10th Anniversary

GISC 2026

Global ICT Standards Conference 2026

AI-Agent 시대의 ICT 표준특허 전략과 디지털 주권 경쟁

표준필수특허(SEP) 필수성 평가 & 포트폴리오 전략

신원호
인텔렉추얼디스커버리

ICT Standards and Intellectual Property:
Shaping the Physical AI

주최 과학기술정보통신부 지식재산처 주관 국립전파연구원 TTA IITP KEA kista ETRI

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04 라이선싱·수익화 및 ID 사례

GISC 2025 이후 1년

작년엔 '어떻게 수익화하나', 올해는 '그 출발점인 필수성을 어떻게 입증하나'

GISC 2025 | 특허풀로 수익화하기

- SEP·특허풀 개념과 주요 풀 관리자
  (Via LA · Access Advance · Avanci)
- ID의 Three Track 수익화
  - 특허풀 / 소송·합의 / 펀드 투자
- 한국 주도 AI 특허풀 제안
  (HBM · CXL · NPU)

GISC 2026 | 필수성에서 출발하기

- 풀 등재·매각·소송 — 모든 트랙의 출발점은 필수성 입증
- 최신 판례: 포럼이 갈라지고, 필수성 증거의 값이 오름
- 검증된 필수성 중심의 포트폴리오·수익화 전략

왜 지금 '필수성'인가

선언 건수가 아니라 검증된 필수성이 협상력이다

01

선언 ≠ 필수

SEP 선언은 보유자의 자기 신고.

선언 건수 및 실제 필수 특허 건수의 괴리 크고, 기업별 편차가 확대.

PA Consulting 5G 보고서 (2025)

02

공적 검증의 공백

필수성 판단은 당사자·풀·법원의 몫.

EU에서 SEP 필수성 검증을 공적 제도화하려 하였으나, 해당 사항은 2025년 2월 철회 발표, 10월 공식 철회.

European Commission (2025.2)

03

법정 지형의 변화

독일·UPC는 금지청구를 강화.

영국은 글로벌 FRAND 산정과 특허풀 심사로 확장.

필수성 입증 역량이 곧 협상력이다.

2025.10~2026 주요 판결

PART 01

01 필수성 평가 방법론

02 최신 동향·판례

03 포트폴리오 구축·관리

04 라이선싱·수익화 및 ID 사례

필수성의 정의와 과다선언

선언(Declaration)은 필수성 판단이 아니다

구분	ETSI IPR Policy의 선언 규정
누가	각 회원사(MEMBER) — 자사 IPR에 한정되지 않음 기술 제안을 낸 회원사는 자사 IPR을 선의로 고지 (4.1)
언제	표준 개발 단계에서 적시에(timely) 채택 전 '필수일 수 있는(might be)' 상태에서 고지 (4.1)
범위	IPR 조사 의무 없음 (4.2) 패밀리 중 1건만 고지해도 전체 충족 (4.3)
확약	사무총장 요청 시 취소 불가능한 FRAND 확약 서면 제출 (6.1)

ESSENTIAL (15.6) 기술적 근거로 볼 때, 침해 없이는 표준에 맞는 장비·방법을 제조·판매·사용할 수 없는 경우

ANNEX 6: ETSI Intellectual Property Rights Policy

1 Introduction

The General Assembly of ETSI has established the following Intellectual Property Rights POLICY.

2 Definitions

Terms in the POLICY which are written in capital letters shall have the meaning set forth in Clause 15 entitled DEFINITIONS.

3 Policy Objectives

3.1 It is ETSI's objective to create STANDARDS and TECHNICAL SPECIFICATIONS that are based on solutions which best meet the technical objectives of the European telecommunications sector, as defined by the General Assembly. In order to further this objective the ETSI IPR POLICY seeks to reduce the risk to ETSI, MEMBERS, and others applying ETSI STANDARDS and TECHNICAL SPECIFICATIONS, that investment in the preparation, adoption and application of STANDARDS could be wasted as a result of an ESSENTIAL IPR for a STANDARD or TECHNICAL SPECIFICATION being unavailable. In achieving this objective, the ETSI IPR POLICY seeks a balance between the needs of standardization for public use in the field of telecommunications and the rights of the owners of IPRs.

3.2 IPR holders whether members of ETSI and their AFFILIATES or third parties, should be adequately and fairly rewarded for the use of their IPRs in the implementation of STANDARDS and TECHNICAL SPECIFICATIONS.

3.3 ETSI shall take reasonable measures to ensure, as far as possible, that its activities which relate to the preparation, adoption and application of STANDARDS and TECHNICAL SPECIFICATIONS, enable STANDARDS and TECHNICAL SPECIFICATIONS to be available to potential users in accordance with the general principles of standardization.

4 Disclosure of IPRs

4.1 Subject to Clause 4.2 below, each MEMBER shall use its reasonable endeavours, in particular during the development of a STANDARD or TECHNICAL SPECIFICATION where it

conditions under such IPR to at least the following extent:

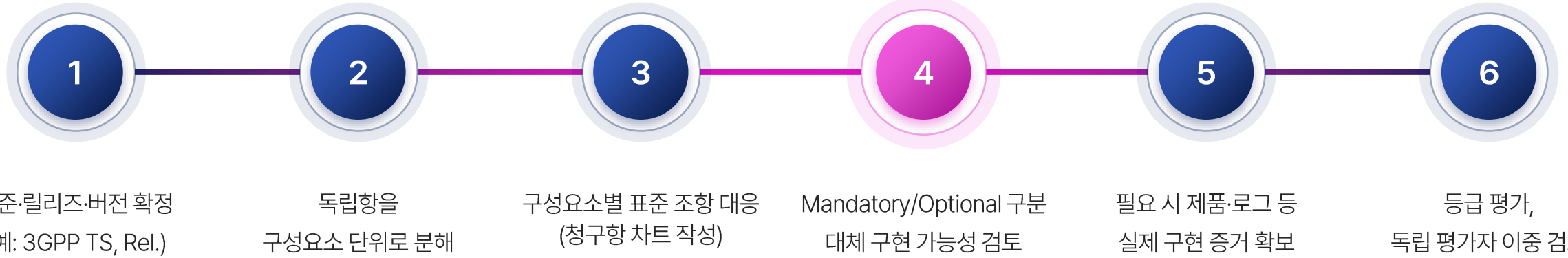
- MANUFACTURE, including the right to make or have made customized components and sub-systems to the licensee's own design for use in MANUFACTURE;

과다선언의 원인

- 표준 채택 전 '필수일 수 있는' 단계에서 선언 (4.1)
- 조사 의무 없음 → 포괄·보수적 선언 (4.2)
- 패밀리 단위 고지, 심사·보정 중 청구항 변경 (4.3)
- ETSI는 선언된 특허의 필수성을 검증하지 않음

필수성 평가 프로세스

수익화 달성을 위한 상세한 평가 절차 구축



평가 등급과 신뢰성 확보

문언적 매칭이라고 다 같은 SEP가 아니다

Level A Essential	모든 구성요소가 Mandatory 조항에 대응
Level B Likely	해석상 이견 여지는 있으나 대응 가능성 높음
Level C Possible	Optional 기능이거나 일부 구성요소 불명확
Level D Not essential	대응 조항이 없거나 회피 설계 가능

신뢰성 장치 독립 평가자 2인 · 판정 기준서 · 이견 조정 · 재현성 점검



AI 활용 평가: 가능성과 한계

AI는 속도, 전문가는 신뢰 — 하이브리드가 표준이 된다

AI 스크리닝

특허–표준 후보 매칭
조항 검색
청구항 차트 초안



전문가 판정

청구항 해석
Mandatory 판별
등급 결정



품질 관리

이중 검토
근거 기록
재현성 점검



강점

- 많은 특허 건의 1차 분류 시간 단축
- 표준 개정 시 영향 특허 재탐색
- 평가 일관성 보조

한계

- 청구항 해석의 미묘한 차이 판단
- 표준 문서 버전·릴리즈 혼선
- 법정 증거로서의 설명가능성

PART 02

01 필수성 평가 방법론

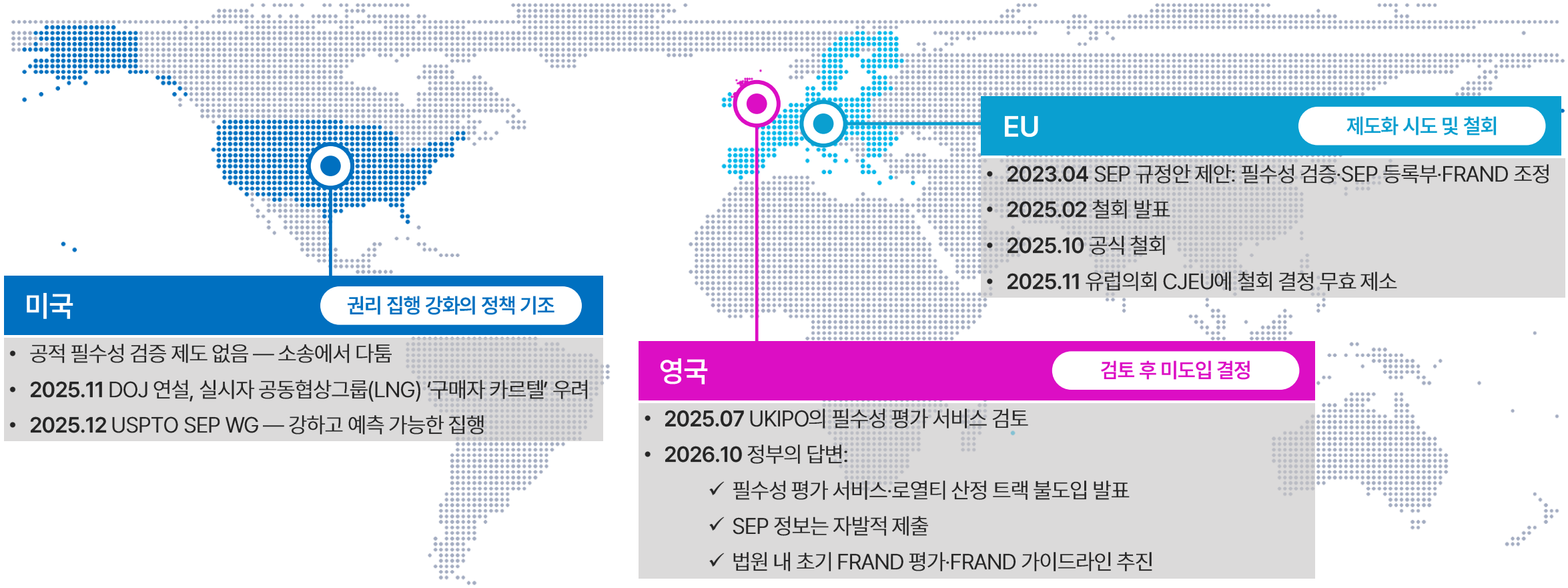
02 최신 동향·판례

03 포트폴리오 구축·관리

04 라이선싱·수익화 및 ID 사례

정책 지형: 규제에서 시장·법원으로

공적 필수성 검증 제도는 표류, 사적 필수성 평가의 역할 확대



미국

권리 집행 강화의 정책 기조

- 공적 필수성 검증 제도 없음 — 소송에서 다툼
- **2025.11** DOJ 연설, 실시자 공동협상그룹(LNG) '구매자 카르텔' 우려
- **2025.12** USPTO SEP WG — 강하고 예측 가능한 집행

EU

제도화 시도 및 철회

- **2023.04** SEP 규정안 제안: 필수성 검증·SEP 등록부·FRAND 조정
- **2025.02** 철회 발표
- **2025.10** 공식 철회
- **2025.11** 유럽의회 CJEU에 철회 결정 무효 제소

영국

검토 후 미도입 결정

- **2025.07** UKIPO의 필수성 평가 서비스 검토
- **2026.10** 정부의 답변:
  - ✓ 필수성 평가 서비스·로열티 산정 트랙 불도입 발표
  - ✓ SEP 정보는 자발적 제출
  - ✓ 법원 내 초기 FRAND 평가·FRAND 가이드라인 추진

EU 집행위원회 SEP 규정안 — COM(2023) 232 final, 2023.4.27



EUROPEAN COMMISSION

Brussels, 27.4.2023
COM(2023) 232 final
2023/0133(COD)

