

Video Streaming and Smartphones: The New Frontier of SEP Disputes

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Introduction

The global explosion of video streaming has ignited a new technology battleground—the streaming wars—with standard essential patents (SEPs) emerging once again at the center of disputes at the intersection of intellectual property (IP) and antitrust in courts and gaining the attention of regulatory bodies around the world.

As high-speed internet and ubiquitous connected devices propel platforms like Netflix, YouTube, and countless others into everyday life, the demand for efficient video compression and transmission standards has intensified.¹ Beyond entertainment, industries ranging from robotics and industrial monitoring to remote healthcare increasingly rely on seamless video delivery, transforming compression technologies into critical infrastructure.² These trends have set the stage for fierce competition over video encoding and decoding standards and the patents that make them possible.

Currently, multi-jurisdictional litigation and competing interpretations of fair, reasonable, and non-discriminatory (FRAND) obligations often imposed on SEP owners by relevant standard setting organizations (SSOs) are testing the balance between patent rights, innovation incentives, and market access. Increasing engagement by courts, antitrust agencies, and regulators across the United States (U.S.), Europe, and Asia reflects the growing need for coherent FRAND valuation frameworks in global technology markets.

Background: Video Coding Standards and Patents

Digital video evolution has been shaped by successive codec standards aimed at improving compression and visual quality. MPEG-4 (Part 2) laid the foundation in the early 2000s,³ followed by Advanced Video Codec (AVC) H.264 standards in 2003,⁴ which became the main codec for high definition (HD) streaming, Blu-ray, and web video. A more advanced standard, High Efficiency

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¹ MIT TECH. REV. INSIGHTS, *Designing the Future of Entertainment*, (Feb. 13, 2025), <https://www.nokia.com/sites/default/files/2025-02/nokia-mitr-insights-report-2025.pdf>.

² Muntadher Alsabah, et al., *A Comprehensive Review on Key Technologies Toward Smart Healthcare Systems Based IoT: Technical Aspects, Challenges and Future Directions*, A.I. Rev. (Aug. 20, 2025), , <https://link.springer.com/content/pdf/10.1007/s10462-025-11342-3.pdf>.

³ International Organization for Standardization [ISO], Overview of the MPEG-4 Standard, ISO/IEC JTC1/SC29/WG11 (Dec., 1999) *MPEG-4 Audio Verification Model*, Doc. MPEG95/3156, Oct. 1995, <https://sound.media.mit.edu/resources/mpeg4/audio/general/w3156.pdf>.

⁴ Thomas Wiegand et al., *Overview of the H.264/AVC Video Coding Standard*, 13 IEEE TRANSACTIONS ON CIRCUITS AND SYS. FOR VIDEO TECH. 560(2003), <https://www.cs.ubc.ca/~krasic/cpsc538a/papers/h264avc-overview.pdf>.

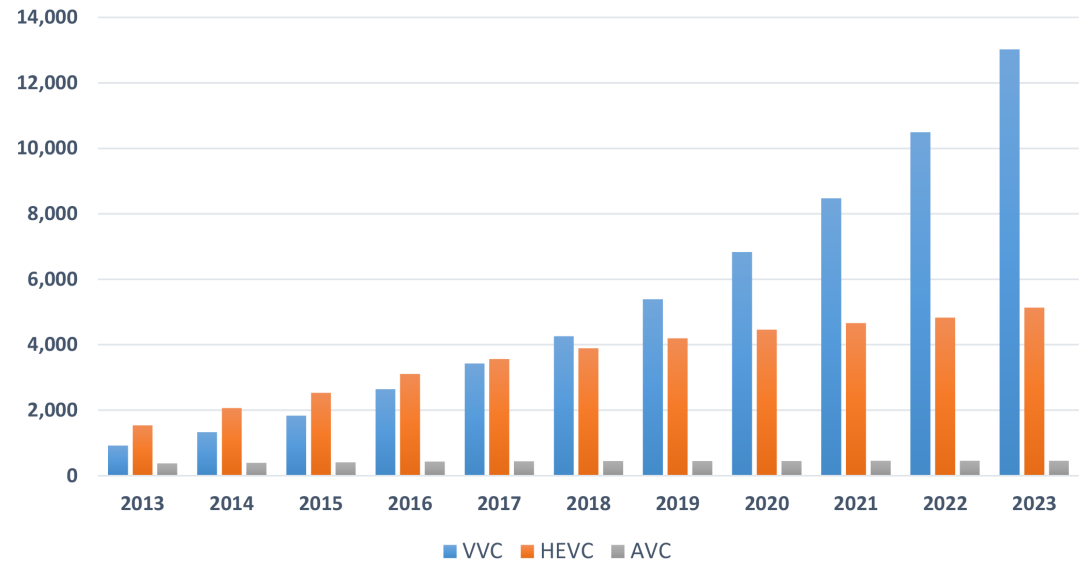
As video compression technologies have grown more advanced, the associated IP landscape has expanded in scale and complexity.

Video Coding (HEVC) H.265, was later developed and introduced in 2013,⁵ enabling efficient 4K ultra high definition (UHD) video. More recently, Versatile Video Coding (VVC) H.266 standard, with significantly more efficient data compression, was finalized in 2020, targeting emerging high-bandwidth applications including 4K/8K High Dynamic Range (HDR) video, immersive and 360° media, AR/VR environments, and next-generation streaming services.⁶

Recent years have seen a rapid expansion of transmitted video content across the board. This surge is driven by widespread high-speed internet enabling streaming platforms like Netflix and YouTube, pandemic-related increases in video use, and growing digital video advertising that reached approximately \$180 billion in 2024.⁷ Emerging applications, such as industrial monitoring, robotics, and remote healthcare,⁸ also heighten demand for efficient video compression.

