

# Academic Panel

## Patent hold up: Setting the scene

- ① Starting point: Patent hold-up theory (Shapiro)
  - Standardization and lock-in effects give the possibility to the SEP holder to extract royalty **above** the added value of the patented technology
  - Cumulative effect of hold up would lead to “*royalty stacking*”
  - Ex ante disclosure and FRAND commitments & ex post litigation are not sufficient to solve the hold-up problem
- ② Follow-up: various administrative agencies have tried to influence the bargaining power of SEP holders mainly by restricting their ability to seek injunctions before courts
- ③ Even more recently: SSOs discuss new rules for frame licensing negotiations and terms
  - Example : SSPPU
  - Lerner & Tirole

# Challenge of the patent holdup theory

Stephen HABER- Stanford University

Patent holdup and royalty stacking: An assessment of the theory and evidence

Pierre Larouche – TILEC, Tilburg University

Framing patent hold-up within European laws

Greg Langus

Institutional framework for negotiating royalties

Jorge Contreras – University of Utah

A critique of the hold-up *debate*