NEWSLETTER

ICRIER's Newsletter on Standard Essential Patents (SEPs)

SEP Bytes

News & Views

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Greetings from the Indian Council for Research on International Economic Relations (ICRIER)!

We are pleased to share the first edition of 'SEP Bytes – News & Views', our periodic newsletter tracking key legal, policy and economic developments in technological innovation in India, with a particular focus on Standard Essential Patents (SEPs) and the intellectual property rights (IPR) ecosystem.

SEPs are patents that protect technologies essential to implementing technical standards used across a wide range of devices and products, including smartphones, connected devices and other digital technologies. As these standards enable interoperability and connectivity, SEPs play an important role in shaping technological innovation, market access and competition.

This newsletter is part of ICRIER's ongoing project, 'Innovation-Led Growth to Support India's Economic Imperatives'. Through it, we will bring you regular updates and insights from our research on SEPs, the IPR ecosystem and India's broader innovation landscape.

Thank you for your interest. We look forward to your feedback and engagement.

Payal Malik
Visiting Professor, ICRIER



NEWS

Law

InterDigital v. Transsion: Delhi High Court's July 2026 order on pro tem security highlights the growing importance of interim financial safeguards in SEP disputes. In litigation involving 3G, 4G, 5G and High Efficiency Video Coding (HEVC) patents, the court directed the company using the patented technologies (the implementer) to furnish security, by deposit or bank guarantee, while the proceedings are pending. The court calculated the security amount based on the implementer's own counter-offer and held that licensing agreements with other companies need not be produced as a precondition for granting such an order. The decision brings into focus the need to balance patent owners' interest in securing licensing payments with the right of implementers to challenge whether the patents are essential, whether they have been infringed, and whether the proposed licensing terms are fair, reasonable and non-discriminatory (FRAND) before final liability is determined.

Philips v. Rajesh Bansal: The Supreme Court proceedings arising from the reversal of India's first SEP infringement ruling delivered after a full trial could prove significant for the country's SEP jurisprudence. The dispute concerns Philips' patented technology used in Digital Versatile Disc (DVD) players, specifically a decoding device that enables DVD players to read and process data stored on discs. Philips alleged that DVD players manufactured by the respondents used its patented technology without a licence. The case raises questions about how patent owners establish that their technology is essential to a technical standard, patent exhaustion (whether a patent owner's rights are exhausted following the lawful sale of a product or component), and whether licensing should apply at the component or finished-product level. The Court's final determination could influence the legal and evidentiary standards applied in future SEP litigation.

ICRIER's report, Cellular Network Standard Essential Patents: A Study of the Indian Ecosystem, discusses these issues and their implications for SEP licensing in India.

Policy

The Union Cabinet's approval of the ₹62,500 crore **Mobile Phone Manufacturing Scheme (MPMS)**, since notified by Ministry of Electronics and Information Technology (MeitY) on 21 August 2026, marks a shift towards a focus on domestic value addition and greater Indian participation in technology creation.Commencing from FY 2026-27 to FY 2030-31, the scheme supports mobile manufacturing while providing additional incentives for Indian brands, domestic sourcing, design, and research and development. Notably, it seeks to encourage creation of Indian patents to strengthen domestic intellectual-property ownership. The policy's long-term significance for SEPs lies in whether India can move beyond manufacturing devices that implement global standards towards developing and owning more of the technologies that underpin them.

Economics

India's recent electronics manufacturing expansion has been notable. According to **government figures for FY 2025-26**, mobile-phone production reached approximately ₹6.27 lakh crore, while exports rose to ₹2.59 lakh crore, i.e., around 165 times their FY 2014-15 value. Smartphones also emerged as India's largest individual export commodity. Yet export value is not the same as domestic value captured. Domestic value addition in mobile-phone manufacturing is currently estimated at 23%, with the government targeting an increase to 35–40% as it seeks to deepen the domestic electronics supply chain and strengthen India's role in global manufacturing. Manufacturing and exports can grow rapidly while important questions remain about imported components, domestic research and development (R&D) and patent ownership. For the SEP ecosystem, the challenge is therefore not simply to manufacture more standard-compliant devices, but for Indian firms to move up the value chain through focusing on innovation and intellectual property ownership.

India's SEP landscape sits at the intersection of industrial policy incentivising domestic innovation, judicial frameworks enabling the enforcement of IP rights, and manufacturing growth that deepens India's engagement with global technology licensing. The long-term opportunity lies in moving beyond the production of standard-compliant products to creating, owning and commercialising the technologies behind them. For further insights, read our piece, **Don't just assemble, innovate: The missing hero in India's smartphone success story,** in The Economic Times.



