



# ***IPR in ICT Standardisation Workshop***

## **How Can IPR Policies Support SMEs?**

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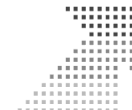




- NORMAPME is the European association of SMEs for Standardisation.



- PIN-SME is the European association of ICT SMEs.



## ***Pro***

- Innovation must be stimulated and promoted as innovation increases economic welfare.
- Patents are the cheapest way to encourage inventors.
- Social value of inventions is higher than the private value, but without property rights the social value will not be realized (public good characteristics) => strong property rights increase the private value up to the level of the public value.

## ***Contra***

Patent systems are not efficient:

### Incentive theory:

- Costs for administration, legal enforcement and attorneys
- Costs due to welfare losses through exclusion rights (monopoly creation)

### Disclosure theory:

- Publication and disclosure appears anyway, even without patent disclosure system through knowledge diffusion and public exploitation



## *The importance of SMEs in Europe*

### ***SMEs employ about 81 million people in Europe***

- ➡ This equals 66% of Europe's total employment
- ➡ Micro-sized enterprises with less than 10 employees represent 93% of SMEs
- ➡ There are more than 19 million micro-sized companies in Europe

*SMEs are crucial for economic growth and competition between companies in Europe*



## ***The Role of SMEs in the Standardisation process***

### ***The standardisation system has shortcomings which endanger SMEs***

- ➔ Inadequate number of SME representation in standardisation committees
- ➔ Overrepresentation of certain stakeholders such as MNEs and certifiers
- ➔ High costs related to the acquisition of standards, not affordable especially to small and micro SMEs
- ➔ The complexity of standards deter SMEs

***Less than 10% of European companies acquire standards***



## ***The Role of IPRs for Standardisation***

***If a patented technology is incorporated into a standard***

- ➔ Impossible for a company to comply with the standard without employing the patented technology
- ➔ A license is required ➔ Exclusion of SMEs

*Need for the European Commission to be cautious about encouraging public authorities to refer to standards in public procurements and legislation.*



***Standards can lead to customer benefits but also to the elimination of technology competition*** ➡ **FRAND**

## ***Fair***

Relates mainly to the terms of licensing drawing from antitrust and competition law

## ***Reasonable***

Relates to the **licensing rate**



Should not exceed the value compared to the next-best alternative



**Royalties in similar but competitive markets are used as comparables**

## ***Non-Discriminatory***

Relates to both the terms of licensing as well as the licensing rate.

***Royalty-fees prevent SMEs from participation in standardisation***



*RF licenses are required for the participation of SMEs in order to create open standards*

## Open Standards

*May prevent a company from maximising licensing revenues, but does not limit the benefits for obtaining the technology:*

- ➡ Open standards create technology acceptance at the market place
- ➡ Open standards expand the market for the technology
- ➡ Creation of industry standards (integration of fragmented markets)





***A study by Blind & Thumm (2004) show that:***

*“The more intense the patent activity of a company is, the lower is the tendency to join standardisation processes”.*



**Companies with a leading edge do not need to support standards to market their products successfully.**



*Standards are most important for SMEs with limited resources*



## *Creating an IPR Policy for SMEs*

 ***A RF license can be obtained by SMEs if:***

- a.** A new technology has been developed which require access to the standard for commercialisation
- b.** This technology has a benefit for society has a whole



Prof. Dr. Alexander J. Wurzer has been appointed by NORMAPME and PIN-SME as their representative speaker on behalf of European SMEs. Prof. Wurzer is the director of the Institute for Intellectual Property Management at the Steinbeis University in Berlin. His research focus is based on the international technology transfer and licensing, economics and management of technology and innovation, as well as questions related to value creation of IP.

Prof. Dr. Wurzer is Associate Professor at the Centre of Intellectual Property Studies in Europe, CEIPI at the University of Strasbourg and director of studies of the new program Master of Intellectual Property Law and Management. He is furthermore holding teaching positions for IP valuation at the University of Düsseldorf and the University of Applied Science in Amberg-Weiden at the chair for „Patent Engineering“. Alexander Wurzer is lecturer for patent valuation at the European Patent Academy (EPA), the Banking Commerce College, the European Business School, the Academy for Finance Management as well as the Banking Academy in Frankfurt/Main.

Prof. Dr. Wurzer is a managing director of PATEV<sup>®</sup> GmbH & Co. KG, corporation for rating and commercialization of property rights and technologies. His professional responsibility is the support of industrial companies, financial institutions, patent attorneys as well as insolvency administrator. He works in the field of technology/ IPR exploitation and licensing, valuation and evaluation of IP assets, portfolio management and patent information (including IP retrieval methodology).

Following his studies of physics, microbiology and molecular biology at the Ludwig-Maximilians-University in Munich, and parallel to his Ph.D. in physics, he has worked in the IP management since the mid-nineties, also for the Fraunhofer Gesellschaft.

Alexander Wurzer is author of about 120 publications in national and international journals. Since 1999 the following books „Wettbewerbsvorteile durch Patentinformationen“ (1st and 2nd Edition.), „Handbuch der Patentrecherche“, „Patentmanagement“, „Bewertung technischer Schutzrechte“ and „Praxishandbuch Internationaler Know-how-Schutz“ of him have been published.

He presides the DIN committee on standardization of patent valuation. He is spokesman of the Munich Innovation Committee of the Munich Chamber of Commerce as well as Senator in the Bavarian Senate of Economic Affairs in the German Association for medium sized enterprises. Alexander Wurzer is member in the committee on industrial property law of the University Düsseldorf and member in the committee for patent rating of the German Licensing Executives Society (LES). He is a member of the German Association for the Protection of Industrial Property and Copyright Law (GRUR), the Association of Experts for Intellectual Property Rights (VPP), the Association European Policy for Intellectual Property (EPIP), the Schmalenbach-Organisation for business administration e.V., and of the Scientific Association for Inspection and Controlling at the University in Augsburg and the Association of German Engineers (VDI).



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