Proposal for a

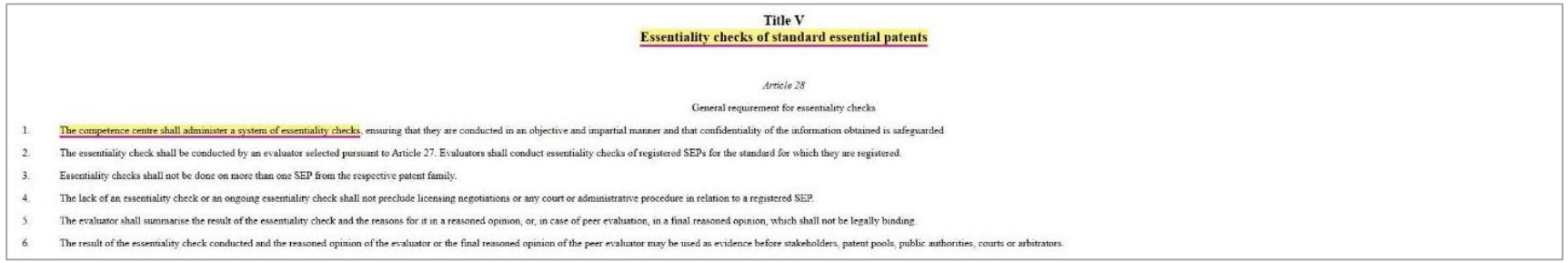
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on standard essential patents and amending Regulation (EU)2017/1001

(Text with EEA relevance)

{SEC(2023) 174 final} - {SWD(2023) 123 final} - {SWD(2023) 124 final} - {SWD(2023) 125 final}

표지 '표준필수특허에 관한 규정' 제안 (2023.4.27, 절차 번호 2023/0133(COD))



Title V
Essentiality checks of standard essential patents

Article 28

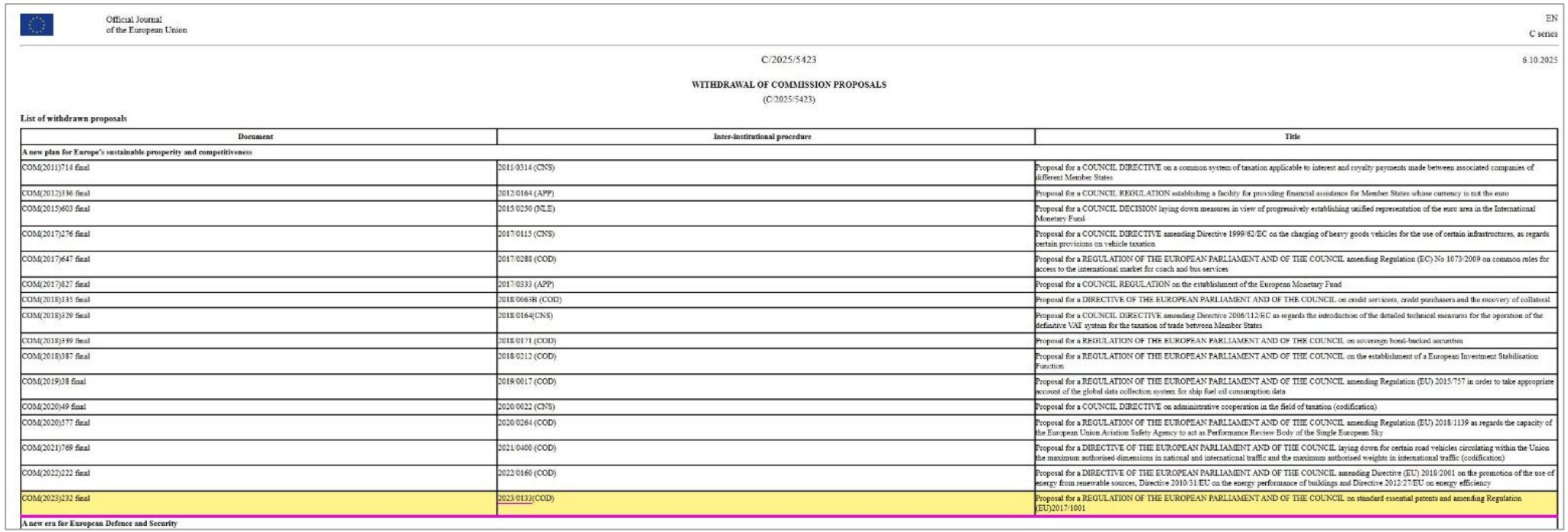
General requirement for essentiality checks

1. The competence centre shall administer a system of essentiality checks, ensuring that they are conducted in an objective and impartial manner and that confidentiality of the information obtained is safeguarded.
2. The essentiality check shall be conducted by an evaluator selected pursuant to Article 27. Evaluators shall conduct essentiality checks of registered SEPs for the standard for which they are registered.
3. Essentiality checks shall not be done on more than one SEP from the respective patent family.
4. The lack of an essentiality check or an ongoing essentiality check shall not preclude licensing negotiations or any court or administrative procedure in relation to a registered SEP.
5. The evaluator shall summarise the result of the essentiality check and the reasons for it in a reasoned opinion, or, in case of peer evaluation, in a final reasoned opinion, which shall not be legally binding.
6. The result of the essentiality check conducted and the reasoned opinion of the evaluator or the final reasoned opinion of the peer evaluator may be used as evidence before stakeholders, patent pools, public authorities, courts or arbitrators.

제5편·제28조 EUIPO 역량센터가 SEP 필수성 검사 제도를 운영하도록 규정

European Commission, Proposal for a Regulation on standard essential patents, COM(2023) 232 final (eur-lex.europa.eu)

EU 관보 — 집행위원회 제안 철회, C/2025/5423, 2025.10.6



Official Journal of the European Union — EN — C series

C/2025/5423 — 6.10.2025

WITHDRAWAL OF COMMISSION PROPOSALS
(C/2025/5423)

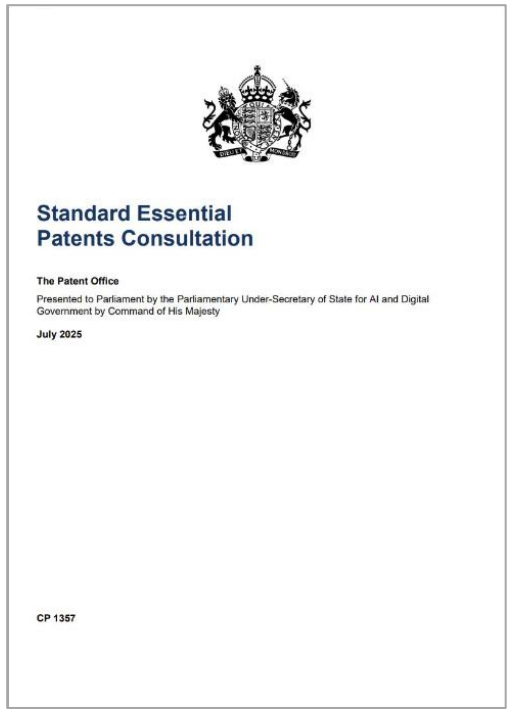
List of withdrawn proposals

Document	Inter-institutional procedure	Title
A new plan for Europe's sustainable prosperity and competitiveness		
COM(2011)714 final	2011/0314 (CNS)	Proposal for a COUNCIL DIRECTIVE on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States
COM(2012)336 final	2012/0164 (APP)	Proposal for a COUNCIL REGULATION establishing a facility for providing financial assistance for Member States whose currency is not the euro
COM(2015)603 final	2015/0250 (NLE)	Proposal for a COUNCIL DECISION laying down measures in view of progressively establishing unified representation of the euro area in the International Monetary Fund
COM(2017)276 final	2017/0115 (CNS)	Proposal for a COUNCIL DIRECTIVE amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures, as regards certain provisions on vehicle taxation
COM(2017)647 final	2017/0288 (COD)	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services
COM(2017)827 final	2017/0333 (APP)	Proposal for a COUNCIL REGULATION on the establishment of the European Monetary Fund
COM(2018)135 final	2018/0063B (COD)	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on credit servicers, credit purchasers and the recovery of collateral
COM(2018)329 final	2018/0164(CNS)	Proposal for a COUNCIL DIRECTIVE amending Directive 2006/112/EC as regards the introduction of the detailed technical measures for the operation of the definitive VAT system for the taxation of trade between Member States
COM(2018)339 final	2018/0171 (COD)	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on sovereign bond-backed securities
COM(2018)387 final	2018/0212 (COD)	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the establishment of a European Investment Stabilisation Function
COM(2019)38 final	2019/0017 (COD)	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2015/757 in order to take appropriate account of the global data collection system for ship fuel oil consumption data
COM(2020)49 final	2020/0022 (CNS)	Proposal for a COUNCIL DIRECTIVE on administrative cooperation in the field of taxation (codification)
COM(2020)577 final	2020/0264 (COD)	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/1139 as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky
COM(2021)769 final	2021/0400 (COD)	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down for certain road vehicles circulating within the Union the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (codification)
COM(2022)222 final	2022/0160 (COD)	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency
COM(2023)232 final	2023/0133(COD)	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on standard essential patents and amending Regulation (EU)2017/1001
A new era for European Defence and Security		

철회 목록 SEP 규정안(COM(2023)232, 2023/0133(COD))이 철회 제안 목록에 포함 — 관보 게재로 공식 철회

Official Journal of the European Union, C/2025/5423, Withdrawal of Commission proposals (2025.10.6)

영국 특허청 SEP 협의 문서 — CP 1357, 2025.7



Standard Essential Patents Consultation

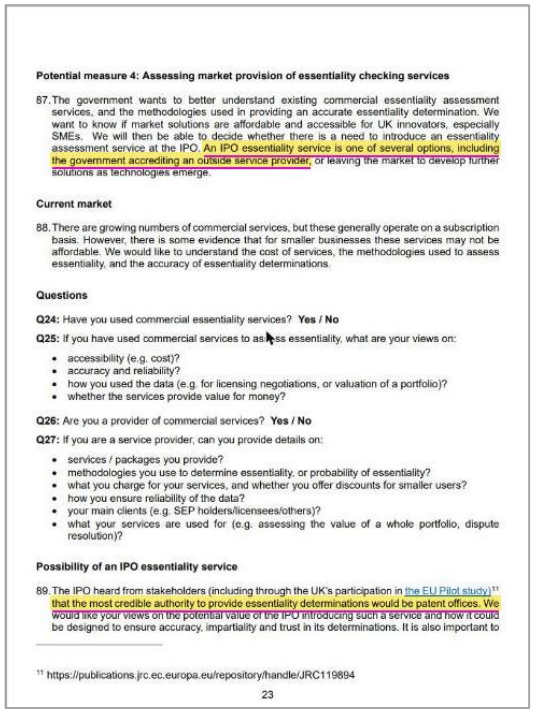
The Patent Office

Presented to Parliament by the Parliamentary Under-Secretary of State for AI and Digital Government by Command of His Majesty

July 2025

CP 1357

표제 영국 특허청(IPO)이 2025년 7월 의회에 제출한 SEP 협의 문서



Potential measure 4: Assessing market provision of essentiality checking services

87. The government wants to better understand existing commercial essentiality assessment services, and the methodologies used in providing an accurate essentiality determination. We want to know if market solutions are affordable and accessible for UK innovators, especially SMEs. We will then be able to decide whether there is a need to introduce an essentiality assessment service at the IPO. An IPO essentiality service is one of several options, including the government accrediting an outside service provider, or leaving the market to develop further solutions as technologies emerge.

Current market

88. There are growing numbers of commercial services, but these generally operate on a subscription basis. However, there is some evidence that for smaller businesses these services may not be affordable. We would like to understand the cost of services, the methodologies used to assess essentiality, and the accuracy of essentiality determinations.

Questions

Q24: Have you used commercial essentiality services? **Yes / No**

Q25: If you have used commercial services to assess essentiality, what are your views on:

- accessibility (e.g. cost)?
- accuracy and reliability?
- how you used the data (e.g. for licensing negotiations, or valuation of a portfolio)?
- whether the services provide value for money?