As video compression technologies have grown more advanced, the associated IP landscape has expanded in scale and complexity. According to a 2024 report by LexisNexis on VVC patents, VVC-related patent families surged from fewer than 1,000 in 2013 to over 13,000 by 2023.⁹ HEVC families nearly doubled from less than 2,000 in 2013 to over 5,000 in 2023, while AVC activity remained stable at around 450 families. This trend reflects faster innovation, broader participation in standard development, and the increasing significance of SEPs in the video technology ecosystem.

Exhibit 1
Cumulative Number of Worldwide AVC, HEVC, and VVC Related Patent Families



Source: “Who is leading the VVC patent race?” LexisNexis, June 2024.

⁵ High Efficiency Video Coding (HEVC) Family, H.265, MPEG-H Part 2, LIBR. OF CONG., <https://www.loc.gov/preservation/digital/formats/fdd/fdd000530.shtml>.

⁶ VVC Overview, Fraunhofer HHI, <https://www.hhi.fraunhofer.de/en/departments/vca/technologies-and-solutions/h266-vvc/vvc-overview.html>.

⁷ Megha Gupta, *Global Digital Video Advertising Market Size, Share, and Trends Analysis Report—Industry Overview and Forecast to 2032*, DATA BRIDGE MKT. RSCH. (Jan. 2025), <https://www.databridgemarketresearch.com/reports/global-digital-video-advertising-market>.

⁸ Md Zonayed et al., *Machine Learning and IoT in Healthcare: Recent Advancements, Challenges & Future Direction*, 7 ADVANCES IN BIO-MARKER SCI, TECH. 335 (2025), <https://www.sciencedirect.com/science/article/pii/S2543106425000201>.

⁹ LexisNexis, *Who is Leading the VVC Patent Race?*, (June 2024), 6 fig. 1, <https://www.lexisnexisip.com/vvc-report/>.

Global Geographic Scope of Video Codec Patent Ownership. The ownership of video compression patents is geographically diverse, illustrating the international scope of research and development. According to the LexisNexis VVC patent report, in the U.S., key patent holders include Qualcomm, InterDigital, Microsoft, Google, and Dolby; in China, Huawei, Tencent, and ByteDance; in South Korea, Samsung, LG, and KT; in Japan, Sony, Panasonic, and Canon; in Taiwan, MediaTek, Novatek, and Realtek; and in Europe, Nokia, Ericsson, and Philips.¹⁰ This global distribution reflects how innovation in video compression continues to emerge from a diverse and interconnected network of firms and institutions worldwide. Similarly, patent portfolios tend to be global in their coverage, as is the licensing of those portfolios.

The Licensing Landscape for Video Coding Standards and Patents

The licensing environment for video coding technology is undergoing a fundamental shift. Once characterized by relatively unified licensing structures, most notably the MPEG-LA (now Via Licensing Alliance) AVC/H.264 patent pool, licensing was relatively predictable.¹¹ Today, the sector is more fragmented, with multiple pools and individual licensors operating under differing royalty frameworks. This structural change has increased friction, bargaining failures, and ultimately contributed to the rise in SEP litigation.

A central driver of this shift is the evolution of licensing models along with the technology and its uses. Traditional video-codec technology licensing targeted device manufacturers. As the industry has evolved, newer licensing models, such as the Avanci Video pool (2023)¹² and Access Advance Video Distribution pool (2025),¹³ have sought to license not only hardware manufacturers but also streaming platforms, content distributors, and cloud-based encoding services that may utilize video codec technology. Due to the expansion of the number and types of entities subject to royalties, these models introduce new points of disputes and disagreements around the FRAND framework.

The rise of new pools and licensing models is rooted in the economics of patent pools. Pools were created to address costly bilateral negotiations in standards containing hundreds or thousands of SEPs. As the economic literature shows, patent pools can lower transaction costs and streamline licensing.¹⁴ However, they are difficult to form because licensors often disagree on valuation and governance. Many patent pools have failed for these reasons. MPEG-LA succeeded largely because industry demand coalesced around a unified AVC/H.264 license with transparent terms and broad participation, creating a “one-stop shop” for the generation of devices built around AVC and dramatically simplifying licensing—a pattern consistent with economic findings that patent holders with relatively symmetric contributions to a standard are more willing to participate in and accept royalty-sharing arrangements, thereby constituting a successful pool.¹⁵

Due to the expansion of the number and type of entities subject to royalties, these models introduce new points of disputes and disagreements around the FRAND framework.

¹⁰ *Id.* at 9 tbl. 1.

¹¹ See, e.g., Christina Schulze, “It Is Transparency Which Is the Secret of Patent Pool MPEG-LA’s Success,” JUVE Patent (Dec. 20, 2021), <https://www.juve-patent.com/cases/it-is-transparency-which-is-the-secret-of-patent-pool-mpeg-las-success/>.

¹² Press Release, Avanci, Avanci Video Launched as Licensing Platform for Internet Streaming Services (Oct. 18, 2023), <https://www.avanci.com/2023/10/18/avanci-video-launched-as-licensing-platform-for-internet-streaming-services/>.

