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**STANDARD ESSENTIAL PATENTS: INTERACTION WITH FRAND
OBLIGATION AND MAIN CASE STUDY FOR INDIAN LEGAL SCENARIO**

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ABSTRACT

This paper seeks to understand the scope and meaning of standard essential patents and the current peak in their insurgence in patent protection applications. Further, the author seeks to understand the distinction between these patents marked as standard and essential from the original patents granted for an innovative product or a non-obvious and equally utilitarian process. The benchmarks for the grant of a patent, which is standard essential in nature, and the procedure to acquire one shall also be covered in elaboration during the present research paper. In addition, a comprehensive analysis- critique shall be done for these up-and-coming categories of patents with respect to the provisions of the Competition Law in the nation-state of India to apprehend in a prodigious detail-oriented manner whether these align with the fair-trade practice and competitive laws in India and that they don't give rise to a market that is anti-competitive or has a monopolistic coloration attached to it. In continuance of the research and comprehension process, the paper shall seek to understand the interplay between the grant and holding the exclusive right of Standard Essential Patents by the patentee, balanced with the duty of the said patentee with respect to the provisions of Compulsory Licensing per se the FRAND terms.

Keywords- Standard Essential Patents, India, Competition Law, FRANDS².

INTRODUCTION

Before we seek to delve into the concept that patents are standard-essential, we need to first understand and speed up what is understood by the term "Patent." Per the provisions and context of the Indian Patent Act of 1970, a patent can be described and comprehended as a *Patent "[m]eans a patent for any invention granted under this Act."*³ A mere glossing over the definition of patent as provided by the Indian Patent

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² Stands for Free, reasonable and non-discriminatory royalties (abbreviated as FRAND/ FRANDS throughout the paper).

³ Read with Section 2(m) of the Patents Act, 1970 available at

https://ipindia.gov.in/writereaddata/Portal/IPOAct/1_31_1_patent-act-1970-11march2015.pdf (Last accessed on 20th

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Act of 1970 does not provide much spectrum or connotation to the conception of the term that is patents. However, to go into supplementary and considerable detail, a patent is a right in exclusivity granted to the developer, Inventor, or discoverer of a process or a product that is unique, in other words, a creation that is by nature and characteristics, novel, non-obvious (to a person of basic intelligence), i.e., It is not the direct result of the preponderance of possibilities when accounted by a layman. A patent, in addition to the previous criteria, must also account for a certain amount of utility, or in other words, it must be capable of prospective industrial application. Moreover, the privilege of being allowed a patent is known to be a territorial right instead of an international/ universally applicable right. To comprehend the scope of a “territorial rightfully,” a right being a territorial one means that it is valid only in the jurisdiction where the patentee or the patent holder or, in simple terms, the inventor of a novel, non-obvious process or patented product has applied for the grant of such protection. Such a fortification is universally applicable protection to the right of the patent against any kind of infringement on the part of duplicitous manufacturers or copycats. Furthermore, these privileges need to be protected and applied for individually in each of the foreign jurisdictions where the patent holder seeks to protect his invention against any kind of forthcoming violations or from being abused by duplicate persons or persons indulging in forgery or counterfeiting to derive undue benefit from the *Moral labor&creation of another*. This step is undertaken by the patent owner to have the right to the creation of the process or product so patented, associated with his or her own name. The need for seeking a patent to protect one’s creation can be inter-linked with the *Natural rights theory*⁴, where the creator or originator of an invention or creation, which is the result of his labor and application of mind, deserves to be protected against the possibility of others thieving off his inventions and also to have his name associated, markedly with being the develop-per of the same for perpetuity. The same is what the patent in the form of an exclusive right seeks to provide, although here, the patent may not be perpetual in reality and carries only a limited term, but the association of authorship or creatorship to the manufacture of a fresh invention is eternal. It is to be noted that most jurisdictions do allow for the *renewal of patent rights with modification and enhanced efficacy of the product or process*.⁵The selective right to allow patents is also enshrined in the *Personhood theory*⁶, which enumerates that the work of an author or inventor is reflective of a facet of the personality of the author/ inventor, and hence, the invention should be protected, and its inventor should be granted special rights as

December, 2022)

⁴ Propounded by John Locke.

