22/11/2023	Osborne Clark
RINZEMA Catharina	16/11/2023	Forward Global
DIDIER Geoffroy	16/11/2023	Orange
DIDIER Geoffroy	15/11/2023	Nokia
DIDIER Geoffroy	15/11/2023	Ericsson
DIDIER Geoffroy	15/11/2023	European Patent Office
NIEBLER Angelika	15/11/2023	Volkswagen Aktiengesellschaft
DIDIER Geoffroy	14/11/2023	QUALCOMM Incorporated
DIDIER Geoffroy	13/11/2023	Dolby Laboratories, Inc.
DIDIER Geoffroy	09/11/2023	InterDigital, Inc.
NIEBLER Angelika	07/11/2023	QUALCOMM Incorporated
VAN BREMPT Kathleen	07/11/2023	Dolby Laboratories, Inc.
GRAPINI Maria	25/10/2023	InterDigital, Inc.
GLUCKSMANN Raphaël	25/10/2023	Fair Standards Alliance
RINZEMA Catharina	23/10/2023	A.C.E.A.
RINZEMA Catharina	20/10/2023	Koninklijke Philips
RINZEMA Catharina	18/10/2023	Avanci, LLC
WARBORN Jörgen	18/10/2023	Ericsson Nokia
VAN BREMPT Kathleen	18/10/2023	Forward Global Marconi
VOSS Axel	17/10/2023	Volkswagen Aktiengesellschaft
CLUNE Deirdre	11/10/2023	IP Europe
CLUNE Deirdre	11/10/2023	IP Europe
DE MEO Salvatore	03/10/2023	InterDigital, Inc.
GLUCKSMANN Raphaël	29/09/2023	IP Europe
ROBERTI Franco	27/09/2023	Stellantis
RINZEMA Catharina	10/07/2023	QUALCOMM Incorporated
GARCÍA DEL BLANCO Ibán	29/06/2023	InterDigital, Inc.
VAN BREMPT Kathleen	20/06/2023	Forward Global QUALCOMM Incorporated

Standard essential patents

2023/0133(COD) - 27/04/2023 - Legislative proposal

PURPOSE: to increase transparency with regard to standard essential patent (SEP) licensing.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: standard essential patents (SEPs) are patents that protect technology that has been declared essential for the implementation of a technical standard adopted by a standard developing organisation (SDO). Such standards relate for instance to connectivity (e.g., 5G, Wi-Fi, Bluetooth, NFC) or audio/video compression and decompression standards.

To make a product that is standard-compliant, an implementer is obliged to use the relevant ‘essential’ patents. The monopoly granted by such specific patents is balanced by SEP holders' commitment to license these patents on fair, reasonable and non-discriminatory (FRAND) terms, allowing access to market to implementers.

For many years, the current system has suffered from a lack of transparency, predictability, and lengthy disputes and litigation. Previous measures to tackle these problems, such as self-regulation, have not proven effective.

The applicability of SEPs (particularly for connectivity standards) is going to increase with the rise of the ‘Internet of Things' (IoT). Accordingly, a well-functioning system that facilitates access to technologies, while rewarding innovation, is crucial for the EU's technological sovereignty.

CONTENT: the proposal establishes rules on patents essential to a standard (SEPs).

The general objectives of this proposed initiative are to:

- ensure that end users, including small businesses and EU consumers benefit from products based on the latest standardised technologies;

- make the EU attractive for standards innovation; and

- encourage both SEP holders and implementers to innovate in the EU, make and sell products in the EU and be competitive in non-EU markets. The initiative aims to incentivise participation by European firms in the standard development process and the broad implementation of such standardised technologies, particularly in IoT industries.

The main elements of the proposal are as follows:

- the establishment of an **obligatory register** held by the EUIPO, where SEP holders record their SEPs, providing details on patent and standard. Selected SEPs are subject to a non-binding essentiality checks;

- the establishment of an **electronic database** that would contain information on, among other things, aggregate royalties, FRAND terms and conditions or any licensing programmes, as well as collective licensing programmes.

- rules on the registration of BENs;

- a procedure for assessing the essentiality checks of registered SEPS;

- SEP aggregate royalty: SEP holders will be able notify in the register the expected maximum aggregate royalty;

- a procedure for the out-of-court settlement of disputes concerning the fairness, reasonableness and non-discrimination of conditions (FRAND determination). An expert-driven and time-limited out-of-court dispute resolution mechanism that SEP holders and implementers can benefit from when negotiating a FRAND licence;

- support measures for SMEs: free advisory services; reduced fees for SEP registration and essentiality checks and access to the SEP register;

- the creation of a ‘**competence centre**’ within the EUIPO to manage the above elements (register, database, essentiality checks, global fees, FRAND determination and SME support services).