¹³ Press Release, Access Advance, Access Advance Announces Video Distribution Patent Pool in Response to Market Demand (Jan. 16, 2025), <https://accessadvance.com/2025/01/16/access-advance-announces-video-distribution-patent-pool-in-response-to-market-demand/>.

¹⁴ See, e.g., Anne Layne-Farrar & Josh Lerner, *To Join or Not to Join: Examining Patent Pool Participation and Rent Sharing Rules*, 29 INT’L J. INDUS. ORG. 294 (2011), <https://www.sciencedirect.com/science/article/abs/pii/S0167718710001165>.

¹⁵ *Id.*

Taken together, shifts in royalty models, evolving pool structures, independent licensors coexisting with pools, and the rise of royalty-free alternatives have transformed the licensing ecosystem for video codecs into a more complex and contested landscape.

In contrast to the earlier unified framework and a single key pool for compression technology, today there are multiple patent pools, independent licensors who do not participate in any pool, and divergent rate structures.¹⁶ This proliferation of different licensing players and structures creates uncertainty, inconsistent coverage, and a higher likelihood of negotiation failure.

Major pools now operating in the video-codec space include Access Advance (HEVC/VVC),¹⁷ VIA Licensing Alliance (AVC/MPEG),¹⁸ Sisvel (various multimedia technologies),¹⁹ and Avanci (broad codec licensing including AV1).²⁰ Their coexistence has produced a complex licensing ecosystem.

Adding another layer of complexity, more recently established royalty-free standards, most prominently AV1 codec developed by the Alliance for Open Media (AOM),²¹ compete directly with royalty-bearing codecs. Backed by major technology companies such as Google, Amazon, and Netflix, AV1's model of proprietary standards and the policy of cross-licensing technology with other patent holders at zero royalty have resulted in questions from regulators regarding the impact on competition in the development of video coding technology standards.²²

Taken together, shifts in royalty models, evolving pool structures, independent licensors coexisting with pools, and the rise of royalty-free alternatives have transformed the licensing ecosystem for video codecs into a more complex and contested landscape. This environment increases transaction costs, heightens FRAND disagreements, and makes litigation far more likely, setting the stage for global SEP disputes.

The Video Coding SEP Litigation Landscape

The video coding sector is a highly dynamic and contentious area for SEP enforcement. As the industry moves from AVC/H.264 and HEVC/H.265 to next-generation VVC/H.266, licensing and litigation have grown more complex. Fragmented licensing frameworks, multiple pools, and competing royalty models, combined with a surge in global rate-setting cases, have made video codec SEPs a major flashpoint in IP and competition debates.

International SEP Litigation Landscape and Global Rate-Setting Efforts. Courts around the world, most prominently the UK High Court, are increasingly positioning themselves as venues

¹⁶ See, e.g., Craig Thompson, *VVC's Adoption Hampered by Patent Uncertainty and Low Value*, Streaming Media (Sept. 30, 2021), <https://www.streamingmedia.com/Articles/Post/Blog/VVCs-Adoption-Hampered-by-Patent-Uncertainty-and-Low-Value-149277.aspx>.

¹⁷ ACCESS ADVANCE, HEVC Advance Patent Pool Program Overview (Nov. 2025), <https://accessadvance.com/wp-content/uploads/2025/07/VVC-Advance-Program-Overview-Nov-2025.pdf> ;

¹⁸ AVC/H.264 Patent Portfolio License, VIA LICENSING ALLIANCE, <https://via-la.com/licensing-programs/avc-h-264/>; HEVC/VVC, VIA LICENSING ALLIANCE, <https://via-la.com/licensing-programs/hevc-vvc/>.

¹⁹ Video coding platform: VP9, Sisvel, <https://www.sisvel.com/licensing-programmes/audio-and-video-coding-decoding/video-coding-platform/>; Video coding platform: AV1, Sisvel, <https://www.sisvel.com/licensing-programmes/audio-and-video-coding-decoding/video-coding-platform-av1/>.

²⁰ Press Release, Avanci, Avanci Video Launched as Licensing Platform for Internet Streaming Services (Oct. 18, 2023), <https://www.avanci.com/2023/10/18/avanci-video-launched-as-licensing-platform-for-internet-streaming-services/>.

²¹ Alliance for Open Media, <https://aomedia.org/>.

²² Dina Kallay, Deputy Assistant Attorney General Dina Kallay Delivers Keynote at Concurrences Dinner in New York (Sept. 19, 2025), <https://www.justice.gov/opa/speech/daag-dina-kallay-delivers-keynote-concurrences-dinner-new-york>.

SEP owners continue to rely on multi-jurisdictional enforcement pressure, and procedural tools such as anti-suit, anti-anti-suit, and anti-interim-license injunctions have become central features in the struggle over global rate control.

for setting global FRAND rates for video-codec SEPs.²³ Although this judicial trend promises commercial certainty and a reduction in multi-jurisdiction litigation, it has also sparked a debate about whether any single national court should wield the authority to impose worldwide licensing terms. Recent cases show that global rate-setting is no longer a theoretical concept but an active and contested frontier. Courts, such as those in the UK, have confirmed that they have jurisdiction to determine the terms of global FRAND licenses in SEP disputes, reflecting an increasingly prominent role in setting worldwide FRAND terms.²⁴ Other jurisdictions, such as the U.S., have taken more limited approaches to global rate-setting or debated the appropriate scope of national court involvement in global FRAND determinations.²⁵ In a December 2025 decision in *InterDigital v. Amazon*,²⁶ the newly formed Unified Patent Court (UPC) in Europe expressly pushed back against the UK courts' approach to global FRAND determinations, emphasizing the territorial nature of patent rights and signaling a more constrained role for national courts in setting worldwide FRAND license terms.²⁷ At the same time, SEP owners continue to rely on multi-jurisdictional enforcement pressure, and procedural tools such as anti-suit, anti-anti-suit, and anti-interim-license injunctions have become central features in the struggle over global rate control.²⁸