⁵ Refer sec 3(d) of Patents Act, 1970.

⁶ Propounded and supported by Kant & Hegel.

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to sue, sell, mortgage, assign or license the same to ensure the authenticity of the invention and also in compliance with its moral authority and obligations.

STANDARD ESSENTIAL PATENTS: DEFINITION AND GIST

An essential patent or a standard essential patent (SEP) can be understood as one that protects a technological development, that is, in essence, one that sets that standard for a technology-based process or product. In other words, it is “essential” to the benchmark or standard of the tech-based development or invention, which can be termed as a patent, which is standard essential in nature. The term “[s]tandard referred to here *indicates a standard derived from technical specifications for specific technologies, such as radio technology.*”⁷ The safeguards offered by the protection of intellectual property are imperative to the economic growth and global competitiveness of any country. The protection granted by intellectual property is imperative as it affects a country’s ability to promote stability and security on an international scale. It is to be noted that some countries like Brazil, Russia, China, and India are only recently realizing the importance of intellectual property and that they cannot sustain and continue advancing and growing in the current modern economic world without protecting their intellectual property rights and hence by extension, specifically, their inventions may it be a product and/ or a process in the offing. Just further elaborate on the topic of patents, which are standard essential. It is imperative to understand what the term standard stands for. A standard is initially an amalgamation or coming together of rules, protocols, guidelines, benchmarks, or characteristics. They are to be used for a product, process, material, and services and how they operate in general. A standard in the technological world is known to create a common language between the two tech-based devices, say, for example, smartphones, and hence establishes the connecting link through which these devices may communicate with each other despite being in a short range of motion or long and sometimes a range of motion that is spread across continents, say for e.g., the Tech behind the 4G or 5G spectrum or the WI-FI are some of the relevant illustrations of the same. However, we have to understand that standardization is not a one-time process; it is continuous in nature. Technology companies around the world are not only interested in setting a benchmark or mere standard for their technology and products or processes, but they are also constantly undertaking R&D to improve the pre-existing canons of technology all over the world.

⁷ “All about Standard Essential Patent and FRAND; the basics” available at https://www.inquartik.com/blog/basic-standard-essential-patents-the-basics/#what_is Last accessed on 20th December, 2022)

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To further build upon the definition of SEP, we can refer to the characterization offered by **Thomson Reuters Practical Law**.⁸Which defines “[a] standard essential patent (SEP) as a **patent claiming technology that is essential to an industry standard’s use.**”⁹ In continuance for the populace who is not proficient in the study and stream of patent law, it may be simpler to comprehend essential patents as the ones safeguarding the core technology base of an industry or, simply put, essential patents guard the protocol that the entire tech-based industry must put to practice in order to continue the process of innovation in a meaningful manner. Standard essential patents are, hence, essential to these benchmark quality standards. After learning the meaning and scope of a standard essential patent, it is imperative to understand who sets these benchmarks or quality control standards in the industry. The simplest answer to this question is that standard essential patents or essential patents are determined by **industry-specific standard-setting organizations, or in short SSOs**. Another name for an industry-specific standard-setting organization is Standard Development Organization (SDO). The SDO is made up of the industry’s most innovative companies that shoulder the onus to decide which of the holding members of the industry patents for their unique processes or products are obligatory for the success of all the countries in that tech-based industrial setup and hence can culminate into becoming a benchmark or standard for that particular product/process in the industry. It is noteworthy that these organizations possess a unique makeup and composition as the Members of these organizations are less or more direct rivals to each other as well. However, they are simultaneously deriving potential benefits from each other by maintaining and holding a standard essential patent. Hence, it can be said that these groups of members are, in spirit, highly competitive but, in practical essence, collaborative.