Q26: Are you a provider of commercial services? **Yes / No**

Q27: If you are a service provider, can you provide details on:

- services / packages you provide?
- methodologies you use to determine essentiality, or probability of essentiality?
- what you charge for your services, and whether you offer discounts for smaller users?
- how you ensure reliability of the data?
- your main clients (e.g. SEP holders/licensees/others)?
- what your services are used for (e.g. assessing the value of a whole portfolio, dispute resolution)?

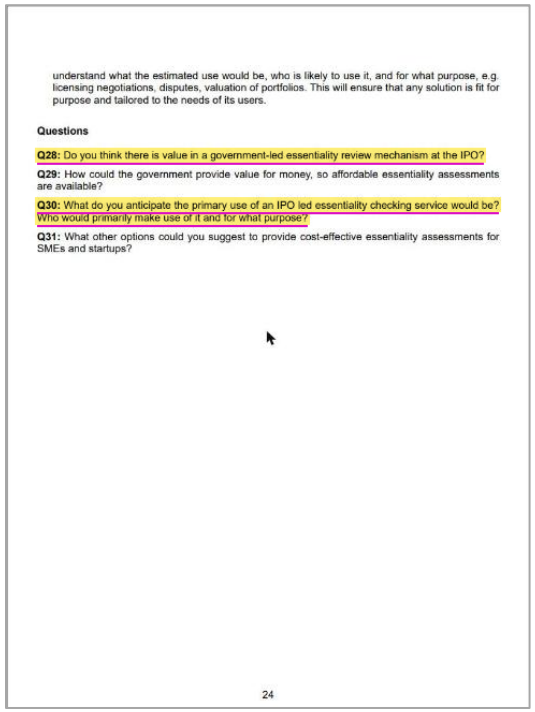
Possibility of an IPO essentiality service

89. The IPO heard from stakeholders (including through the UK's participation in the EU Pilot study)[11] that the most credible authority to provide essentiality determinations would be patent offices. We would like your views on the potential value of the IPO introducing such a service and how it could be designed to ensure accuracy, impartiality and trust in its determinations. It is also important to

[11] https://publications.jrc.ec.europa.eu/repository/handle/JRC119894

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p.23 특허청 필수성 평가 서비스는 여러 선택지 중 하나. 특허청이 필수성 판단의 가장 신뢰할 만한 주체라는 의견이 있었다.



understand what the estimated use would be, who is likely to use it, and for what purpose, e.g. licensing negotiations, disputes, valuation of portfolios. This will ensure that any solution is fit for purpose and tailored to the needs of its users.

Questions

Q28: Do you think there is value in a government-led essentiality review mechanism at the IPO?

Q29: How could the government provide value for money, so affordable essentiality assessments are available?

Q30: What do you anticipate the primary use of an IPO led essentiality checking service would be? Who would primarily make use of it and for what purpose?

Q31: What other options could you suggest to provide cost-effective essentiality assessments for SMEs and startups?

24

p.24 질문 28·30: 특허청 주도 필수성 검토 제도의 가치와 예상 용도를 물었다.

UK Intellectual Property Office, Standard Essential Patents Consultation, CP 1357 (2025.7.15)

영국 정부 답변 — SEP 협의에 대한 정부 답변, 2026.10.13



GOV.UK

Home > Business and industry > Business regulation > Intellectual property > Patents > Consultation on Standard Essential Patents (SEPs)

Intellectual Property Office

Consultation outcome

Government response to the consultation on Standard Essential Patents

Updated 13 October 2026

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Consultation part 2.1 - Assessing the need for a specialist SEP pre-action protocol
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Print this page

Presented to Parliament by the Minister of State for Science, Innovation and Investment by Command of His Majesty.

CP 1690

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E03703753

Ministerial foreword

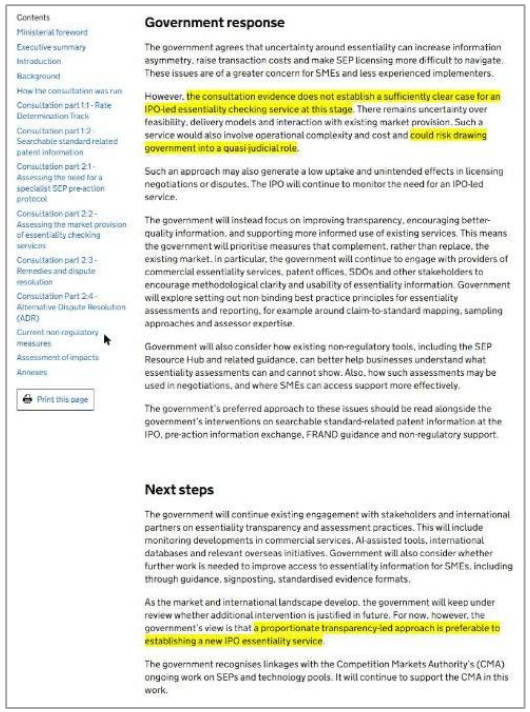
Innovation is central to this government's mission to grow the economy, raise living standards and improve everyday life. Intellectual property (IP) has a vital role in that mission. It gives inventors, creators, and businesses the confidence to invest, develop new products and services, and bring them to market.

Standard Essential Patents ('SEPs') are an increasingly important part of innovation in the United Kingdom (UK). SEPs are patents that protect technologies which are essential to technical standards. Those standards allow products and services to work together reliably and at scale. They support many of the technologies people use every day, from smartphones and wireless devices to connected vehicles, medical technologies, advanced manufacturing, streaming services, and smart consumer products.

This government's SEPs consultation examined how it supports the functioning of the SEP licensing ecosystem, so it works effectively for businesses of all sizes. This is increasingly important as technologies that began in telecommunications now underpin a wide range of sectors. As their reach expands, the SEP framework becomes more important for the UK economy. It is the government's ambition to ensure the SEPs ecosystem remains balanced, efficient, and supportive of innovation, adoption and competition.

We received consultation responses from a wide range of stakeholders, including rightsholders, implementers, small and medium-sized enterprises (SMEs), large businesses, legal professionals, academics, and representative bodies

표제 영국 특허청, 2026.10.13 SEP 협의에 대한 정부 답변 공개



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Government response

The government agrees that uncertainty around essentiality can increase information asymmetry, raise transaction costs and make SEP licensing more difficult to navigate. These issues are of a greater concern for SMEs and less experienced implementers.

However, the consultation evidence does not establish a sufficiently clear case for an IPO-led essentiality checking service at this stage. There remains uncertainty over feasibility, delivery models and interaction with existing market provision. Such a service would also involve operational complexity and cost and could risk drawing government into a quasi-judicial role.

Such an approach may also generate a low uptake and unintended effects in licensing negotiations or disputes. The IPO will continue to monitor the need for an IPO-led service.

The government will instead focus on improving transparency, encouraging better-quality information, and supporting more informed use of existing services. This means the government will prioritise measures that complement, rather than replace, the existing market. In particular, the government will continue to engage with providers of commercial essentiality services, patent offices, SDOs and other stakeholders to encourage methodological clarity and usability of essentiality information. Government will explore setting out non-binding best practice principles for essentiality assessments and reporting, for example around claim-to-standard mapping, sampling approaches and assessor expertise.

Government will also consider how existing non-regulatory tools, including the SEP Resource Hub and related guidance, can better help businesses understand what essentiality assessments can and cannot show. Also, how such assessments may be used in negotiations, and where SMEs can access support more effectively.

The government's preferred approach to these issues should be read alongside the government's interventions on searchable standard-related patent information at the IPO, pre-action information exchange, FRAND guidance and non-regulatory support.

Next steps

The government will continue existing engagement with stakeholders and international partners on essentiality transparency and assessment practices. This will include monitoring developments in commercial services, AI-assisted tools, international databases and relevant overseas initiatives. Government will also consider whether further work is needed to improve access to essentiality information for SMEs, including through guidance, signposting, standardised evidence formats.

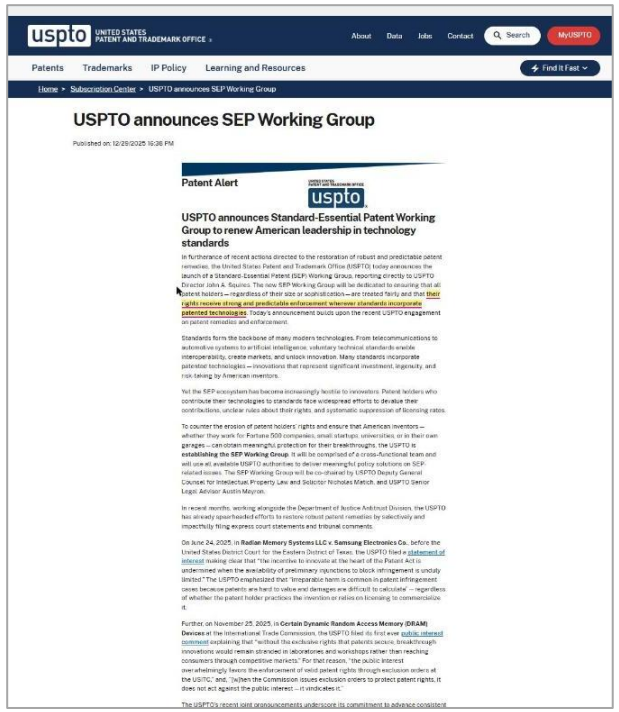
As the market and international landscape develop, the government will keep under review whether additional intervention is justified in future. For now, however, the government's view is that a proportionate transparency-led approach is preferable to establishing a new IPO essentiality service.

The government recognises linkages with the Competition Markets Authority's (CMA) ongoing work on SEPs and technology pools. It will continue to support the CMA in this work.

필수성 검사 특허청 주도 필수성 검사 서비스는 도입 근거가 충분하지 않고, 정부가 준사법적 역할을 떠안을 위험이 있다. 투명성 중심의 접근을 택한다.

UK IPO, Government response to the consultation on Standard Essential Patents, CP 1690 (gov.uk, 2026.10.13)

USPTO 보도자료 — SEP Working Group 출범, 2025.12.29

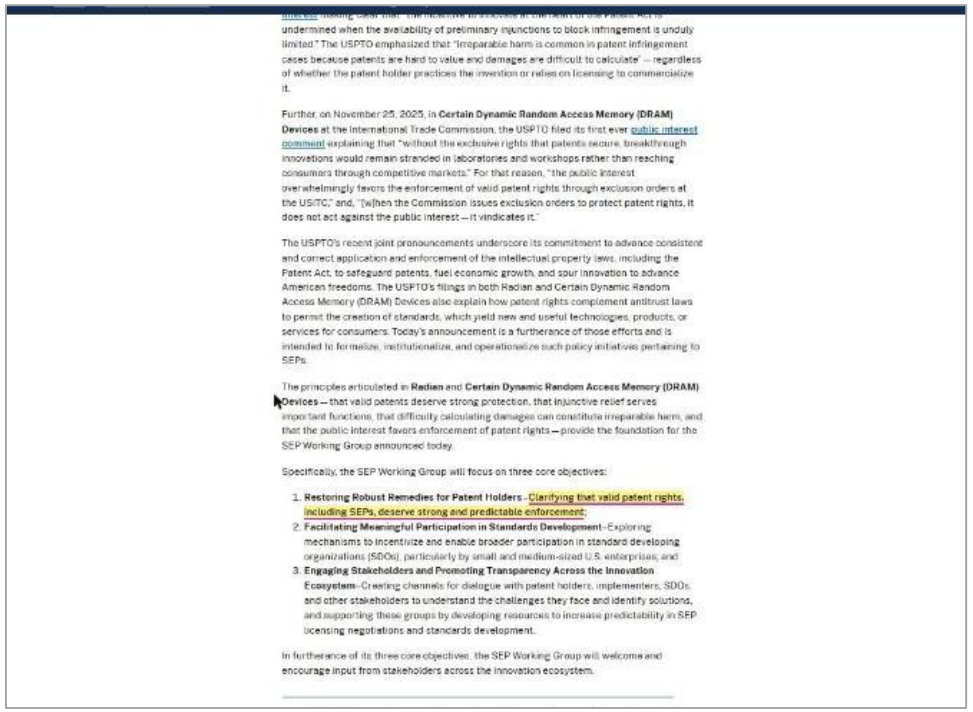


USPTO announces SEP Working Group

Patent Alert

USPTO announces Standard-Essential Patent Working Group to renew American leadership in technology standards

발표문 SEP 워킹그룹 출범 — 표준에 쓰인 특허의 권리가 '강하고 예측 가능하게 집행'되도록 하겠다.



undermined when the availability of preliminary injunctions to block infringement is unduly limited." The USPTO emphasized that "irreparable harm is common in patent infringement cases because patents are hard to value and damages are difficult to calculate" — regardless of whether the patent holder practices the invention or relies on licensing to commercialize it.