Nokia's disputes with Amazon offer a clear illustration of this dynamic. In late 2023, Nokia initiated litigation against Amazon over alleged infringement of H.264/AVC and H.265/HEVC SEPs. Amazon contested the fairness and validity of Nokia's FRAND offers, but the litigation quickly spread across multiple venues, including the U.S. ITC, Germany, India, the UK High Court, and the UPC. After several rulings favorable to Nokia, the parties ultimately reached a global settlement and cross-license agreement in March 2025.²⁹ The progression of the dispute, and its multinational pressure points, demonstrates the necessity of a coordinated multi-jurisdiction strategy for global enforcement and FRAND resolution.

²³ See, e.g., Christopher Stothers & Alexandra Morgan, *UK High Court Confirms Global RAND Jurisdiction and Makes Interim Licence Declarations Requested by Implementers in Acer v. Nokia*, Freshfields (Jan. 12, 2026), <https://riskandcompliance.freshfields.com/post/102m1lx/uk-high-court-confirms-global-rand-jurisdiction-and-makes-interim-licence-declara>. See also, *Unwired Planet v. Huawei* [2020] UKSC 37, WIPO (Aug. 26, 2020), <https://www.wipo.int/wipolex/en/judgments/details/1521>; *InterDigital v. Lenovo* [2024] EWCA Civ 743, WIPO (Jul. 12, 2024), <https://www.wipo.int/wipolex/en/judgments/details/2256>; Eileen McDermott, *UK Court of Appeal Bumps Apple FRAND Payment to Optis Up to \$502 Million*, IPWatchdog (May 1, 2025), <https://ipwatchdog.com/2025/05/01/uk-court-appeal-apple-frand-payment-optis-502-million/>.

²⁴ John Paul et al., *UK Supreme Court Holds That UK Courts May Set Global FRAND Terms*, Finnegan (Dec. 1, 2020), <https://www.finnegan.com/en/insights/articles/uk-supreme-court-holds-that-uk-courts-may-set-global-frand-terms.html>.

²⁵ Timothy Syrett, *U.S. Courts Have Limited Ability To Set FRAND Rates Globally*, WilmerHale (Jan. 22, 2021), https://www.wilmerhale.com/-/media/files/shared_content/editorial/publications/documents/20210122-law360-us-courts-have-limited-ability-to-set-frand-rates-globally.pdf; Colangelo, Giuseppe, *FRAND Determinations Under the EU SEP Proposal: Discarding the Huawei Framework*, INT'L CTR. LAW & ECON. (Nov. 15, 2023), <https://laweconcenter.org/resources/frand-determinations-under-the-eu-sep-proposal-discarding-the-huawei-framework/>.

²⁶ *InterDigital VC Holdings, Inc. v. Amazon.com, Inc.*, UPC_CFI_936/2025 (CFI LD Mannheim Dec. 22, 2025).

²⁷ See, e.g., Mathieu Klos, *RAND Licence Battle in InterDigital Against Amazon Continues Over Christmas*, JUVE Patent (Dec. 29, 2025), <https://www.juve-patent.com/cases/rand-licence-battle-in-interdigital-against-amazon-continues-over-christmas/>.

²⁸ Anti-suit, anti-anti-suit, and anti-interim-license injunctions are procedural tools frequently used in multi-jurisdiction SEP disputes. An anti-suit injunction seeks to prevent a party from pursuing parallel litigation in another jurisdiction. An anti-anti-suit injunction seeks to preserve a court's ability to proceed despite such efforts. An anti-interim-license injunction seeks to prevent a court from imposing interim FRAND license terms pending resolution of the underlying licensing dispute. See, e.g., Jorge L. Contreras, *Anti-Suit Injunctions and Jurisdictional Competition in Global FRAND Litigation: The Case for Judicial Restraint*, 11 N.Y.U. J. OF INTELL. PROP. & ENT. L. 171 (2021), <https://ssrn.com/abstract=3899923>.

²⁹ Eileen McDermott, *Nokia and Amazon Reach Licensing Deal to End Litigation Over Streaming Patents*, IPWatchdog (Mar. 31, 2025), <https://ipwatchdog.com/2025/03/31/nokia-amazon-reach-licensing-deal-end-litigation-streaming-patents/>.

A similar global strategy is evident in Nokia's ongoing litigation against Hisense, filed in April 2025. Nokia's disputes with Hisense span the U.S., Germany, the UPC, and the UK, reflecting Nokia's continued pursuit of consistent global rates. While Nokia pursued infringement actions in multiple jurisdictions, Hisense sought a FRAND determination from the UK High Court and obtained interim licenses pending resolution of the broader FRAND dispute.³⁰ The proceedings illustrate the increasingly important role of the UK courts in global FRAND adjudication and the growing willingness of implementers to seek affirmative relief in key jurisdictions.³¹ The parties reached a settlement in January 2026.³²

The recent dispute between InterDigital and Amazon further highlights the intensifying forum race in SEP litigation. When Amazon sought a UK High Court determination of global FRAND terms in August 2025, InterDigital responded by seeking anti-interim-license injunctions in Germany and before the UPC.³³ The UK court, in turn, issued an anti-anti-suit injunction to preserve its jurisdiction.³⁴ This sequence of defensive and counter-defensive procedural maneuvers exemplifies the jurisdictional tension between rate-setting and enforcement courts and showcases the importance of a multi-jurisdiction strategy in such disputes.