After ascertaining the standards of a particular technology in the industry, the next step that comes to mind is what happens after these benchmarks and protocols are assigned and maintained. It is to be noted that after a patent is declared as standard, it is essential in nature. It is then. Open to be licensed to others. Entities within the industry under fair, reasonable, and non-discriminatory terms or acronyms such as FRANDS.

WHAT IS FRANDS LICENSING?

⁸[https://uk.practicallaw.thomsonreuters.com/5-557-1860?transitionType=Default&contextData=\(sc.Default\)](https://uk.practicallaw.thomsonreuters.com/5-557-1860?transitionType=Default&contextData=(sc.Default)) (Last accessed on 20th December, 2022)

⁹ “Standard Essential Patents Explained” available at <https://ip.com/blog/standard-essential-patents-explained/> (Last accessed on 20th December, 2022)

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As per an excerpt from Article 27 of the UDHR¹⁰Which states as follows-

Everyone “[h]as the right to freely participate in the cultural life of the community, enjoy the arts, and share in scientific advancement and its benefits. Further, everyone has the right to the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which he is the author.”¹¹¹²

-(UN General Assembly. 1948)

As previously indicated, although nebulous, IP is nonetheless bound by ownership, and any perks arising ought to be in the intellectual property's favor of the owner or inventor/ author. The state grants these rights, and the user can use them to prevent others from employing them without his express authorization. In today's modern yet complex world, there is constant interaction across many channels, frequently leading to intellectual property rights being violated or infringed upon. However, it is mentioned that there is a stark and distinguishable demarcation and differentiation between the term's infringement and competition. The concept of Competition, on the one hand, enables the enhancement and betterment of services or products in the market at regular intervals and in a constant manner. This “[w]orks in favor of the consumer as there are more effective advancements in respective commodity or service markets. In India, The Competition Act of 2002 regulates the practices that result in an adverse effect on competition in the markets in India.”¹³¹⁴

Infringement, on the other hand, is downright duplicitous in nature and operates on a copycat mechanism instead of an enhancement of the already established benchmark or standards. It is aimed at violating the exclusive rights of the patent holder or any intellectual property right owner by disallowing them to effectively exercise their right to sell, transfer, mortgage, or license their creation. A simple distinction between the two may be that competition is promoted via the principles of permissible, free, and non-discriminatory licensing, whereas none of the licensing exists in the case of infringement.

The abbreviation FRAND enshrines within its ambit obligation or licensing that is fair, reasonable, and non-discriminatory. FRAND leasing restrictions are an essential subject in the realm of patents, which are standard and necessary in characteristics. Here, the SEP proprietors pledge to render their SEPs

¹⁰ Stands for Universal Declaration on Human Rights, adopted 10th December, 1948.

¹¹ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc.A/810 at 71 (1948).

¹² What FRAND licensing is all about: Top 10 points to keep in mind available at <https://blog.ipleaders.in/frand-licensing/>

¹³ Kochhar & Co, Introduction of The Competition (amendment) Bill, 2012 In India, (2012), available at <https://www.kochhar.com/pdf/Rationale%20For%20Competition%20Laws%20-%20SALIENT%20FEATURES%20OF%20THE%20BILL%20AND%20THE%20IMPLICATIONS%20TH>

¹⁴ Supra note at 11

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accessible to anyone who wishes to employ the standard on FRAND conditions. Anyone who utilizes or relies on protocol-based technology relies on the FRAND commitment to ensure they will be able to obtain the licenses required to use the guidelines. If SEP licensors do not execute through on their FRAND pledges, innovators are rendered unable to employ technical specifications and are effectively barred from adopting key technologies that their adversaries adopt, putting them at a significant disadvantage. Because SEPs are required for the practical deployment of standardized technology, SEP owners typically also have much greater control over prospective licensees or royalties than common patent owners, proving negotiations more difficult for the applicant.¹⁵