Further, on November 25, 2025, in **Certain Dynamic Random Access Memory (DRAM) Devices** at the International Trade Commission, the USPTO filed its first ever public interest comment explaining that "without the exclusive rights that patents secure, breakthrough innovations would remain stranded in laboratories and workshops rather than reaching consumers through competitive markets." For that reason, "the public interest overwhelmingly favors the enforcement of valid patent rights through exclusion orders at the USITC," and, "[w]hen the Commission issues exclusion orders to protect patent rights, it does not act against the public interest—it vindicates it."

The USPTO's recent joint pronouncements underscore its commitment to advance consistent and correct application and enforcement of the intellectual property laws, including the Patent Act, to safeguard patents, fuel economic growth, and spur innovation to advance American freedoms. The USPTO's filings in both Radian and Certain Dynamic Random Access Memory (DRAM) Devices also explain how patent rights complement antitrust laws to permit the creation of standards, which yield new and useful technologies, products, or services for consumers. Today's announcement is a furtherance of those efforts and is intended to formalize, institutionalize, and operationalize such policy initiatives pertaining to SEPs.

The principles articulated in **Radian** and **Certain Dynamic Random Access Memory (DRAM) Devices**—that valid patents deserve strong protection, that injunctive relief serves important functions, that difficulty calculating damages can constitute irreparable harm, and that the public interest favors enforcement of patent rights—provide the foundation for the SEP Working Group announced today.

Specifically, the SEP Working Group will focus on three core objectives:

1. **Restoring Robust Remedies for Patent Holders**–Clarifying that valid patent rights, including SEPs, deserve strong and predictable enforcement;
2. **Facilitating Meaningful Participation in Standards Development**–Exploring mechanisms to incentivize and enable broader participation in standard developing organizations (SDOs), particularly by small and medium-sized U.S. enterprises; and
3. **Engaging Stakeholders and Promoting Transparency Across the Innovation Ecosystem**–Creating channels for dialogue with patent holders, implementers, SDOs, and other stakeholders to understand the challenges they face and identify solutions, and supporting these groups by developing resources to increase predictability in SEP licensing negotiations and standards development.

In furtherance of its three core objectives, the SEP Working Group will welcome and encourage input from stakeholders across the innovation ecosystem.

3대 목표 첫째 목표: SEP를 포함한 유효한 특허의 강하고 예측 가능한 집행 (구제수단 회복)

USPTO, "USPTO announces SEP Working Group" (uspto.gov, 2025.12.29)

유럽 대륙: 금지청구 강세

독일·UPC는 여전히 특허권자 친화적 포럼

2025.11	**Dolby v Roku** 뮌헨 지방법원	비디오 코덱 SEP 기반 가처분 — 유럽 최초 SEP preliminary injunction
2025.12	**InterDigital v Amazon** UPC 만하임 지방부	영국 임시 라이선스 절차를 막는 금지명령, 위반 시 고액 강제금
2025.12~2026.1	**InterDigital v Amazon** UPC 항소부	만하임 명령 집행정지 신청을 기각 — 해외 법원의 간섭 불허 입장 유지
2026.1	**VoiceAge v HMD** 독일 연방대법원(BGH)	엄격한 '성실한 실시자(willingness)' 기준 유지, CJEU 회부 거부

영국: 글로벌 FRAND 산정·풀 심사 포럼으로

실시자는 영국으로, 특허권자는 중재로 — 포럼 경쟁 심화

Samsung v ZTE

- 2025.10 항소법원: 포럼 압박만으로 '악의' 아님 — 임시 라이선스 선언 남용 제한
- 2026.05 고등법원: 라이선스 약 US$ 3.92억 — 비교 라이선스 선별이 결과 좌우

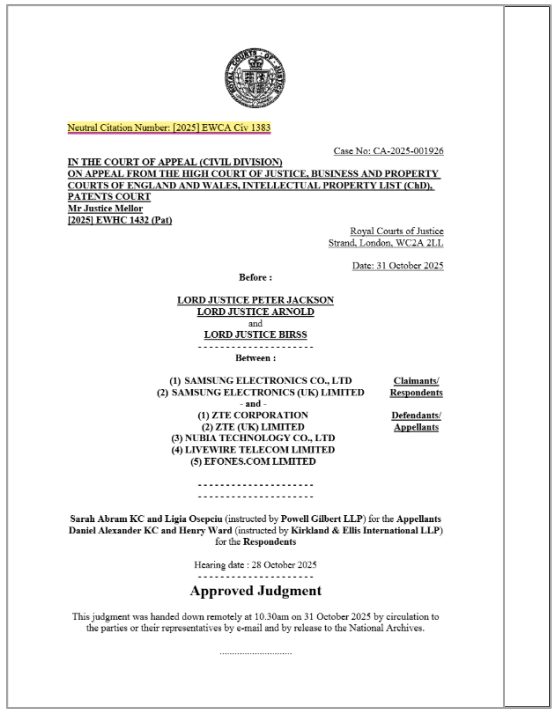
Acer · ASUS v Nokia

- 2026.05 항소법원: ICC 중재 기반 'Adjustable Licence' 제안 = RAND 부합
- 법원의 RAND 산정 청구 중지(stay) → 특허권자가 포럼을 정할 지렛대

Tesla v InterDigital & Avanci

- 2026.07 대법원: 특허풀(플랫폼) 라이선스의 FRAND 조건을 본안에서 다툴 수 있다고 인정
- 영국 법원이 풀 라이선스의 FRAND 조건을 다룰 관할 인정

영국 항소법원·고등법원 — Samsung v ZTE, 2025.10.31 / 2026.5.1



Neutral Citation Number: [2025] EWCA Civ 1383

Case No: CA-2025-001926

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE, BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES, INTELLECTUAL PROPERTY LIST (ChD), PATENTS COURT
Mr Justice Mellor
[2025] EWHC 1432 (Pat)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 31 October 2025

Before :

LORD JUSTICE PETER JACKSON
LORD JUSTICE ARNOLD
and
LORD JUSTICE BIRSS

Between :

(1) SAMSUNG ELECTRONICS CO., LTD (2) SAMSUNG ELECTRONICS (UK) LIMITED - and -	Claimants/ Respondents
(1) ZTE CORPORATION (2) ZTE (UK) LIMITED (3) NUBIA TECHNOLOGY CO., LTD (4) LIVEWIRE TELECOM LIMITED (5) EFONES.COM LIMITED	Defendants/ Appellants

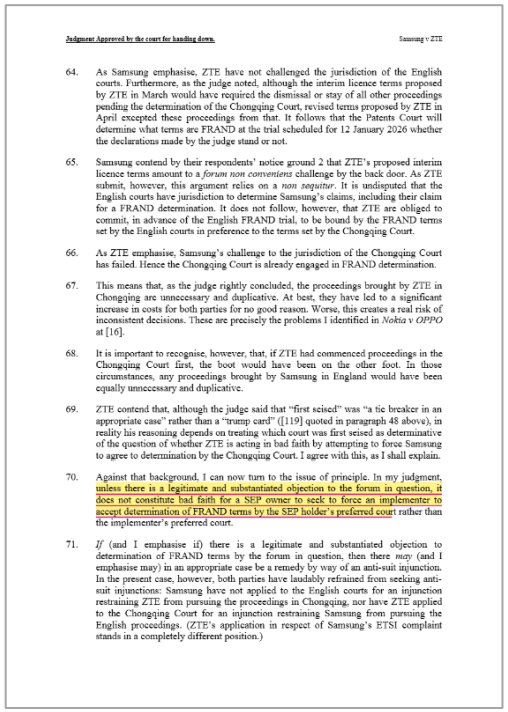
Sarah Abram KC and Ligia Osepciu (instructed by **Powell Gilbert LLP**) for the **Appellants**
Daniel Alexander KC and Henry Ward (instructed by **Kirkland & Ellis International LLP**) for the **Respondents**

Hearing date : 28 October 2025

Approved Judgment

This judgment was handed down remotely at 10.30am on 31 October 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

표제 항소법원 판결 (2025.10.31). 1심이 ZTE의 '악의'를 선언한 부분에 대한 ZTE의 항소



Judgment Approved by the court for handing down. Samsung v ZTE

64. As Samsung emphasise, ZTE have not challenged the jurisdiction of the English courts. Furthermore, as the judge noted, although the interim licence terms proposed by ZTE in March would have required the dismissal or stay of all other proceedings pending the determination of the Chongqing Court, revised terms proposed by ZTE in April excepted these proceedings from that. It follows that the Patents Court will determine what terms are FRAND at the trial scheduled for 12 January 2026 whether the declarations made by the judge stand or not.

65. Samsung contend by their respondents' notice ground 2 that ZTE's proposed interim licence terms amount to a *forum non conveniens* challenge by the back door. As ZTE submit, however, this argument relies on a *non sequitur*. It is undisputed that the English courts have jurisdiction to determine Samsung's claims, including their claim for a FRAND determination. It does not follow, however, that ZTE are obliged to commit, in advance of the English FRAND trial, to be bound by the FRAND terms set by the English courts in preference to the terms set by the Chongqing Court.

66. As ZTE emphasise, Samsung's challenge to the jurisdiction of the Chongqing Court has failed. Hence the Chongqing Court is already engaged in FRAND determination.

67. This means that, as the judge rightly concluded, the proceedings brought by ZTE in Chongqing are unnecessary and duplicative. At best, they have led to a significant increase in costs for both parties for no good reason. Worse, this creates a real risk of inconsistent decisions. These are precisely the problems I identified in *Nokia v OPPO* at [16].

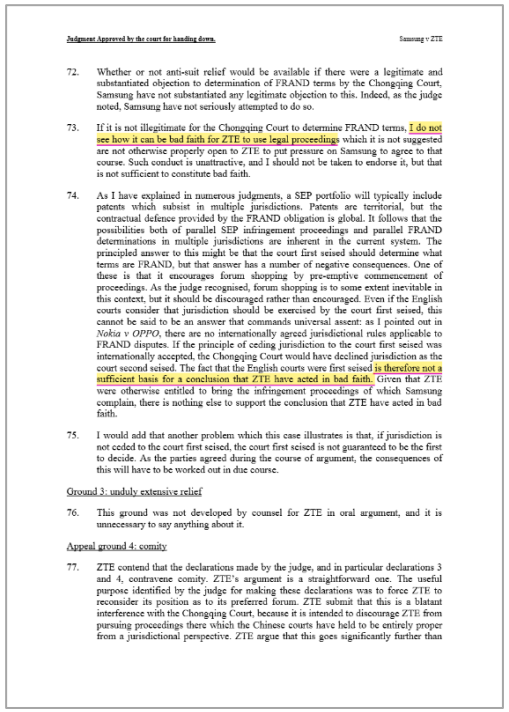
68. It is important to recognise, however, that, if ZTE had commenced proceedings in the Chongqing Court first, the boot would have been on the other foot. In those circumstances, any proceedings brought by Samsung in England would have been equally unnecessary and duplicative.

69. ZTE contend that, although the judge said that "first seised" was "a tie breaker in an appropriate case" rather than a "trump card" ([119] quoted in paragraph 48 above), in reality his reasoning depends on treating which court was first seised as determinative of the question of whether ZTE is acting in bad faith by attempting to force Samsung to agree to determination by the Chongqing Court. I agree with this, as I shall explain.

70. Against that background, I can now turn to the issue of principle. In my judgment, unless there is a legitimate and substantiated objection to the forum in question, it does not constitute bad faith for a SEP owner to seek to force an implementer to accept determination of FRAND terms by the SEP holder's preferred court rather than the implementer's preferred court.