The ongoing dispute between InterDigital and Disney adds an antitrust dimension to the evolving global SEP environment in this space. In February 2025, InterDigital brought infringement actions in Germany and Brazil targeting Disney's streaming services (Hulu, Disney+, and ESPN+) for alleged violations of H.264/AVC and H.265/HEVC SEPs.³⁵ InterDigital succeeded in obtaining a preliminary injunction in Brazil on two encoder patents, with the court determining that no FRAND obligation applied.³⁶ In August 2025, Disney filed an antitrust lawsuit in the U.S. alleging that InterDigital failed to honor its FRAND commitments and sought excessive and discriminatory royalties in a manner that harmed competition.³⁷ This case illustrates how SEP disputes increasingly intersect with antitrust scrutiny.

Other Global and Domestic Video Codec SEP Litigation. A wide range of additional global and domestic video-codec SEP disputes, beyond the headline battles among major licensors and implementers, demonstrate the breadth, diversity, and complexity of current enforcement activity. These matters span the U.S., Europe, Brazil, and Asia, and involve both major technology

³⁰ Mathieu Klos, *InterDigital and Bird & Bird Challenge UK High Court Jurisdiction in Amazon Case*, JUVE PATENT (Dec. 3, 2025), <https://www.juve-patent.com/cases/interdigital-bird-challenge-uk-high-court-jurisdiction-in-amazon-case/>.

³¹ Sami Al-Marzoog et al. UK High Court Issues Interim RAND License Declaration in Acer, Hisense & ASUS v. Nokia: Reinforcing the English Courts' Role in Global SEP Disputes, Cleary Gottlieb (Dec. 19, 2025), <https://www.clearygottlieb.com/news-and-insights/publication-listing/uk-high-court-issues-interim-rand-license-declaration-in-acer-hisense-and-asus-v-nokia>.

³² Konstanze Richter, *Hisense Settles Global Dispute With Nokia Over Video Coding Patents*, JUVE Patent (Jan. 8, 2026), <https://www.juve-patent.com/cases/hisense-settles-global-dispute-with-nokia-over-video-coding-patents/>.

³³ Mathieu Klos, *InterDigital and Bird & Bird Challenge UK High Court Jurisdiction in Amazon Case*, Juve Patent (Dec. 3, 2025), <https://www.juve-patent.com/cases/interdigital-bird-challenge-uk-high-court-jurisdiction-in-amazon-case/>.

³⁴ *Id.*

³⁵ Press Release, InterDigital, InterDigital Awarded Injunction Against Disney by German Court, (Nov. 24, 2025), <https://ir.interdigital.com/news-events/press-releases/news-details/2025/InterDigital-awarded-injunction-against-Disney-by-German-court-5ad043c60/default.aspx>. See also Florian Mueller, *InterDigital's Brazilian Double Whammy Against Disney: Preliminary (But Merits-Based) Injunction Over Two Streaming Patents*, ipfray (Sept. 11, 2025), <https://ipfray.com/interdigitals-brazilian-double-whammy-against-disney-preliminary-but-merits-based-injunction-over-two-streaming-patents/>.

³⁶ Press Release, InterDigital, InterDigital Awarded Injunction Against Disney (Sept. 11, 2025), <https://ir.interdigital.com/news-events/press-releases/news-details/2025/InterDigital-awarded-injunction-against-Disney/default.aspx>.

³⁷ Statement of Interest of the United States of America, *Disney Enter., Inc. v. InterDigital, Inc.*, No. 25-cv-00996-MN (D. Del. Oct. 6, 2025), ECF No. 28. <https://www.justice.gov/atr/media/1416101/dl>.

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companies and increasingly active non-practicing entities (NPEs). Together, they underscore how video-codec SEPs have become the focal point of sustained, worldwide litigation efforts.

One example is the June 2025 lawsuit *Velos Media* filed in Texas against ByteDance, alleging that TikTok infringes six HEVC/H.265 SEPs without taking a FRAND license.³⁸ By early 2026, the dispute had expanded beyond the underlying infringement claims, with parallel FRAND proceedings in China and litigation over anti-suit and anti-anti-suit relief in the U.S.³⁹ The case highlights how NPE-led SEP enforcement has expanded into social-media and short-form-video platforms, reflecting the growing importance of video codecs in content-distribution ecosystems. Another NPE-driven case, *VideoLabs v. TCL*, was filed in Texas in February 2025.⁴⁰ VideoLabs alleges that TCL infringes seven patents covering H.264, High-bandwidth Digital Content Protection (“HDCP”), and streaming technologies across its consumer-electronics lineup.⁴¹ This dispute, also in early phases, reflects VideoLabs’ broader strategy of targeted, device-focused enforcement.