As per the definition provided by **Law Insider**, FRAND Obligation means “[o]bligations to license or grant non-assertion covenants on either royalty-free or fair, reasonable and non-discriminatory terms pursuant to the policies of a standards-setting organization that relate to one or more claims of a Patent that is essential to a standard published by such a standard-setting organization.”¹⁶

When a standard is accepted, a SEP owner has a strengthened negotiating leverage, which may result in significant revenue based on the standard's worth rather than the underlying SEP. Similarly, a standard-setting organization may be reticent to accept a standard in the first place if a SEP owner does not desire to lease it upfront because the value of the SEP is tied to the standard's level of acceptance in the industry in uniformity. Hems to avoid issues in the licensing process and to have the availability of essential patents uniformly to everyone for a worldwide adoption protocol, The standard setting organizations came up with the creation of FRAND, which ultimately acts as the minimum level of requirement of licensing off patents which are standard and essential in nature to the other members of the standard setting organization or even to the non-members who follow the industry benchmark or standard for a particular product or a process. Individuals all across the world are impacted by FRAND compliance and its repercussions. There are no guidelines or policies governing the imposition of FRAND duties.

The standard-setting organizations created FRAND obligation or licensing in reaction to the varied members of the SSO filing violation complaints against other members using their essential patents without expressed consent or having a valid license or lease agreement. Subsequent to these frequent lawsuits, it had now become mandatory that before any standard is adopted, SSO members are generally required to consent to license their patents, which are standard and essential in nature on mutually

¹⁵ The App Association on “The Tech Terms You Need to Know to Understand Standard-Essential Patents (SEPs)” available at <https://actonline.org/2021/09/14/the-tech-terms-you-need-to-know-to-understand-standard-essential-patents-seps/> (Last accessed on 21st December, 2022)

¹⁶ <https://www.lawinsider.com/dictionary/frand-obligation> (Last accessed on 21st December, 2022)

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agreeable Free, reasonable, and non-discriminatory, FRAND terms to other members of the SSO and others who have been using the standard. These SEPs are, therefore, "FRAND bound," preventing SEP holders from getting undue or anti-competitive market advantages. The FRAND commitment is typically achieved in one of two ways, and they are-

- By the exercise of standard contracts or agreements brought into force by the members of the SSO with respect to the adoption of benchmark guidelines, OR
- As a result of SSO regulations or miscellaneous documents that members agree to amongst themselves, hence it can be summed up that the Essential patent owners agree to a FRAND licensing obligation for the smooth functioning and compliance within the members of the Standard Development organization and not the general populace.¹⁷

FRAND OBLIGATION AND THEIR ENFORCEMENT UNDER THE JUDICIAL AND LEGAL SYSTEM

While the implementation of a FRAND commitment system is one thing, the major issue that has come up with the enforcement of this commitment is who has the authority to bind the members of a standard-setting organization with the obligations associated with the free, reasonable, and non-discriminatory (FRAND) licensing.

FRAND, which can be understood in further details as

- **Fair:** It is typically fairly uncomplicated to identify unfair licensing conditions; let's say, as an exemplar, it would be regarded as unfair to demand concessions from a licensee that are excluded from the licensing arrangement or to tie the issuance of the right of license to extraneous undertakings. However, fairness is a theoretical concept that is more difficult to quantify.
- **Reasonable:** Although this is a theoretical notion, contrasting licensing pricing to standard industry practice is a suitable benchmark for gauging appropriateness.
- **Non-discriminatory:** Licensees in similar scenarios should always be given the same conditions and charges. When this does not occur, there ought to always be a few objective bases for the variance in therapy.