71. *If* (and I emphasise if) there is a legitimate and substantiated objection to determination of FRAND terms by the forum in question, then there *may* (and I emphasise may) in an appropriate case be a remedy by way of an anti-suit injunction. In the present case, however, both parties have laudably refrained from seeking anti-suit injunctions: Samsung have not applied to the English courts for an injunction restraining ZTE from pursuing the proceedings in Chongqing, nor have ZTE applied to the Chongqing Court for an injunction restraining Samsung from pursuing the English proceedings. (ZTE's application in respect of Samsung's ETSI complaint stands in a completely different position.)

para 70 법정지에 정당하고 입증된 반대가 없는 한, SEP 권리자가 자신이 선호하는 법원의 FRAND 결정을 받도록 압박하는 것은 악의가 아니다.



Judgment Approved by the court for handing down. Samsung v ZTE

72. Whether or not anti-suit relief would be available if there were a legitimate and substantiated objection to determination of FRAND terms by the Chongqing Court, Samsung have not substantiated any legitimate objection to this. Indeed, as the judge noted, Samsung have not seriously attempted to do so.

73. If it is not illegitimate for the Chongqing Court to determine FRAND terms, I do not see how it can be bad faith for ZTE to use legal proceedings which it is not suggested are not otherwise properly open to ZTE to put pressure on Samsung to agree to that course. Such conduct is unattractive, and I should not be taken to endorse it, but that is not sufficient to constitute bad faith.

74. As I have explained in numerous judgments, a SEP portfolio will typically include patents which subsist in multiple jurisdictions. Patents are territorial, but the contractual defence provided by the FRAND obligation is global. It follows that the possibilities both of parallel SEP infringement proceedings and parallel FRAND determinations in multiple jurisdictions are inherent in the current system. The principled answer to this might be that the court first seised should determine what terms are FRAND, but that answer has a number of negative consequences. One of these is that it encourages forum shopping by pre-emptive commencement of proceedings. As the judge recognised, forum shopping is to some extent inevitable in this context, but it should be discouraged rather than encouraged. Even if the English courts consider that jurisdiction should be exercised by the court first seised, this cannot be said to be an answer that commands universal assent: as I pointed out in *Nokia v OPPO*, there are no internationally agreed jurisdictional rules applicable to FRAND disputes. If the principle of ceding jurisdiction to the court first seised was internationally accepted, the Chongqing Court would have declined jurisdiction as the court second seised. The fact that the English courts were first seised is therefore not a sufficient basis for a conclusion that ZTE have acted in bad faith. Given that ZTE were otherwise entitled to bring the infringement proceedings of which Samsung complain, there is nothing else to support the conclusion that ZTE have acted in bad faith.

75. I would add that another problem which this case illustrates is that, if jurisdiction is not ceded to the court first seised, the court first seised is not guaranteed to be the first to decide. As the parties agreed during the course of argument, the consequences of this will have to be worked out in due course.

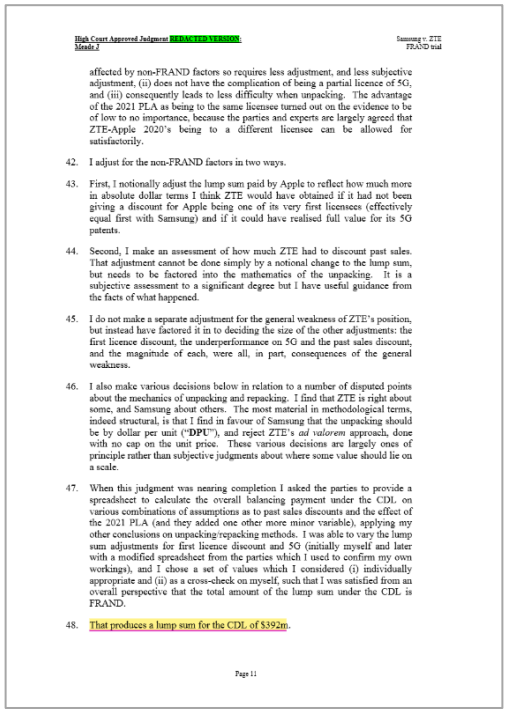
Ground 3: unduly extensive relief

76. This ground was not developed by counsel for ZTE in oral argument, and it is unnecessary to say anything about it.

Appeal ground 4: comity

77. ZTE contend that the declarations made by the judge, and in particular declarations 3 and 4, contravene comity. ZTE's argument is a straightforward one. The useful purpose identified by the judge for making these declarations was to force ZTE to reconsider its position as to its preferred forum. ZTE submit that this is a blatant interference with the Chongqing Court, because it is intended to discourage ZTE from pursuing proceedings there which the Chinese courts have held to be entirely proper from a jurisdictional perspective. ZTE argue that this goes significantly further than

para 73·74 중국 법원 소송을 활용한 것만으로 악의라 할 수 없다. 영국 법원이 먼저 사건을 맡았다는 사실도 근거로 부족하다.



High Court Approved Judgment REDACTED VERSION Samsung v. ZTE FRAND trial
Mendes J

affected by non-FRAND factors so requires less adjustment, and less subjective adjustment, (ii) does not have the complication of being a partial licence of 5G, and (iii) consequently leads to less difficulty when unpacking. The advantage of the 2021 PLA as being to the same licensee turned out on the evidence to be of low to no importance, because the parties and experts are largely agreed that ZTE-Apple 2020's being to a different licensee can be allowed for satisfactorily.

42. I adjust for the non-FRAND factors in two ways.

43. First, I notionally adjust the lump sum paid by Apple to reflect how much more in absolute dollar terms I think ZTE would have obtained if it had not been giving a discount for Apple being one of its very first licensees (effectively equal first with Samsung) and if it could have realised full value for its 5G patents.

44. Second, I make an assessment of how much ZTE had to discount past sales. That adjustment cannot be done simply by a notional change to the lump sum, but needs to be factored into the mathematics of the unpacking. It is a subjective assessment to a significant degree but I have useful guidance from the facts of what happened.

45. I do not make a separate adjustment for the general weakness of ZTE's position, but instead have factored it in to deciding the size of the other adjustments: the first licence discount, the underperformance on 5G and the past sales discount, and the magnitude of each, were all, in part, consequences of the general weakness.

46. I also make various decisions below in relation to a number of disputed points about the mechanics of unpacking and repacking. I find that ZTE is right about some, and Samsung about others. The most material in methodological terms, indeed structural, is that I find in favour of Samsung that the unpacking should be by dollar per unit ("DPU"), and reject ZTE's *ad valorem* approach, done with no cap on the unit price. These various decisions are largely ones of principle rather than subjective judgments about where some value should lie on a scale.

47. When this judgment was nearing completion I asked the parties to provide a spreadsheet to calculate the overall balancing payment under the CDL on various combinations of assumptions as to past sales discounts and the effect of the 2021 PLA (and they added one other more minor variable), applying my other conclusions on unpacking/repacking methods. I was able to vary the lump sum adjustments for first licence discount and 5G (initially myself and later with a modified spreadsheet from the parties which I used to confirm my own workings), and I chose a set of values which I considered (i) individually appropriate and (ii) as a cross-check on myself, such that I was satisfied from an overall perspective that the total amount of the lump sum under the CDL is FRAND.

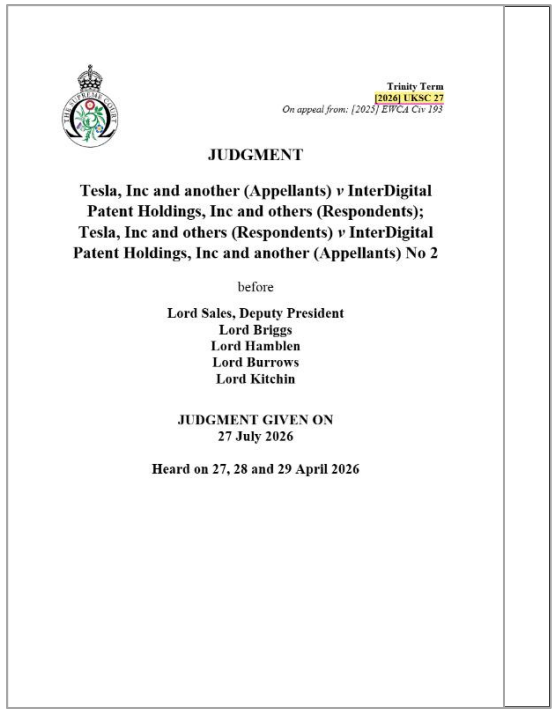
48. That produces a lump sum for the CDL of $392m.

Page 11

고등법원 para 48 FRAND 라이선스 일시금을 3.92억 달러로 산정 (ZTE–Apple 2020 라이선스를 기준 비교 라이선스로 사용)

Samsung Electronics v ZTE, [2025] EWCA Civ 1383 (2025.10.31); [2026] EWHC 999 (Pat) (2026.5.1) — caselaw.nationalarchives.gov.uk

영국 대법원 — Tesla v InterDigital & Avanci, [2026] UKSC 27, 2026.7.27



Trinity Term
[2026] UKSC 27
On appeal from: [2025] EWCA Civ 193

JUDGMENT

Tesla, Inc and another (Appellants) *v* InterDigital Patent Holdings, Inc and others (Respondents); Tesla, Inc and others (Respondents) *v* InterDigital Patent Holdings, Inc and another (Appellants) No 2

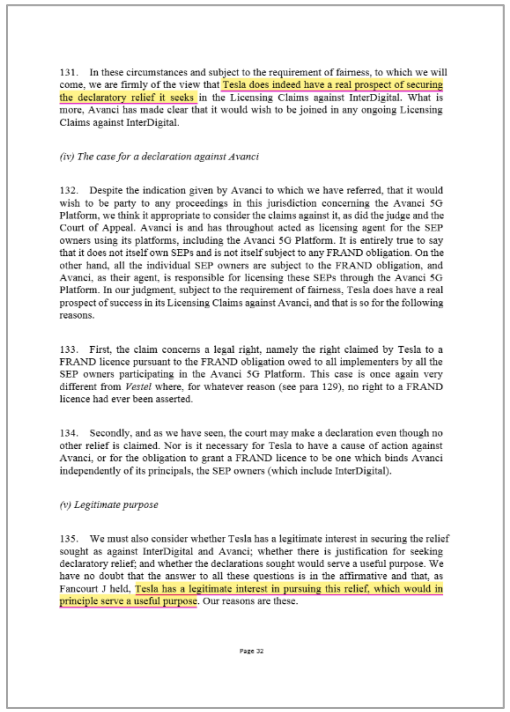
before

Lord Sales, Deputy President
Lord Briggs
Lord Hamblen
Lord Burrows
Lord Kitchin

JUDGMENT GIVEN ON
27 July 2026

Heard on 27, 28 and 29 April 2026

표제 대법관 5인 판결 (2026.7.27). 원심: [2025] EWCA Civ 193



131. In these circumstances and subject to the requirement of fairness, to which we will come, we are firmly of the view that Tesla does indeed have a real prospect of securing the declaratory relief it seeks in the Licensing Claims against InterDigital. What is more, Avanci has made clear that it would wish to be joined in any ongoing Licensing Claims against InterDigital.

(iv) The case for a declaration against Avanci

132. Despite the indication given by Avanci to which we have referred, that it would wish to be party to any proceedings in this jurisdiction concerning the Avanci 5G Platform, we think it appropriate to consider the claims against it, as did the judge and the Court of Appeal. Avanci is and has throughout acted as licensing agent for the SEP owners using its platforms, including the Avanci 5G Platform. It is entirely true to say that it does not itself own SEPs and is not itself subject to any FRAND obligation. On the other hand, all the individual SEP owners are subject to the FRAND obligation, and Avanci, as their agent, is responsible for licensing these SEPs through the Avanci 5G Platform. In our judgment, subject to the requirement of fairness, Tesla does have a real prospect of success in its Licensing Claims against Avanci, and that is so for the following reasons.

133. First, the claim concerns a legal right, namely the right claimed by Tesla to a FRAND licence pursuant to the FRAND obligation owed to all implementers by all the SEP owners participating in the Avanci 5G Platform. This case is once again very different from *Vestel* where, for whatever reason (see para 129), no right to a FRAND licence had ever been asserted.