The proposed Regulation will apply to all standards that will be published by standards development organisation after its entry into force. However, where SEP licensing does not give rise to significant difficulties or inefficiencies affecting the functioning of the internal market, the Commission will establish standards or related implementations or use cases, for which the provisions of aggregate royalty determination procedures and the FRAND determination would not apply.

On the other hand, the proposed Regulation will in principle not apply to standards that have been published by standards development organisations before its entry into force. However, where the functioning of the internal market is severely distorted due to inefficiencies in the licensing of SEPs, the Commission will determine, within the time limits set out in the proposed Regulation, standards or related implementations or use cases to which the proposed Regulation will apply.

Standard essential patents

2023/0133(COD) - 30/01/2024 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Marion WALSMANN (EPP, DE) on the proposal for a regulation of the European Parliament and of the Council on standard essential patents (SEP) and amending Regulation (EU) 2017/1001.

As a reminder, the proposed regulation aims to improve SEP licensing by addressing the causes of its inefficiency, such as the lack of transparency regarding SEP, fair, reasonable and non-discriminatory (FRAND) terms and value chain licensing, as well as the limited use of dispute resolution procedures to settle FRAND disputes.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Subject matter and scope

This Regulation should apply to patents that are in force **in one or more Member States** and that a SEP holder claims to be essential to a standard that has been published by a standard development organisation, after entry into force of this Regulation regardless of whether the SEP holder has or has not 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.

It should not apply to SEPs that are subject to a royalty-free intellectual property policy, except when such SEPs are part of a portfolio of patents licensed for royalties.

Competence centre

The tasks under this Regulation should be performed by a competence centre established within the EUIPO with the necessary human and financial resources. The competence centre should support transparency and FRAND determination in relation to SEPs and should perform the following tasks:

- administer a process for **facilitating agreements** on and the determination of an aggregate royalty;

- set up and maintain a SEP Licensing Assistance **Hub** for SMEs and start-ups and provide training, support and general advice on SEPs to SMEs and start-ups;

- establish a dedicated working group on conditions for licensing SEPs in the value chain and raise awareness about SEP licensing.

A Union **register for SEPs** should be set up and maintained in an electronic format by the competence centre. The competence centre should also set up and administer an **electronic database** for SEPs which should contain publicly available standard terms and conditions, including SEP holder's royalty, royalty-free and discount policies, if available.

Information on essentiality

A SEP holder should provide the centre of competence with: (i) a final decision on essentiality for a registered SEP made by a competent court of a Member State within 2 months after the decision has become final; (ii) any other essentiality check by an independent evaluator in the context of, for example, a patent pool.

The competence centre should collect, duly verify and promptly publish information on any SEP related rules in any **third country** in the database. The competence centre may also collect information on compliance with this Regulation in third countries as well as monitor its impact on implementers.

Essentiality checks

The evaluators and conciliators in the FRAND determination procedure should possess the necessary and highly specialised **expertise and experience** while also being independent and impartial. In addition, evaluators should also be able to review prior essentiality checks if they have doubts as to their accuracy.

Time-limited out-of-court dispute resolution mechanism

Members consider that while proceedings are still ongoing, the parties should not yet be obliged to make a binding decision on whether or not they should comply with the outcome of the procedure. The parties should be able to make such a decision only after learning the outcome of the dispute resolution mechanism.

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.

Micro and small and medium enterprises

The report strengthens the Commission's proposals in their favour by proposing the establishment of a one-stop shop for MSMEs within the competence centre. MSMEs that are SEP holders should be offered free information on how to better identify potential licensees and how to effectively enforce their rights. Any benefits granted to SMEs under this Regulation may be withheld or withdrawn in cases of circumvention or misuse.

Reasoned request to the Commission

A SEP holder or a SEP implementer may submit a reasoned request to the Commission to determine whether: (a) the SEP licensing negotiations on FRAND terms and conditions do not give rise to significant difficulties or inefficiencies affecting the functioning of the internal market as regards identified implementations of certain standards or parts thereof within 1 month of the publication of the standard by the Standard Development Organisation; (b) the functioning of the internal market is severely distorted due to significant difficulties or inefficiencies in the licensing of SEPs for particular existing implementations of standards or parts.