¹⁷ Article on "FRAND Licensing: Everything you need to know" available at <https://www.upcounsel.com/frand-licensing> (Last accessed on 21st December, 2022)

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The ETSI IPR Policy¹⁸ “[r]equests SEP holders to provide an irrevocable undertaking in writing stating that it will grant irrevocable licenses on fair, reasonable and non-discriminatory (“FRAND”) terms and conditions... within three months after submitting a declaration.”¹⁹

In many cases, the courts charge the members of the SDO with the mantle of enforcing these licensing standards in the case of essential patents since these members are the Tripartite beneficiaries of the agreements conducted and enforced amongst the Standard Development Organisation and proprietors of the Standard Essential Patents. However, this notion in law for the enforcement of SEP is still in its nascent stage of development; Ergo, it remains unclear whether non-members will also be treated as third-party beneficiaries in the Tripartite agreement of sorts between the members of the SSO, the owners of the SEP and the non-members but followers of the industry standards. At present, the governing law isn't uniform in relation to the FRAND commitment, which is hence only seen as a mere contractual obligation and not a universally applicable commitment standard or treatise. Typically, the licensing laws at present are written according to an SSO's national jurisdiction, and hence, the contractual violation becomes a subject matter of the national courts under the regional principles of contract Law and hence, the FRAND obligation isn't standardized or internationally acceptable and binding upon all nation states in uniformity. This is said assuming that the wording of the licensing agreement is the same across various FRAND commitments, which is a fair or reasonable hypothesis to carry since each and every jurisdiction has its own set of laws and policies governing its tripartite agreements/ contracts. An example of this is that Agreements are not recognized in some jurisdictions unless each and every provision, such as the price, is determinedly specified. However, under a FRAND commitment, the price remains customizable and open to negotiation as a FRAND licensing responsibility is essentially contractual in character; it is plausible that compliance should actually occur under state legislation and in state courts. Such litigation will almost certainly have an influence on the core patents. The issue frequently essentially boils down to the way a single party frames its grievance. If the owner of a Minimum Basic Patent sues for breach, the case may be adjudicated in federal district court like a patent lawsuit. A FRAND authorization could be utilized to defend yourself. If the party files an agreement-related action, the case may be heard in a state court. Even if there is a foundation for federal authority, if parties lose before the trial court, they may not be capable of appealing to a federal or higher court system. Because this legislation is still evolving in relation to FRAND and every one of its consequences, it is critical to get the

¹⁸ Available at <https://www.etsi.org/images/files/IPR/etsi-ipr-policy.pdf> (Last accessed on 22nd December, 2022)

¹⁹ “All about Standard Essential Patent and FRAND; the basics” available at https://www.inquartik.com/blog/basic-standard-essential-patents-the-basics/#what_is Last accessed on 20th December, 2022)

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guidance of a specialist in this subject prior to initiating litigation in the courts when the contracts or agreements mentioned above are violated.

CHALLENGES TO STANDARD ESSENTIAL PATENTS

[T]he commissioner for competition of the European Commission has expressed similar concerns (Alumnia, 2012) –

“[T]o build a smartphone, one needs thousands of standard-essential patents. The holders of these patents have considerable market power and can effectively hold up the entire industry with the threat of banning competitors.”²⁰

Despite observance of a simplistic methodology of safeguarding and utilizing the innovation encompassed by SEPs, Patent professionals, technical specialists, SEP proprietors, and implementors all encounter a variety of challenges when engaging with SEPs. To cite a few, some of the critical problems in the world of essential patents lie in

- OVER AVOVAL OR DECLARATION OF ESSENTIAL PATENTS
- DEARTH OR LACK OF DATA THAT IS STANDARDIZED IN NATURE And
- STRUGGLE TO DETERMINE RATES OF ROYALTY (while bargaining Standard Essential Patent Licenses to elucidate a few key issues).