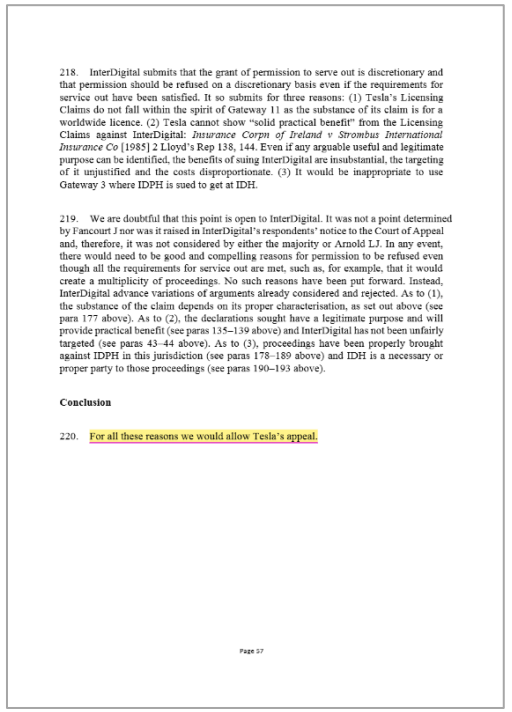
134. Secondly, and as we have seen, the court may make a declaration even though no other relief is claimed. Nor is it necessary for Tesla to have a cause of action against Avanci, or for the obligation to grant a FRAND licence to be one which binds Avanci independently of its principals, the SEP owners (which include InterDigital).

(v) Legitimate purpose

135. We must also consider whether Tesla has a legitimate interest in securing the relief sought as against InterDigital and Avanci; whether there is justification for seeking declaratory relief; and whether the declarations sought would serve a useful purpose. We have no doubt that the answer to all these questions is in the affirmative and that, as Fancourt J held, Tesla has a legitimate interest in pursuing this relief, which would in principle serve a useful purpose. Our reasons are these.

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p.32 (para 131·132·135) Tesla는 InterDigital을 상대로 한 확인 청구에서 승소 가능성이 있다. 개별 SEP 권리자는 모두 FRAND 의무를 지고, Avanci는 그 대리인으로 플랫폼 라이선스를 맡는다. 청구의 실익도 인정.



218. InterDigital submits that the grant of permission to serve out is discretionary and that permission should be refused on a discretionary basis even if the requirements for service out have been satisfied. It so submits for three reasons: (1) Tesla's Licensing Claims do not fall within the spirit of Gateway 11 as the substance of its claim is for a worldwide licence. (2) Tesla cannot show "solid practical benefit" from the Licensing Claims against InterDigital: *Insurance Corpn of Ireland v Strombus International Insurance Co* [1985] 2 Lloyd's Rep 138, 144. Even if any arguable useful and legitimate purpose can be identified, the benefits of suing InterDigital are insubstantial, the targeting of it unjustified and the costs disproportionate. (3) It would be inappropriate to use Gateway 3 where IDPH is sued to get at IDH.

219. We are doubtful that this point is open to InterDigital. It was not a point determined by Fancourt J nor was it raised in InterDigital's respondents' notice to the Court of Appeal and, therefore, it was not considered by either the majority or Arnold LJ. In any event, there would need to be good and compelling reasons for permission to be refused even though all the requirements for service out are met, such as, for example, that it would create a multiplicity of proceedings. No such reasons have been put forward. Instead, InterDigital advance variations of arguments already considered and rejected. As to (1), the substance of the claim depends on its proper characterisation, as set out above (see para 177 above). As to (2), the declarations sought have a legitimate purpose and will provide practical benefit (see paras 135–139 above) and InterDigital has not been unfairly targeted (see paras 43–44 above). As to (3), proceedings have been properly brought against IDPH in this jurisdiction (see paras 178–189 above) and IDH is a necessary or proper party to those proceedings (see paras 190–193 above).

Conclusion

220. For all these reasons we would allow Tesla's appeal.

Page 57

p.57 (para 220) 결론: Tesla의 상고를 인용한다.

Tesla, Inc v InterDigital Patent Holdings, Inc & Avanci, [2026] UKSC 27 (2026.7.27) — caselaw.nationalarchives.gov.uk

미국: 정책은 금지청구 지지, 법원은 금전배상 중심

특허 하나하나의 필수성·침해 입증이 중요하다

Optis v Apple 연방순회항소법원 · 2025.6.16

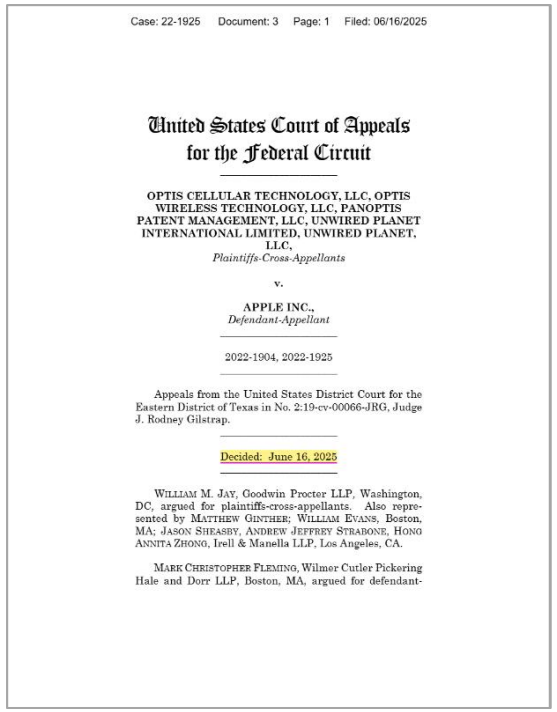
- LTE SEP 5건 · 3억 달러 배상 평결 취소 → 침해·손해배상 모두 재심리 환송
- 평결 질문이 '어느 청구항이든 침해했는가' 하나뿐 → 특허마다 별도 청구, 특허별 판단 필요
- 일시금 배상도 특허별로 다시 산정
- **포트폴리오 전체가 아니라 특허 하나하나의 필수성·침해 입증**

정부는 금지청구 지지 vs 법원은 신중

2025.6	DOJ·USPTO 의견서(Radian v Samsung): 특허를 실시하지 않는 권리자도 회복 불능 손해 입증 기회
2026.2	Wilus v Askey: Wi-Fi 6 SEP로 2007년 이후 첫 SEP 금지명령 신청
2026.2	DOJ·USPTO 의견서(Collision v Samsung): 금지명령 지지
2026.4	Wilus v Askey 공판 전 기일 취소 → 금지명령 가능성 낮아짐
2026.5	Collision v Samsung: 4.45억 달러 평결에도 영구 금지명령 거부
2026.7	Samsung, Sisvel Wi-Fi 특허풀 가입으로 Wilus 분쟁 합의

미국 법원의 SEP 금지명령 CSIRO v Buffalo 사건(2007) 이후 없음 → 협상력은 배상액, 배상액은 특허별 입증이 좌우

미국 연방순회항소법원 — Optis v. Apple, No. 2022-1904, 2025.6.16



Case: 22-1925 Document: 3 Page: 1 Filed: 06/16/2025

United States Court of Appeals for the Federal Circuit

OPTIS CELLULAR TECHNOLOGY, LLC, OPTIS WIRELESS TECHNOLOGY, LLC, PANOPTIS PATENT MANAGEMENT, LLC, UNWIRED PLANET INTERNATIONAL LIMITED, UNWIRED PLANET, LLC,
Plaintiffs-Cross-Appellants

v.

APPLE INC.,
Defendant-Appellant

2022-1904, 2022-1925

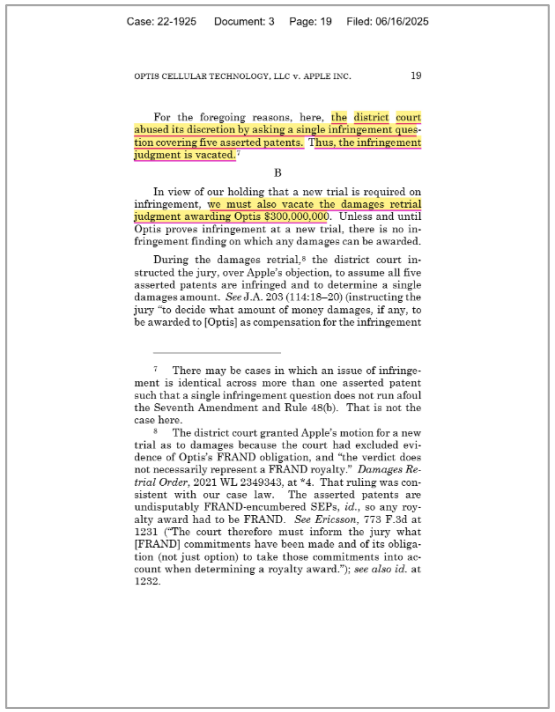
Appeals from the United States District Court for the Eastern District of Texas in No. 2:19-cv-00066-JRG, Judge J. Rodney Gilstrap.

Decided: June 16, 2025

WILLIAM M. JAY, Goodwin Procter LLP, Washington, DC, argued for plaintiffs-cross-appellants. Also represented by MATTHEW GINTHER; WILLIAM EVANS, Boston, MA; JASON SHEASBY, ANDREW JEFFREY STRABONE, HONG ANNITA ZHONG, Irell & Manella LLP, Los Angeles, CA.

MARK CHRISTOPHER FLEMING, Wilmer Cutler Pickering Hale and Dorr LLP, Boston, MA, argued for defendant-

p.1 연방순회항소법원 판결 (2025.6.16). 원심: 텍사스 동부지법 (Gilstrap 판사)



Case: 22-1925 Document: 3 Page: 19 Filed: 06/16/2025

OPTIS CELLULAR TECHNOLOGY, LLC v. APPLE INC. 19

For the foregoing reasons, here, the district court abused its discretion by asking a single infringement question covering five asserted patents. Thus, the infringement judgment is vacated.[7]

B

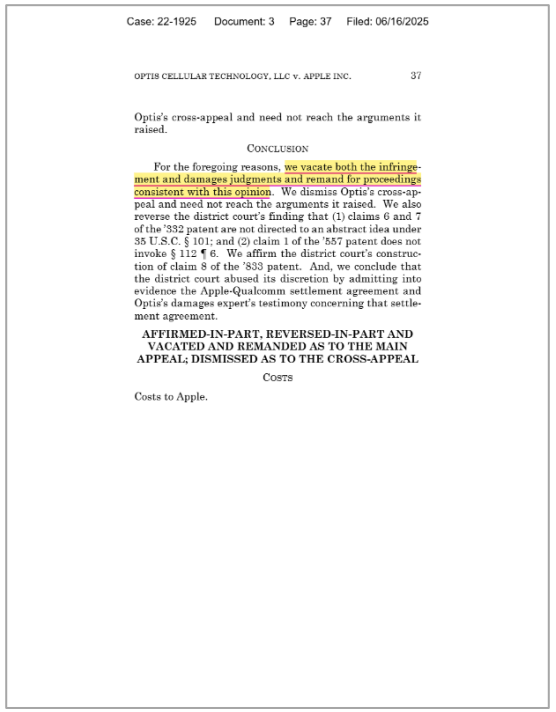
In view of our holding that a new trial is required on infringement, we must also vacate the damages retrial judgment awarding Optis $300,000,000. Unless and until Optis proves infringement at a new trial, there is no infringement finding on which any damages can be awarded.

During the damages retrial,[8] the district court instructed the jury, over Apple's objection, to assume all five asserted patents are infringed and to determine a single damages amount. *See* J.A. 203 (114:18–20) (instructing the jury "to decide what amount of money damages, if any, to be awarded to [Optis] as compensation for the infringement

[7] There may be cases in which an issue of infringement is identical across more than one asserted patent such that a single infringement question does not run afoul the Seventh Amendment and Rule 48(b). That is not the case here.

[8] The district court granted Apple's motion for a new trial as to damages because the court had excluded evidence of Optis's FRAND obligation, and "the verdict does not necessarily represent a FRAND royalty." *Damages Retrial Order*, 2021 WL 2349343, at *4. That ruling was consistent with our case law. The asserted patents are undisputably FRAND-encumbered SEPs, *id.*, so any royalty award had to be FRAND. *See Ericsson*, 773 F.3d at 1231 ("The court therefore must inform the jury what [FRAND] commitments have been made and of its obligation (not just option) to take those commitments into account when determining a royalty award."); *see also id.* at 1232.

p.19 특허 5건의 침해 여부를 질문 하나로 물은 것은 재량 남용 → 침해 판결 취소. 3억 달러 손해배상 판결도 취소.