COMMENTARY

Rules Not Regulation: Realising India's 6G Ambitions

Every smartphone, TV and vehicle implements technical standards that enable devices to connect and communicate seamlessly. Fundamental to those standards are patented inventions. These inventions provide patent owners legitimate leverage: by the very nature of standards, a manufacturer cannot build a device without incorporating their inventions. While patent owners argue they deserve fair remuneration for the significant resources devoted to research, implementing firms, i.e., manufacturers that build products using standards, counter that royalty demands are often opaque and hard to benchmark. These competing claims underlie contemporary policy debates and litigation over patents that protect standardised technologies, such as sixth-generation (6G) communication technology.

While India remains one of the world's largest markets for implementers of these technologies, its industrial policy has shifted towards promoting innovation in strategic sectors including communication technologies. Launching the theme for this year's India Mobile Congress in July, Communications Minister said the 10th edition's theme, 'Scale Without Boundaries,' reflects India's ambition to take the technologies it builds, the standards it shapes and the solutions it creates to new markets, communities and possibilities worldwide. The Bharat 6G Alliance gives that ambition a deadline. Its vision commits India to being a front-line contributor to 6G by 2030. It envisions building patents from India and encouraging participation in international standard-setting bodies such as the 3rd Generation Partnership Project (3GPP) and the International Telecommunication Union (ITU), while working in tandem with India's standard development organisation, the Telecommunications Standards Development Society India (TSDSI), supported by the Telecom Technology

Development Fund and the Research, Development and Innovation scheme. The timeline is short: IMT-2030, the ITU framework that sets the requirements 6G technologies must meet to be certified, is being defined through 2026, so the standards India hopes to co-author are being written now.

These stakes for India make it worth tracking how the policy debates are evolving, and how the rules of the game shaping the trajectory of these technologies are being written elsewhere. In 2023, the European Commission aimed to address licensing frictions between the creators and implementers of standardised technologies. It proposed a regulation to overhaul the standard essential patent (SEP) licensing ecosystem, by introducing a compulsory patent register, aggregate royalty determinations, and mandatory conciliation before litigation. However, the proposed regulation was withdrawn in 2025. The UK Supreme Court has since taken the lead on setting the terms on which SEP disputes get resolved; a World Trade Organisation ruling directed China to allow patent holders to sue abroad; the United States Patent and Trademark Office has moved towards stronger enforcement against companies that use patented technology without paying for it; and the World Intellectual Property Organization has published a report addressing how licences should be valued. As governments retreat from writing SEP rules, courts, tribunals and multilateral institutions have become the rule-makers instead.

At ICRIER, our research studied eleven jurisdictions, and found signs of a similar retreat elsewhere. The United Kingdom consulted extensively, opted against legislative reform, and built a Resource Hub to support small implementers instead. Japan has stayed with soft law, adding judicial mediation guidelines for patent licensing disputes.

This restraint suggests a growing recognition that SEP disputes are best resolved case by case, since they tend to be highly fact-specific and their resolution needs a flexibility that a fixed regulatory framework cannot easily provide. That flexibility must still respect a basic principle of intellectual property: a patent is a property right, and its owner is entitled to enforce it. A rigid regulatory regime risks treating unlike cases alike, disadvantaging some market players over others, and blunting the incentives for innovation that the patent system exists to protect.

For India, the message is straightforward: robust ecosystems for patent licensing and standards development are both levers of industrial policy.

A country that intends to hold essential patents must attend to enforceability and valuation of its domestic inventions, since such a patent is worth only what the licensing ecosystem lets it earn. Hence, three priorities follow for India. First, resist transplanting regulatory regimes without regard to domestic context. India should craft principles suited to its dual identity as current implementer and aspiring contributor. Second, build the evidence base before crafting a framework, if one is needed. Such evidence must draw on the full spectrum of viewpoints, including startups and SMEs, while heeding WIPO's caution against any single royalty formula. Third, seize the opportunity in dispute resolution: a specialised patent and fair, reasonable and non-discriminatory (FRAND) licensing division within the Delhi International Arbitration Centre could offer fast-tracked resolution of technology disputes.

India's 6G mission aims to build domestic industry's competence in developing next-generation communication technologies. This mission-oriented approach is receiving support from industrial policy measures; it must also be complemented by a rules-based SEP framework, not a prescriptive regulatory model, that enables the protection, valuation and monetisation of standardised technologies, at home and abroad.

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