Global licensing dynamics are further illustrated by Via LA’s April 2025 suit against Microsoft in Germany over alleged HEVC SEP infringement in Windows, Surface devices, and Xbox consoles. The litigation concluded in October 2025 when Microsoft joined the Via LA licensing pool under a global agreement,⁴² an outcome that avoids protracted multi-jurisdictional litigation while reinforcing the role of patent pools in video-codec licensing. Similar multinational coordination appears in the enforcement campaigns led by Access Advance licensors, who by late 2025 were pursuing HEVC actions against companies such as Roku, Transsion, and Hisense across Brazil, Germany, and the UPC.⁴³ Earlier, TCL had lost a German FRAND case to Access Advance licensors, and the current actions highlight the growing importance of the UPC for cross-European injunctions as well as the expansion of enforcement into rapidly growing markets like Brazil.⁴⁴

European precedent also continues to shape current disputes. A notable example is the long-running *Dolby, GE, and Philips* litigation against MAS Elektronik in Germany.⁴⁵ In 2020, the Düsseldorf Regional Court applied the *Huawei v. ZTE* framework, which sets out the obligations of SEP holders and implementers during FRAND licensing negotiations and the circumstances under which injunctive relief may be available.⁴⁶ The court held that MAS Elektronik was an unwilling

³⁸ Complaint, *Velos Media, LLC v. ByteDance Ltd et al.*, No. 1:2025-cv-00967 (W.D. Tex. June 24, 2025), ECF No.1.

³⁹ Florian Mueller, *Velos Media Met Only Limited Opposition from TikTok to Anti-Anti-Suit Motion in Western District of Texas; Injunction Followed TRO*, IP FRAY (Feb. 19, 2026), <https://ipfray.com/velos-media-met-only-limited-opposition-from-tiktok-to-anti-antisuit-motion-in-western-district-of-texas-injunction-followed-tro/>.

⁴⁰ Complaint, *Videolabs, Inc. v. TCL Tech. Group Corp et al.*, No. 2:2025-cv-00161 (E.D. Tex. Feb. 10, 2025).

⁴¹ Complaint, *VideoLabs, Inc. v. TCL Tech. Grp. Corp.*, No. 2:25-cv-00161 (E.D. Tex. Feb. 10, 2025), ECF No. 1. See also VideoLabs Debuts in Litigation One of Its More Recently Acquired Patents, RPX Insight (Feb. 13, 2025), <https://insight.rpxcorp.com/news/85092-videolabs-debuts-in-litigation-one-of-its-more-recently-acquired-patents>.

⁴² Mathieu Klos, *Via LA and Microsoft Settle Dispute Over Video Coding Technology*, Juve Patent (Oct. 9, 2025), <https://www.juve-patent.com/cases/via-la-and-microsoft-settle-dispute-over-video-coding-technology/>.

⁴³ Press Release, Access Advance, Access Advance Closes 2025 With Record Quarter: Eight Major Licensees, 100% Renewal Rate, Litigations Resolved (Jan. 22, 2026), <https://accessadvance.com/2026/01/22/access-advance-closes-2025-with-record-quarter-eight-major-licensees-100-renewal-rate-litigations-resolved/>.

⁴⁴ Florian Mueller, *SEPTacular Week Also Sees Three Major Video Patent License Deals Settling Disputes: Nokia-HP, Access Advance With HP and TCL*, IP FRAY (Oct. 30, 2024), <https://ipfray.com/septacular-week-also-sees-three-major-video-patent-license-deals-settling-disputes-nokia-hp-access-advance-with-hp-and-tcl/>.

⁴⁵ Mathieu Klos, *Licence Offers of HEVC Advance Video Pool Are FRAND, Rules Düsseldorf Court*, JUVE PATENT (June 8, 2020), <https://www.juve-patent.com/cases/licence-offers-of-hevc-video-pool-are-frand-rules-dusseldorf-court/>.

⁴⁶ Case C-170/13, *Huawei Techs. Co. v. ZTE Corp.*, ECLI:EU:C:2015:477 (CJEU July 16, 2015).

The Department of Justice's approach to SEP licensing has shifted markedly over the last decade, moving from a pre-2017 emphasis on preventing potential "patent hold-up" by SEP owners, to a 2017–2020 approach that also expressed concern about potential "patent hold-out" by implementers, and now towards a post-2020 case-by-case approach taking a step back from broad policy statements.

licensee and found that the licensing terms offered through the HEVC Advance patent pool were FRAND-compliant.⁴⁷ The court consequently granted patent-specific injunctions against MAS Elektronik based on the plaintiffs' individually asserted HEVC-essential patents. Following these rulings and while appellate proceedings were ongoing, MAS Elektronik ultimately entered into licenses, including pool-based HEVC licenses.⁴⁸ These decisions remain important European authority on the treatment of video-codec patent pools within FRAND analysis.

Likewise, Broadcom's multi-year dispute with Netflix continues to influence the landscape. Beginning in 2018, the matter produced a 2023 ruling in Germany imposing a €7.05 million fine on Netflix for HEVC patent infringement, establishing that standards-compliant streaming services may bear patent liability.⁴⁹ Related proceedings continued through 2025, when the German Federal Court of Justice ultimately invalidated Broadcom's core patent in December 2025.⁵⁰

The IP-Antitrust Intersection in Video-Codec SEPs

The Department of Justice's approach to SEP licensing has shifted markedly over the last decade, moving from a pre-2017 emphasis on preventing potential "patent hold-up" by SEP owners, to a 2017–2020 approach that also expressed concern about potential "patent hold-out" by implementers, and now towards a post-2020 case-by-case approach taking a step back from broad policy statements. The FTC has likewise played a significant role in shaping U.S. SEP policy through enforcement actions, advocacy, and joint agency statements, although the agencies have not always taken identical positions on the application of antitrust law to SEP licensing disputes.⁵¹