STANDARD ESSENTIAL PATENTS IN INDIAN LAW (LANDMARK CASE)

India has accounted for a sizeable amount of judicial activity in the form of precedents on Standard Essential Patents ('SEPs') in the last few years, with the Delhi High Court being a front-runner in the propagation of this concept through the conduction of high-profile and disseminated debates. The Delhi High Court dispensed a prominent legal ruling on standard Essential Patents in India in the matter of Inter Digital v Xiaomi in the year 2021, May. This matter is transnational and transboundary in nature and not limited to the Indian jurisdiction. There shall be a substantial piece of discussion about the major issues and highlights concerning this matter that have transpired since the advent of litigation in this matter in 2018, with considerable emphasis on the most recent one, *Interdigital v. Xiaomi*.²¹

²⁰ Keith E. Maskus & Stephen A. Merrill, Patent Challenges for Standard-setting In the Global Economy: Lessons from Information and Communications Technology (2013).

²¹ Decided on 3rd May, 2021 by Delhi HC vide I.A. 8772/2020 in CS(COMM) 295/2020.

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The High Court at Delhi issued India's first ruling in the subject matter of SEP in two connected (similar) litigations in July 2018, namely, *Koninklijke Philips v. Rajesh Bansal*²² and *Koninklijke Philips v. Bhagirathi Electronics*²³

It is to be noted that in both instances, the defendants in question were Indian importers and manufacturers of DVD players. Philips, the one who brought the present matter to be adjudicated before the court of justice, sued both of them for infringement of patents on the premise that they brought in DVD player parts made with its copyrighted technology and put them together in India without acquiring the necessary authorizations and clearances. The disputed patent relates to the Channel Decoding technology that powers DVD players' video playback. The defendants herein also referred to as the implementers, argued before the Hon'ble Court that they had not infringed upon the Philips patent holder rights as they acquired the required components for assembly from authorized licensees of Philips itself and not from an unauthorized or illegal source. The High Court of Delhi rendered the ruling in Philips' favor. The court accepted the certifications of the company's US and European patents' vitality and concluded that the plaintiff's patent was necessary for the DVD standard. Regarding the violation, the court determined that the respondents failed to demonstrate that the parts were imported from legitimate license holders of Philips. In addition, the court determined that the defendant's inability to secure a license directly from Philips to utilize its SEP served as preliminary proof of infringement because the defendant's products met the required threshold of the minimum standard to be adhered to here. The accused could not demonstrate that the requisite licensing fee that Philips levied was not by the FRAND terms. "Therefore, the court fixed the royalty charges as proposed by Philips. Though path-breaking, this decision was relatively straightforward, focusing entirely on domestic issues. The situation is far more complex in the recent *InterDigital v. Xiaomi* case."^{24,25}

InterDigital v Xiaomi²⁶

²² Reserved on: 21st July, 2017 Decided on: 12th July, 2018 + CS (COMM) 24/2016 available at <https://spicyip.com/wp-content/uploads/2018/07/Phillips-Judgment.pdf> (Last accessed on 22nd December, 2022)

²³ CS (COMM) 436/2017 & I.A. 6670/2019. Available at <https://indiankanoon.org/doc/20855318/> (Last accessed on 22nd December, 2022)

²⁴ Enrico Bonadio (City, University of London), Dr. Luke McDonagh (London School of Economics), and Anushka Tanwar (University School of Law and Legal Studies, New Delhi), "Recent Indian Case Law on Standard Essential Patents" available at <http://patentblog.kluweriplaw.com/2021/06/04/recent-indian-case-law-on-standard-essential-patents/> (Last accessed on 22nd December, 2022).

