

Accepted Manuscript

Title: On the “non-discrimination” aspect of FRAND licensing: A response to the Indian Competition Commission's recent orders

Author: David J. Teece, Edward F. Sherry, Peter C. Grindley

PII: S0970-3896(17)30509-8

DOI: <https://doi.org/doi:10.1016/j.iimb.2017.09.002>

Reference: IIMB 265

To appear in: *IIMB Management Review*



Please cite this article as: David J. Teece, Edward F. Sherry, Peter C. Grindley, On the “non-discrimination” aspect of FRAND licensing: A response to the Indian Competition Commission's recent orders, *IIMB Management Review* (2017), <https://doi.org/doi:10.1016/j.iimb.2017.09.002>.

This is a PDF file of an unedited manuscript that has been accepted for publication. As a service to our customers we are providing this early version of the manuscript. The manuscript will undergo copyediting, typesetting, and review of the resulting proof before it is published in its final form. Please note that during the production process errors may be discovered which could affect the content, and all legal disclaimers that apply to the journal pertain.

Special Issue on Innovation, IPR & Competition in India

On the “non-discrimination” aspect of FRAND licensing: A response to the Indian Competition Commission’s recent orders

David J. Teece, Edward F. Sherry, and Peter C. Grindley

David J. Teece is Thomas W. Tusher Professor in Global Business at the Haas School of Business, University of California Berkeley, and Chairman, Berkeley Research Group, Emeryville, CA. Email: dteece@thinkbrg.com

Edward F. Sherry is Chief Economist, Expert Research Associates. Address: 2200 Powell St. #1150, Emeryville, CA 94608. Phone: 510-851-0769. Email: esherry@teece.net

Peter C. Grindley is Managing Director at Berkeley Research Group. Email: pgrindley@thinkbrg.com.

Corresponding author: David J. Teece

Abstract:

The Indian Competition Commission has recently challenged Ericsson’s practice of licensing its standards-essential patents (SEPs), relating to cellular standards, for percentage-based royalties based on the selling prices of the end-user licensed products. Ericsson had committed to the relevant standards-development organisation that it would license its SEPs on “fair, reasonable and non-discriminatory” (“FRAND”) terms. The Commission contends that such royalties are “prima facie discriminatory” in violation of the Competition Act, in the (novel) sense that different products selling for different prices pay different per-unit royalties. We analyse the broader implications of the Commission’s reasoning, concerned that if adopted, the Commission’s reasoning would disrupt common industry licensing practices.

Short title: On the “non-discrimination” aspect of FRAND licensing

Keywords: Patents; Licensing; Discrimination; Telecommunications; FRAND; Standards; Industry practice

Acknowledgements: We thank Keith Mallinson for bringing the Indian Orders to our attention.

متن کامل مقاله

دریافت فوری ←

ISIArticles

مرجع مقالات تخصصی ایران

- ✓ امکان دانلود نسخه تمام متن مقالات انگلیسی
- ✓ امکان دانلود نسخه ترجمه شده مقالات
- ✓ پذیرش سفارش ترجمه تخصصی
- ✓ امکان جستجو در آرشیو جامعی از صدها موضوع و هزاران مقاله
- ✓ امکان دانلود رایگان ۲ صفحه اول هر مقاله
- ✓ امکان پرداخت اینترنتی با کلیه کارت های عضو شتاب
- ✓ دانلود فوری مقاله پس از پرداخت آنلاین
- ✓ پشتیبانی کامل خرید با بهره مندی از سیستم هوشمند رهگیری سفارشات