Under the earlier, pre-2017 stance, the DOJ and U.S. Patent and Trademark Office (USPTO)'s 2013 Policy Statement on Remedies for SEPs emphasized that injunctions and exclusion orders should be rare when a willing licensee is present.⁵² The agencies explained that "[a] patent owner's voluntary F/RAND commitments may also affect the appropriate choice of remedy for infringement of a valid and enforceable standards-essential patent," and cautioned that "in some circumstances, the remedy of an injunction or exclusion order may be inconsistent with the public interest."⁵³ The statement further warned that, depending on the facts, "the public interest may preclude the issuance of an exclusion order in cases where the infringer is acting within the scope

⁴⁷ HEVC (Dolby) v MAS Elektronik, Landgericht Düsseldorf (Regional Court of Düsseldorf), 4iP Council (May 7, 2020), <https://caselaw.4ip-council.com/germany/lg-duesseldorf/hevc-dolby-v-mas-elektronik>.

⁴⁸ Press Release, Access Advance, HEVC Advance Licensors Bring HEVC Patent Infringement Suits Against Vestel and Xiaomi in Düsseldorf Regional Court (Aug. 16, 2020), <https://accessadvance.com/2020/08/16/hevc-advance-licensors-bring-hevc-patent-infringement-suits-against-vestel-and-xiaomi-in-duesseldorf-regional-court/>.

⁴⁹ Press Release, Broadcom, German Court Fines Netflix €7.05 Million for Continued Infringement of Broadcom HEVC Patent (Dec. 22, 2023), <https://investors.broadcom.com/news-releases/news-release-details/german-court-fines-netflix-eu705-million-continued-infringement>.

⁵⁰ Konstanze Richter, Hoyng ROKH and Quinn Emanuel Secure Double Win for Netflix Against Broadcom, JUVE Patent (Dec. 17, 2025), <https://www.juve-patent.com/cases/hoyng-rokh-quinn-emanuel-secure-double-win-for-netflix-against-broadcom/>.

⁵¹ See *FTC v. Qualcomm Inc.*, 969 F.3d 974 (9th Cir. 2020); Federal Trade Commission, FTC Charges Qualcomm with Monopolizing Key Semiconductor Device Used in Cell Phones, FTC (Jan. 17, 2017), <https://www.ftc.gov/news-events/news/press-releases/2017/01/ftc-charges-qualcomm-monopolizing-key-semiconductor-device-used-cell-phones>. See also U.S. Dep't of Justice & Fed. Trade Comm'n, *Antitrust Guidelines for the Licensing of Intellectual Property* (Jan. 12, 2017), https://www.ftc.gov/system/files/documents/public_statements/1049793/ip_guidelines_2017.pdf.

⁵² U.S. Dep't of Justice & U.S. Patent and Trademark Office, Policy Statement on Remedies for Standards-Essential Patents Subject to Voluntary F/RAND Commitments (2013), <https://www.justice.gov/atr/page/file/1118381/dl?inline=>.

⁵³ *Id.*

of the patent holder's F/RAND commitment and is able, and has not refused, to license on F/RAND terms."⁵⁴

The Trump (1.0) Administration, however, reversed course with the 2019 Policy Statement on Remedies for SEPs, issued jointly with USPTO and National Institute of Standards and Technology (NIST), which expressly rejected the 2013 framework.⁵⁵ The 2019 statement declared that a SEP holder's FRAND commitment "is a relevant factor in determining appropriate remedies, but need not act as a bar to any particular remedy," including injunctions or exclusion orders and emphasized that antitrust law should not be used to police FRAND disputes.⁵⁶ This shift was consistent with then-Assistant Attorney General Makan Delrahim's "New Madison Approach," articulated in a 2017 speech at the University of Southern California, which emphasized strong patent rights, cautioned against using antitrust law to regulate FRAND disputes, and highlighted the risks of implementer hold-out.⁵⁷

In 2021, after an attempted re-revision of the statements, the DOJ withdrew both the 2013 and 2019 statements and now applies a neutral, fact-specific approach that examines whether either SEP holders or implementers are engaging in any opportunistic conduct capable of harming competition.⁵⁸ Against this evolving policy backdrop, recent U.S. developments at the IP–antitrust intersection, particularly in video-codec SEP licensing space, highlight renewed enforcement attention. These include a joint DOJ-USPTO Statement of Interest in *Radian Semiconductor LLC v. Samsung Electronics Co., Ltd.*,⁵⁹ the DOJ's separate filing in *Disney Enterprises, Inc. v. InterDigital, Inc.*,⁶⁰ and public remarks from senior DOJ Antitrust Division leadership.⁶¹

Joint USPTO-DOJ Statement Relating to Radian Semiconductor LLC v. Samsung Electronics Co., Ltd. In *Radian v. Samsung*, Radian asserted infringement of alleged SEPs and sought injunctive relief,⁶² and Samsung countered that Radian failed to show irreparable harm.⁶³ The DOJ and USPTO jointly filed a Statement of Interest in June 2025 clarifying that injunctive relief is an available remedy for all patents, including for SEPs with FRAND commitments, and

⁵⁴ *Id.*

⁵⁵ U.S. Patent and Trademark Office, Nat'l Inst. of Standards and Tech. & U.S. Dep't of Justice, Policy Statement on Remedies for Standards-Essential Patents Subject to Voluntary F/RAND Commitments (2019), <https://www.justice.gov/atr/page/file/1228016/dl?inline=>. As of June 2022, the statement has been withdrawn. See Press Release, U.S. Dep't of Justice, Justice Department, U.S. Patent and Trademark Office and National Institute of Standards and Technology Withdraw 2019 Standards-Essential Patents (SEP) Policy Statement (June 8, 2022), <https://www.justice.gov/archives/opa/pr/justice-department-us-patent-and-trademark-office-and-national-institute-standards-and>.

