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# Licensing Markets

## Patent Licensing

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### Essential Patents and IoT: A Coming New Wave of Patent Litigation?

During the last decades, the biggest patent battles involved the smartphone industry concerning licensing disputes on essential patents for technical standards (SEPs), in particular, connectivity standards (*e.g.* 3G/4G/5G, Wi-Fi). Said disputes were afterward extended to the automotive sector as the manufacturers and component suppliers implemented technical standards for connectivity applications. Now, with these economic sectors controlled under their corresponding licensing programs, SEP licensors are setting their sights on the Internet of Things (IoT). The increasing prevalence and rising ubiquity of IoT-connected devices in our daily lives heralds an impending wave of patent licensing and, undoubtedly, patent litigation.

The term IoT refers to an extensive network of interconnected physical devices or "things" that communicate with each other and with centralized systems. These devices are embedded with sensors, software, and other technologies, enabling them to collect and exchange data over the Internet. IoT encompass a diverse array of connected devices, ranging from everyday objects such as home appliances and consumer electronics to more specialized applications like payment terminals, logistic and tracking systems, healthcare devices, or wearable monitoring devices. These connected devices find applications across various economic sectors and industries.

The interoperability of IoT-connected devices is achieved through the implementation of standardized technology. Specifically, the connectivity, as the defining feature of the IoT, is made possible by adopting connectivity technical standards and the corresponding use of the SEPs that protect said technology. The exclusive rights and legal monopoly granted by these patents are counterbalanced by the commitment made by their holders to provide licenses for their use and exploitation under fair, reasonable, and non-discriminatory (FRAND) terms.

In this context where IoT is expected to disrupt the overall landscape with a growing presence and growth potential (particularly with the advent of 5G technology), some of the largest holders of SEPs and biggest patent pools are actively initiating their IoT licensing programs. These programs aim to target a widening array of heterogeneous industries.

While the number of smartphone manufacturers is limited, the IoT sector represents an exponential surge of end-device manufactures, leading to a significant increase of users of connectivity standards. Consequently, SEPs holders anticipate a corresponding rise in potential licensees. Additionally, considering the level in the value chain where SEP's holders tend to license (downstream licensing), it is expected that in the IoT sector, the number of licensees will likely be much larger.

However, while SEPs licensing in the smartphone sector is already well understood and widely accepted after active campaigns and intense judicial enforcement, SEPs licensing in the IoT sector may still be perceived as being in its early stages of development and understanding within the sector.

It seems clear in this sense that implementing a one-size-fits-all SEPs licensing model in the IoT sector may prove impractical given the diverse applications of connectivity technology across different IoT industries. Also, the lack of knowledge and experience among IoT enterprises regarding SEPs licensing could represent difficulties and could also affect the overall efficiency of the licensing process, yielding lengthy negotiations or even patent litigation.

Therefore, in this context, IoT enterprises will need to acquire more expertise in technical standards, SEPs licensing and the legal requirements and constraints associated with enforcing SEPs in judicial proceedings.

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