Assessment of the new instruments

As the proposed measures also have an impact at global level, Members believe that the impact on the competitiveness of European SEP holders at global level and on innovation in Europe should also be examined in more detail. If the outcome of this review indicates a negative impact, the Commission should propose appropriate amendments where necessary.

Standard essential patents

2023/0133(COD) - 28/02/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 454 votes to 83, with 78 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on standard essential patents (SEP) and amending Regulation (EU) 2017/1001.

As a reminder, the proposed regulation aims to improve SEP licensing by addressing the causes of its inefficiency, such as the lack of transparency regarding SEP, fair, reasonable and non-discriminatory (FRAND) terms and value chain licensing, as well as the limited use of dispute resolution procedures to settle FRAND disputes.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Subject matter and scope

This Regulation should apply to patents that are in force **in one or more Member States** and that a SEP holder claims to be essential to a standard that has been published by a standard development organisation, after entry into force of this Regulation regardless of whether the SEP holder has or has not 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.

Competence centre

The tasks under this Regulation should be performed by a competence centre established within the EUIPO with the necessary human and financial resources. The competence centre should support transparency and FRAND determination in relation to SEPs and should perform the following tasks:

- administer a process for facilitating agreements on and the determination of an aggregate royalty;

- set up and maintain a SEP Licensing Assistance Hub for **SMEs and start-ups** and provide training, support and general advice on SEPs to SMEs and start-ups;

- establish a dedicated working group on conditions for licensing SEPs in the value chain and raise awareness about SEP licensing.

SEP holders may voluntarily submit their SEPs for essentiality checks to the competence centre prior to registering their patents.

Register and electronic database

A Union register for SEPs should be set up and maintained in an electronic format by the competence centre. The electronic register should serve as a foundational repository designed to be the primary reference point for users, providing basic information about SEPs free of charge.

The competence centre should also set up and administer an electronic database for SEPs which should contain publicly available standard terms and conditions, including SEP holder’s royalty, royalty-free and discount policies, if available. Academic institutions may also request access to the information free of charge solely for the purpose of conducting academic tasks.

Information on essentiality

A SEP holder should provide the centre of competence with: (i) a final decision on essentiality for a registered SEP made by a competent court of a Member State within 2 months after the decision has become final; (ii) any other essentiality check by an independent evaluator in the context of, for example, a patent pool.

The competence centre should verify the information submitted by patent pools on a regular basis and at least once a year, based on a methodology it develops for this purpose, ensuring that the verification process is thorough, transparent and consistent. That methodology should be made available to patent pools and to other stakeholders for the sake of transparency.

The competence centre should collect, duly verify and promptly publish information on any SEP related rules in any **third country** in the database. The competence centre may also collect information on compliance with this Regulation in third countries as well as monitor its impact on implementers.

Essentiality checks

The evaluators and conciliators in the FRAND determination procedure should possess the necessary and highly specialised **expertise and experience** while also being independent and impartial. In addition, evaluators should also be able to review prior essentiality checks if they have doubts as to their accuracy.

Time-limited out-of-court dispute resolution mechanism

Members consider that while proceedings are still ongoing, the parties should not yet be obliged to make a binding decision on whether or not they should comply with the outcome of the procedure. The parties should be able to make such a decision only after learning the outcome of the dispute resolution mechanism.

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.

Micro and small and medium enterprises

Parliament strengthened the Commission's proposals in their favour by proposing the establishment of a one-stop shop for MSMEs within the competence centre. MSMEs that are SEP holders should be offered free information on how to better identify potential licensees and how to effectively enforce their rights. Any benefits granted to SMEs under this Regulation may be withheld or withdrawn in cases of circumvention or misuse.

Reasoned request to the Commission

A SEP holder or a SEP implementer may submit a reasoned request to the Commission to determine whether: (a) the SEP licensing negotiations on FRAND terms and conditions do not give rise to significant difficulties or inefficiencies affecting the functioning of the internal market as regards identified implementations of certain standards or parts thereof within 1 month of the publication of the standard by the Standard Development Organisation; (b) the functioning of the internal market is severely distorted due to significant difficulties or inefficiencies in the licensing of SEPs for particular existing implementations of standards or parts.

Assessment of the new instruments

As the proposed measures also have an impact at global level, Members believe that the impact on the competitiveness of European SEP holders at global level and on innovation in Europe should also be examined in more detail. If the outcome of this review indicates a negative impact, the Commission should propose appropriate amendments where necessary.