Case: 22-1925 Document: 3 Page: 37 Filed: 06/16/2025

OPTIS CELLULAR TECHNOLOGY, LLC v. APPLE INC. 37

Optis's cross-appeal and need not reach the arguments it raised.

CONCLUSION

For the foregoing reasons, we vacate both the infringement and damages judgments and remand for proceedings consistent with this opinion. We dismiss Optis's cross-appeal and need not reach the arguments it raised. We also reverse the district court's finding that (1) claims 6 and 7 of the '332 patent are not directed to an abstract idea under 35 U.S.C. § 101; and (2) claim 1 of the '557 patent does not invoke § 112 ¶ 6. We affirm the district court's construction of claim 8 of the '833 patent. And, we conclude that the district court abused its discretion by admitting into evidence the Apple-Qualcomm settlement agreement and Optis's damages expert's testimony concerning that settlement agreement.

AFFIRMED-IN-PART, REVERSED-IN-PART AND VACATED AND REMANDED AS TO THE MAIN APPEAL; DISMISSED AS TO THE CROSS-APPEAL

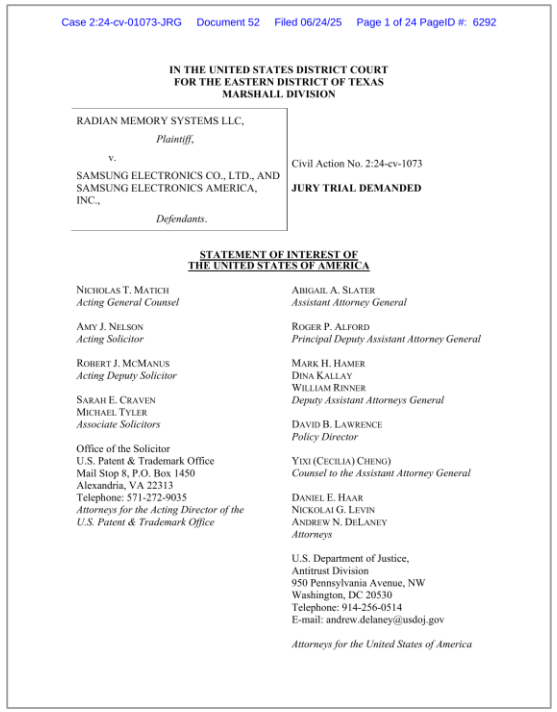
COSTS

Costs to Apple.

p.37 결론: 침해·손해배상 판결을 모두 취소하고 환송

Optis Cellular Technology, LLC v. Apple Inc., Nos. 2022-1904, 2022-1925 (Fed. Cir. 2025.6.16) — cafc.uscourts.gov

미국 정부(DOJ·USPTO) 의견서 — Radian v. Samsung, 2025.6.24



Case 2:24-cv-01073-JRG Document 52 Filed 06/24/25 Page 1 of 24 PageID #: 6292

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

RADIAN MEMORY SYSTEMS LLC,
Plaintiff,
v.
SAMSUNG ELECTRONICS CO., LTD., AND SAMSUNG ELECTRONICS AMERICA, INC.,
Defendants.

Civil Action No. 2:24-cv-1073
JURY TRIAL DEMANDED

STATEMENT OF INTEREST OF THE UNITED STATES OF AMERICA

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AMY J. NELSON
Acting Solicitor

ROBERT J. MCMANUS
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Policy Director

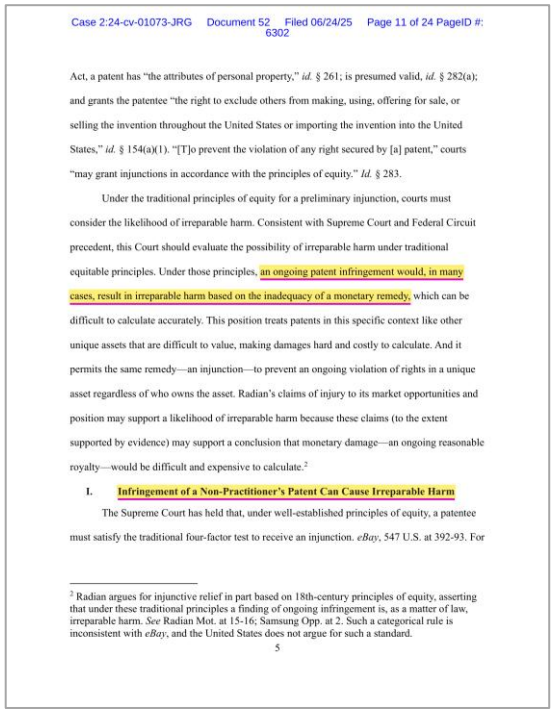
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p.1 법무부 반독점국·특허청이 공동 제출한 미국 정부 의견서 (텍사스 동부지법, 2025.6.24)



Case 2:24-cv-01073-JRG Document 52 Filed 06/24/25 Page 11 of 24 PageID #: 6302

Act, a patent has "the attributes of personal property," *id.* § 261; is presumed valid, *id.* § 282(a); and grants the patentee "the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States," *id.* § 154(a)(1). "[T]o prevent the violation of any right secured by [a] patent," courts "may grant injunctions in accordance with the principles of equity." *Id.* § 283.

Under the traditional principles of equity for a preliminary injunction, courts must consider the likelihood of irreparable harm. Consistent with Supreme Court and Federal Circuit precedent, this Court should evaluate the possibility of irreparable harm under traditional equitable principles. Under those principles, an ongoing patent infringement would, in many cases, result in irreparable harm based on the inadequacy of a monetary remedy, which can be difficult to calculate accurately. This position treats patents in this specific context like other unique assets that are difficult to value, making damages hard and costly to calculate. And it permits the same remedy—an injunction—to prevent an ongoing violation of rights in a unique asset regardless of who owns the asset. Radian's claims of injury to its market opportunities and position may support a likelihood of irreparable harm because these claims (to the extent supported by evidence) may support a conclusion that monetary damage—an ongoing reasonable royalty—would be difficult and expensive to calculate.[2]

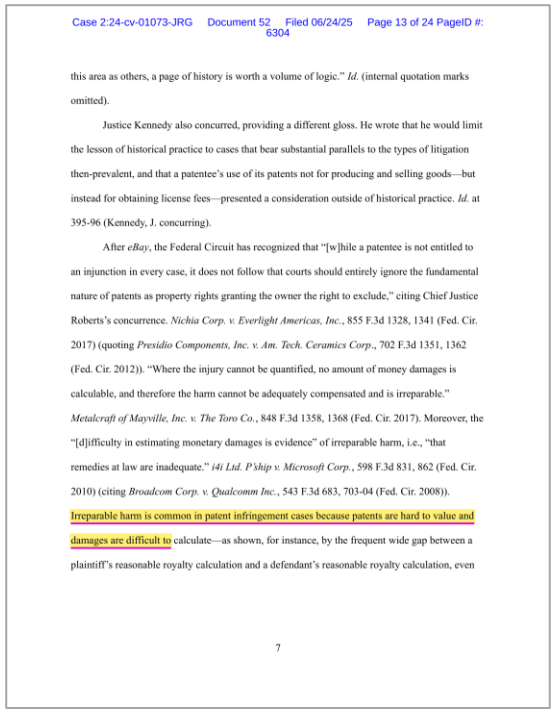
I. Infringement of a Non-Practitioner's Patent Can Cause Irreparable Harm

The Supreme Court has held that, under well-established principles of equity, a patentee must satisfy the traditional four-factor test to receive an injunction. *eBay*, 547 U.S. at 392-93. For

[2] Radian argues for injunctive relief in part based on 18th-century principles of equity, asserting that under these traditional principles a finding of ongoing infringement is, as a matter of law, irreparable harm. *See* Radian Mot. at 15-16; Samsung Opp. at 2. Such a categorical rule is inconsistent with *eBay*, and the United States does not argue for such a standard.

5

p.5 특허 침해가 계속되면 금전 배상으로는 부족해 많은 경우 회복할 수 없는 손해가 된다. 특허를 실시하지 않는 권리자도 마찬가지다.



Case 2:24-cv-01073-JRG Document 52 Filed 06/24/25 Page 13 of 24 PageID #: 6304

this area as others, a page of history is worth a volume of logic." *Id.* (internal quotation marks omitted).

Justice Kennedy also concurred, providing a different gloss. He wrote that he would limit the lesson of historical practice to cases that bear substantial parallels to the types of litigation then-prevalent, and that a patentee's use of its patents not for producing and selling goods—but instead for obtaining license fees—presented a consideration outside of historical practice. *Id.* at 395-96 (Kennedy, J. concurring).

After *eBay*, the Federal Circuit has recognized that "[w]hile a patentee is not entitled to an injunction in every case, it does not follow that courts should entirely ignore the fundamental nature of patents as property rights granting the owner the right to exclude," citing Chief Justice Roberts's concurrence. *Nichia Corp. v. Everlight Americas, Inc.*, 855 F.3d 1328, 1341 (Fed. Cir. 2017) (quoting *Presidio Components, Inc. v. Am. Tech. Ceramics Corp.*, 702 F.3d 1351, 1362 (Fed. Cir. 2012)). "Where the injury cannot be quantified, no amount of money damages is calculable, and therefore the harm cannot be adequately compensated and is irreparable." *Metalcraft of Mayville, Inc. v. The Toro Co.*, 848 F.3d 1358, 1368 (Fed. Cir. 2017). Moreover, the "[d]ifficulty in estimating monetary damages is evidence" of irreparable harm, i.e., "that remedies at law are inadequate." *i4i Ltd. P'ship v. Microsoft Corp.*, 598 F.3d 831, 862 (Fed. Cir. 2010) (citing *Broadcom Corp. v. Qualcomm Inc.*, 543 F.3d 683, 703-04 (Fed. Cir. 2008)). Irreparable harm is common in patent infringement cases because patents are hard to value and damages are difficult to calculate—as shown, for instance, by the frequent wide gap between a plaintiff's reasonable royalty calculation and a defendant's reasonable royalty calculation, even

7

p.7 특허는 가치 산정과 손해액 계산이 어려워, 특허 침해에서 회복할 수 없는 손해는 흔하다.

