

## Deal on patent royalties is unlikely this week, EU official says

Jurisdiction : EU / Europe

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### IN BRIEF

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Technology companies are unlikely to reach agreement this week on how to define when rates for patents used in mobile devices are “reasonable,” EU competition official Szilvia Szekely said today.

Szekely told a conference\* in Brussels that there’s no scope for an accord this week at a meeting of the European Telecommunications Standards Institute, a standard-setting body based in the south of France.

At issue are the rates charged on patents embedded in industry standards, known as standard-essential patents, or SEPs. Holders of SEPs are required to license the technology on fair and reasonable terms, or Frands. This is to ensure that the patent holders can’t hold the industry ransom.

The European Commission has urged companies that own SEPs and those that use them to make mobile devices to agree on how to define “fair and reasonable” patent royalty rates.

Disputes over these rates have been the basis of patent wars and two major antitrust cases at the EU. In April, the commission found that Motorola Mobility’s decision to seek and enforce an injunction against Apple in Germany, on the basis of SEPs, breached competition law (see [here](#)).

Szekely, who deals with SEPs investigations at the commission, said the failure to reach an “industry-based” agreement on Frand terms means that there is a “stronger need” for court arbitrators and the commission to intervene.

The commission has said that the Motorola Mobility decision, along with a settlement decision involving Samsung (see [here](#)), gives legal clarity to companies on how the commission approaches potential antitrust abuses involving SEPs.

The EU watchdog has proposed creating a “safe harbor” for potential licensees so they won’t face injunctions. Under the plan, a SEP holder can’t seek an

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injunction when a potential licensee has agreed to court adjudication on a royalty rate.

\* *“Antitrust v IP 2.0? Recent Developments in the High Tech and Pharmaceutical Sectors,” Liège Competition and Innovation Institute, Brussels, Sept. 16, 2014*

#### Linked Case File(s)

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##### ETSI - ITU - SEPs

Antitrust - Apple - Samsung - patents

Antitrust - Motorola Mobility - essential patents

Subjects : Antitrust, Intellectual Property

Industries : Information Technology, Telecom

Jurisdiction : EU, Europe

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