²⁵ Also available at patentblog.kluweriplaw.com

²⁶ Supra note 18

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InterDigital, a US technological-based business, filed a lawsuit against Xiaomi in July 2020, asserting a violation of its 3G and 4G patents because the latter was using its tech without consent. InterDigital sought reparation through a protective order or royalties from Xiaomi instead of using their innovation. InterDigital had hitherto granted a license to third parties for using its Standard Essential Patents and, hence, urged Xiaomi to pursue the same course of action and apply for one. However, InterDigital rejected Xiaomi's proposal tariff since it was not commensurate with FRAND provisions. Xiaomi argued that it needed information about the name of third-party licensees, the specific region and breadth of the license issued to such franchisees, and other evidence, such as comparable license agreements, to determine the validity of a FRAND royalty. However, InterDigital refused to grant access requests of Xiaomi to its comparable license agreements to safeguard and preserve its company's confidential & commercial data, which they contended it is not liable to share with a competitor such as Xiaomi. Hence, to ease out the present enigma, InterDigital proposed the formation of a confidential club where information could be disseminated at two levels: an '**outer level or tier**' where the data would be made available to the legal representatives and subject matter experts of both sides and an '**inner level or tier**' which would receive documents, made accessible lawyers and experts of both the sides but not to the general representatives of the parties in question. This proposed solution implied that advocates and technical experts should be responsible for negotiating royalty rates without keeping Xiaomi's representatives in the loop. However, balancing the needs and interests of both parties in the matter, the Hon'ble High Court rejected the proposed two-tier system on the following grounds –

- **Fair or unbiased play**, as it is inherently imperative for each party to be mindful of the details of the matter that the other party is supposed to counter; and
- The dynamic of a lawyer-client relationship implies that the advocate is an agent of the client and acts on his wishes for his benefit. However, this relationship is not interchangeable or replaceable, where the advocate is free to decide the outcome of the licensing process, for example, without consultation with the client.

Xiaomi instituted a legal action against InterDigital before the Wuhan Intermediate People's Court on June 3, 2020, requesting the establishment of royalty rates that conform with the provisions of FRAND that should be payable at par concerning the 3G and 4G standard patent held by Interdigital. In an act of retaliation, InterDigital launched a counter-complaint against Xiaomi before the High Court in Delhi; this was done to obtain clout and leverage in the matter sub judice before the Court at Wuhan. On September 23, 2020, the Wuhan Court imposed an anti-suit order prohibiting InterDigital from continuing

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claims before the Delhi High Court. InterDigital initiated an "anti-anti-injunction motion" at the Delhi High Court on September 29, 2020, as a 'tit-for-tat' reaction. On 3 May 2021, the High Court of Delhi issued the first anti-anti-suit injunction in India. This verdict confirms its ruling from 9 October 2020, in which it awarded an ad interim anti-anti-suit injunction over Xiaomi, directing it not to pursue or execute the injunction obtained from the Wuhan Court. The Delhi High Court ruled that a court in one territory (the Wuhan Court) cannot prevent the parties from pursuing their claim in another jurisdiction (the Delhi Court) if the overseas venue has inherent authority to hear the matter. The court further stated that deviations may be granted only where the foreign venue is 'vexatious or oppressive' to the court of one jurisdiction. Furthermore, the Delhi HC further mandated Xiaomi to compensate InterDigital's burden, which was placed by the court in Wuhan.

CONCLUSION

To sum up, the present paper, we can safely say that Standard Essential Patents are granted to the inventor of technology that, even though is developed by one, is sought to be used by all members of a particular industry, for example, 4G/ 5G spectrum or the Wi-Fi. Hence, there exists a need to balance the protection of the privilege of these SEP holders with the needs of the other members and non-members of the Standard Development organization to allow for meaningful licensing of the tech in a Fair, reasonable, and non-discriminatory manner that's where the FRAND obligation comes into play. SEP has been developed in India to be compliant with the provisions of the Competition Act of 2002 and also to discourage monopolies through various Judicial pronouncements, Wherein patent holders' right to assert their monopolistic trade practices against alleged infringers is undeniably the raison d'être of the patent regime, it cannot be denied that, when it comes to SEP disputes, it makes it undeniably complicated to obtain anti-suit injunctive relief and hence it puts into peril the implementers' ability to fight inequity related to platform shopping across borders. Anti-suit edicts deprive SEP owners' competitors of a legal instrument for neutralizing patent holders' rent-seeking behavior - activities that can impact not only prospective practitioners but also have the potential to jeopardize final consumers' interests.

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