



Essentiality Evaluation

Overview

Standard Essential Patents (SEP) in India

The ubiquity of international standards has promulgated Standard Essential Patents. SEPs have for their part enabled interoperability and cost effectiveness unheard of with proprietary technologies.

Broadly, 'Standards' are technical specifications that describe the standard design/ technology involved in a product or process. Some better known examples are the 2G, 3G and LTE standards propounded by the European Telecommunications Standards Institute (ETSI) enabling global interoperability of cellular services; the Institute of Electrical and Electronics Engineers' 802.xx interface for communication; physical specifications for optical media technology; and the International Organisation for Standardisation's standard dimensions for most goods.

Often, standards are based on patented technology and those looking to implement the standard must license access to SEPs. Applications to that end must be evaluated for their essentiality, that is, whether the applicant has shown sufficiently that its implementation of the standard requires access to the protected invention.

The firm is the exclusive Indian representative empanelled with the International Patent Evaluation Consortium (IPEC) which has 26 law firms representing 23 jurisdictions, including China, Russia, South Korea, Mexico and many members of the OECD.

We assess the essentiality of a patent vis-à-vis the relevant standards: whether a claim pertains to the mandatory or optional aspect of the standard (claim chart mapping); identifying the category of



product to which the claim is related, based on claim construction; and providing exclusive confirmation of essentiality with specific product category, if found essential.

Besides being an independent evaluator, the firm advises and represents leading SEP holding companies in several patent infringement actions where essentiality has been invoked and enforced using claim mapping vis-à-vis the relevant standards.



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