Statement of Interest of the United States, Radian Memory Systems LLC v. Samsung Electronics Co., No. 2:24-cv-1073 (E.D. Tex.), Doc. 52, 2025.6.24 — DOJ 반독점국·USPTO

포럼 지형과 시사점

모든 포럼의 공통 변수 = 필수 특허의 수와 비중

유럽 대륙 (독일·UPC)

- 금지청구·가처분
- 성실 협상 기록이 관건
- 개별 특허의 필수성·유효성 입증

영국

- 글로벌 FRAND 산정
- 임시 라이선스·특허풀 심사
- Top-down·비교 라이선스에 필수성 비중 반영

미국

- 금전배상 중심
- 특허별 필수성·침해 입증
- 정부는 금지청구 지지, 법원은 신중

중재

- Nokia 'Adjustable Licence' (2026.5)
- InterDigital–Amazon 중재로 전환 (2026.6)
- 비공개·신속 — 증거 패키지가 승부

필수성 증거 = 금지청구의 근거 + FRAND 산정의 변수 + 배상액 산정의 단위 + 특허풀 지분의 기준

PART 03

01 필수성 평가 방법론

02 최신 동향·판례

03 포트폴리오 구축·관리

04 라이선싱·수익화 및 ID 사례

SEP 라이프사이클 전략

표준화 일정과 출원 일정을 겹쳐 설계한다



*** 국가 선택 = 시장 + 집행 포럼**

시장·생산지 (2025 제안)
US · CN · JP · IN 등 실시 규모 기준

+

집행 포럼 (2026 추가)
DE·UPC 금지청구 · UK FRAND 산정 · US 금전배상 · BR 신흥 포럼

포트폴리오 KPI 재정의

'얼마나 많이'에서 '얼마나 검증됐나'로

	기존 지표	새 지표
필수성	선언 특허 건수	검증된 필수 패밀리 수 (등급별)
지역	등록 국가 수	시장·생산지·집행 포럼 커버리지
표준	대상 표준 수	릴리즈·기능별 커버리지 (Mandatory 비중)
수명	보유 건수	잔존 존속기간 가중 포트폴리오
리스크	—	유효성 리스크 (무효 이력·선행기술)

KPI가 바뀌면

유지비·출원·매각 의사결정이 바뀐다

선언 건수는 협상 테이블에서 할인되지만,
검증된 필수 패밀리는 할인되지 않는다

티어링: 필수성 × 유효성 × 탐지가능성

등급이 수익화 트랙을 결정한다

TIER 1 핵심 집행 자산

Essential | 유효성 견고 | 침해 입증 용이

활용

대표 특허(Proud list) · 상시 청구항 차트

↓

소송 · 직접 라이선싱

TIER 2 협상·풀 자산

Essential / Likely | 일부 리스크

활용

특허풀 등재 · 협상 패키지 구성

↓

특허풀 · 협상

TIER 3 효율화 대상

Possible / Not | 잔존기간 짧음

활용

유지비 절감 — 포기·매각 검토

↓

포기 · 매각

ID 사례 출연연·대학 비디오 코덱 표준특허 570여 건 매입 → 필수성 평가로 선별 → HEVC/VVC 특허풀 등재·매각

PART 04

01 필수성 평가 방법론

02 최신 동향·판례

03 포트폴리오 구축·관리

04 라이선싱·수익화 및 ID 사례

수익화 경로: Three Track

작년의 Three Track에 '어느 등급이 어느 트랙으로'를 더한다

특허풀 가입

간접 라이선싱 | 안정성·예측가능성

장점

협상·소송 비용 절약, 투명한 로열티 분배

유의점

건수 기반 배분 — 필수성 평가 통과 필요

적합 티어

Tier 2 실시자 다수 시장 (자동차·IoT·코덱)

소송·합의

직접 라이선싱 | High Risk, High Return

장점

개별 특허 가치 차별화, 과거 사용분 수익화

유의점

필수성·침해 입증 부담, 포럼 리스크

적합 티어

Tier 1 증거 패키지 완비

펀드 투자·매각

외부 자본·매각 | 유연한 전략

장점

소송 직접 대응 불필요, 원금 대비 n배 수익 가능

유의점

전문적인 프로젝트 평가 필요

적합 티어

Tier 1~2 Tier 3 매각

ID 사례: 매입 → 특허풀 → 소송 → 매각

한 포트폴리오를 여러 트랙으로 — 필수성 증거가 모든 트랙을 잇는다

성과 최근 6년 누적 수익화 1억 달러+ (약 80% 라이선싱) · 2025년 매출 478억 원·영업이익 113억 원 (역대 최대)



ID 사례 ① HEVC 표준특허, MPEG LA 특허풀 신청

대학·출연연 출원을 사들여 표준특허로 키운 첫 사례



전자신문

가

인텔렉추얼디스커버리, 8K 동영상 코덱기술 `HEVC` 에 국제표준특허 등록

발행일 : 2014-12-22 07:05 업데이트 : 2014-12-22 09:47 지면 : 2014-12-22 2면

특허풀 라이선스 분야의 글로벌 선도기업인 MPEG LA의 차세대 동영상 코덱기술 'HEVC' 국제표준특허에 국내 특허괴물(NPE) 인텔렉추얼디스커버리(ID) 특허가 등록됐다.

MPEG LA는 지난 9월 29일부로 HEVC 특허 풀 라이선스 프로그램을 선보이고 HEVC와 관련된 핵심 특허를 세계 사용자가 로열티를 지불하고 사용하도록 했다.

HEVC 기술은 인터넷 및 모바일 화면에서 보다 빠른 속도와 많은 용량의 동영상을 매끄럽게 볼 수 있는 기술이다. 4K와 8K 디스플레이에서 영상을 재생하는 핵심 기술이다.

HEVC 프로그램에는 각국 기업이 참여한다. ID는 대학 및 출연연과 협력해 출원상태의 HEVC 특허를 매입, 매입 출원 건의 보정 작업과 해외 출원을 진행해 표준 특허를 확보했다. 지난 9월부터 총 네 건의 매입 특허가 표준 필수성 평가를 통과했으며 이어 MPEG LA의 HEVC 표준 특허 풀 프로그램에 신청해 성과를 얻었다.

특허풀

기사 핵심

- 대학·출연연의 HEVC 출원 매입 → Value-up 을 통한 SEP 확보
- 매입 특허 필수성 평가 통과, MPEG LA HEVC 특허풀 등재
- 향후 지속적인 로열티 기대

출처 전자신문, 2014.12.22 · etnews.com/20141219000282

ID 사례 ② WA 프로젝트: 노키아·에릭슨과 합의

매입한 4G·5G 특허 3건으로 글로벌 장비사와 합의



파이낸셜뉴스

산업 | 산업일반

인텔렉추얼 디스커버리, 글로벌기업과 특허 합의로 수백억대 수익 달성

박신영 기자

파이낸셜뉴스 | 입력 2024.12.10 15:42

기사 듣기 | 구글 검색 선호 매체 추가

"산학연 보유 미활용 특허 새로운 가치 제고"

[파이낸셜뉴스]

매입 | 소송·합의

기사 핵심

- 대학·출연연 보유 특허를 10여 년 전 매입
- 2023, AT&T·Verizon·T-Mobile 상대 4G·5G 특허 소송
- 장비 공급사 노키아·에릭슨과 재판 직전 합의

출처 파이낸셜뉴스, 2024.12.10 · fnnews.com/news/202412091709264539

ID 사례 ③ VVC 표준특허 매각

풀 등재 자산을 글로벌 대기업에 매각



이투데이

로그인 회원가입

산업 재계 전자/통신/IT 자동차 중화학 항공/물류 유통 의료/바이오 중기/벤처 일반

이투데이 > 산업 > 중기/벤처

인텔렉추얼디스커버리, 표준특허 매각 통해 1분기 150억 수익화 예상

입력 2025-01-13 14:00

김우람 기자 구독 +

모회사인 엑스페릭스의 인수 이후 특허 프로젝트 공격적인 다각화 진행

INTELLECTUAL DISCOVERY

특허관리전문회사(NPE)인 인텔렉추얼디스커버리가 1월부터 대규모 표준 특허 매각 등을 통해 1분기에만 150억 원대 이상의 매출을 달성할 것으로 예상된다고 13일 밝혔다.

회사는 최근 글로벌 대기업에 비디오코덱(VVC) 표준 특허 매각 계약을 체결했으며, 올해 첫 특허 매각 프로젝트를 달성했다.

인텔렉추얼디스커버리는 창립 초기부터 통신 표준 특허 및 비디오 코덱 특허 포트폴리오를 전략적으로 구축한 바 있다. 비디오 코덱 표준은 초기 단계부터 광운대학교, 한국전자통신연구원 등으로부터 특허와 아이디어를 매입했으며, 통신 표준(5G, 6G) 기술에 대해서도 국내 다수의 대학 및 표준 전문 기관들로부터 특허를 매입하거나 공동 개발하는 방식으로 꾸준하게 표준 특허 포트폴리오를 구축하고 있다.

매각

기사 핵심

- 대학·출연연 등에서 매입, 2022년 VVC 특허풀 라이선서 가입
- 해외 기업과 VVC 표준특허 매각 계약
- 매각 수익은 신규 특허 매입·개발에 재투자

출처 이투데이, 2025.1.13 · etoday.co.kr/news/view/2437091

ID 사례 ④ Qi 무선충전 특허풀 라이선서 등록

공동연구로 확보한 원천특허를 특허풀에



아시아경제 증권 | 인텔렉추얼디스커버리, Qi 무선충전 표준 … MY뉴스 · 로그인

증권 > 종목·공시

인텔렉추얼디스커버리, Qi 무선충전 표준 공식 라이선서 등록

장효원 기자

입력 2025.10.31 10:31 선호 매체 추가

INTELLECTUAL DISCOVERY

엑스페릭스 계열사 인텔렉추얼디스커버리(이하 'ID')가 오는 11월1일부로 Via Licensing Alliance(이하 'Via LA')가 운영하는 Qi 무선충전 표준 필수 특허풀의 공식 라이선서로 등록된다고 31일 밝혔다.

이번 등록은 공공 연구기관과의 공동 연구성과를 기반으로 ID가 확보한 원천특허의 글로벌 표준 기술 인정을 받은 사례로, 국내 연구기술이 국제 표준 생태계에 공식 진입한 의미 있는 사례로 평가된다.

특허풀

기사 핵심

- 2025.11. Via LA Qi 무선충전 표준 특허풀 공식 라이선서
- 공공 연구기관으로부터 특허 확보
- Qi 인증 제품 제조사 대상 지속 로열티 구조

출처 아시아경제, 2025.10.31 · view.asiae.co.kr/article/2025103110312701056

ID 사례 ⑤ 해외 SEP 전문매체 보도

ip fray: Qi 풀 가입과 5G SEP 합의 이력 조명

Korean NPE Intellectual Discovery joins Via LA Qi Wireless Pool as licensor as it gears up to go public

Olivia Sophie Rafferty

November 3, 2025

Context:

- Seoul-based Intellectual Discovery was originally founded in 2010 as a government-sponsored sovereign patent fund operator, but hopes to soon gain enough capital to become one of the world's top three IP monetisation players. The non-practising entity (NPE) is headed up by Executive Vice President Dongsuk Bae, and is seeking to go public on the KOSDAQ market by 2027. It is an active patent enforcer, with its disputes against Nokia and Ericsson involving 5G standard-essential patents (SEPs) both ending in patent licensing agreements in December 2024.
- The Qi standard, developed by the Wireless Power Consortium, has become a universal technology across smartphones, wearables, and vehicles. The latest Qi 2.0 version, incorporating Apple's MagSafe-based Magnetic Power Profile, offers enhanced charging efficiency and user convenience. Via Licensing Alliance (LA) launched a dedicated Qi Wireless patent pool in January 2020, and is currently the only operator that offers a license of this kind.

What's new: Intellectual Discovery joined Via LA's Qi pool as a licensor, effective as of November 1, 2025. One of the key reasons it joined the patent pool, Dongsuk Bae told **ip fray**, is because a major company recently agreed to join as a licensee. The company is contributing a patent that covers key communication technologies that enhance the efficiency and stability of wireless charging systems by integrating in-band communication through power coils with out-of-band control using Bluetooth or NFC. The patent, which was co-developed with the Korea Electronics Technology Institute, is one of up to six that Intellectual Discovery plans to license through Via LA's Qi Wireless pool.

특허풀

기사 핵심

- Qi 풀 가입, 라이선싱 대상 특허 확장 계획
- 노키아·에릭슨과의 5G SEP 분쟁년 년 라이선스 계약

출처 ip fray, 2025.11.3 · ipfray.com

협상 전략 체크리스트

준비는 철저하게, 포럼은 전략적으로

01 증거 패키지

- 등급별 청구항 차트·판정 근거
- 제3자 평가·풀 평가 결과
- 대표 특허(Proud list) 선정

02 포럼 전략

- 금지청구 포럼 (독일·UPC)
- FRAND 산정 포럼 (영국) · 배상 포럼 (미국)
- 중재(ICC)·조정 옵션 사전 설계

03 성실 협상 기록

- 제안·역제안·회신 기한 기록
- ‘willingness’ 기준 대비
- 비밀유지 하 정보 제공 이력

04 대체 수단

- WIPO ADR
- ITC / KTC

Key Takeaways

검증된 필수성이 포트폴리오와 수익화의 출발점이다

01	**선언 ≠ 필수**	신뢰성 있는 필수성 평가가 모든 수익화 트랙의 출발점
02	**포럼이 갈라졌다**	유럽 대륙(금지청구) · 영국(FRAND 산정) · 미국(금전배상) · 중재
03	**포트폴리오는 '질'로**	검증된 필수 패밀리 중심 티어링 → 트랙 선택 → 재투자

10th Anniversary

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ICT Standards and Intellectual Property:
Shaping the Physical AI

주최 과학기술정보통신부 지식재산처 주관 국립전파연구원 TTA IITP KEA kista ETRI

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