⁵⁶ *Id.*

⁵⁷ Makan Delrahim, The Long Run: Maximizing Innovation Incentives Through Advocacy and Enforcement, Remarks as Prepared for the Leadership Conference (Apr. 10, 2018), <https://www.justice.gov/archives/opa/speech/file/1050956/dl?inline=>.

⁵⁸ U.S. Patent and Trademark Office, Nat'l Inst. of Standards and Tech. & U.S. Dep't of Justice, Withdrawal of 2019 Policy Statement on Remedies for Standards-Essential Patents Subject to Voluntary F/RAND Commitments (2022), <https://www.uspto.gov/sites/default/files/documents/SEP2019-Withdrawal.pdf>.

⁵⁹ Statement of Interest of the United States of America, *Radian Memory Sys. LLC v. Samsung Elec. Co., Ltd.*, No. 25-cv-996-MN (E.D. Tex. June 24, 2025), ECF No. 52.

⁶⁰ Statement of Interest of the United States of America, *Disney Enters., Inc. v. InterDigital, Inc., et al.*, No. 25-cv-00996-MN (D. Del. Oct. 6, 2025), ECF No. 28.

⁶¹ Dina Kallay, *supra* note 17.

⁶² Statement of Interest of the United States of America, *Radian Memory Sys. LLC v. Samsung Elec. Co., Ltd.*, No. 25-cv-996-MN (E.D. Tex. June 24, 2025), ECF No. 52. See also Gene Quinn, *U.S. Government's Intervention in Patent Case Signals Good News for Patent Owners Seeking Injunctions*, IPWATCHDOG (June 24, 2025), <https://ipwatchdog.com/2025/06/24/us-governments-intervention-patent-case-signals-good-news-patent-owners-seeking-injunctions/>.

⁶³ *Id.*

that seeking such relief does not automatically constitute an antitrust violation.⁶⁴ The Statement explains that “[a] valid patent is inherently a unique asset” and that infringement “deprives the patent holder of the ability to control to whom it licenses its products and the terms of that licensing.”⁶⁵

DOJ Statement Relating to *Disney Enterprises, Inc. v. InterDigital, Inc.* In October 2025, the DOJ filed a Statement of Interest in *Disney v. InterDigital* before the U.S. District Court for the District of Delaware.⁶⁶ The filing addresses the DOJ’s view about how antitrust principles should apply to disputes involving SEPs and FRAND commitments. Consistent with the usual practice, the DOJ did not take a position on the outcome of the motion before the court but clarified its view on how antitrust and patent laws interact in this context.

The DOJ reiterated that “a patent does not necessarily confer market power upon the patentee,” even when declared essential, and emphasized that “seeking higher prices is not, by itself, harm to the competitive process.”⁶⁷ The DOJ also pointed to the Supreme Court’s decision in *Verizon v. Trinko*,⁶⁸ which held that “the mere possession of monopoly power, and the concomitant charging of monopoly prices, is not only not unlawful; it is an important element of the free-market system,” and noted that disagreements over FRAND terms are generally better addressed under contract and patent law. The DOJ went further to state that “a breakdown in contract negotiations is outside the Sherman Act’s scope,” and that an “objectionable term in a commercial agreement, without more, is not an antitrust violation.”⁶⁹

The DOJ’s position closely parallels the reasoning of the Ninth Circuit in the landmark *FTC v. Qualcomm* case.⁷⁰ The dispute centered on whether Qualcomm’s licensing model, including its practice of licensing at the handset level and conditioning chip sales on patent licenses (the “no license, no chips” policy), harmed competition in the markets for 3G and 4G chips. The Ninth Circuit held that a SEP holder does not have an antitrust duty to deal (i.e., license competitors) and that questions concerning FRAND commitments are in the domain of contract rather than antitrust law.

At the same time, the DOJ acknowledged in its statement that antitrust law can apply to deceptive conduct in the standard-setting process, relying on the Third Circuit’s decision in *Broadcom Corp. v. Qualcomm Inc.* That case held that “a patent holder’s intentionally false promise to license essential proprietary technology on FRAND terms, coupled with an SDO’s reliance on that promise when including the technology in a standard,” may constitute exclusionary conduct under Section 2.⁷¹ The DOJ cited *Broadcom* in this context, addressing allegations about misrepresentations during standards development, not post-standardization royalty disputes.⁷²

⁶⁴ Statement of Interest of the United States, *Radian Memory Sys.*, No. 25-cv-996-MN, ECF No. 52 (E.D. Tex. June 24, 2025).

⁶⁵ *Id.*

⁶⁶ Statement of Interest of the United States, *Disney*, No. 1:25-cv-00996-MN, ECF No. 28 (D. Del. Oct. 6, 2025).

⁶⁷ *Id.* (citing *Ill. Tool Works Inc. v. Indep. Ink, Inc.*, 547 U.S. 28, 44 (2006)).

⁶⁸ *Verizon Commc’ns Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398, 407 (2004).

⁶⁹ *Supra* 57 (citing *Host Int’l, Inc. v. Marketplace, PHL, LLC*, 32 F.4th 242, 250 (3d Cir. 2022)).

⁷⁰ *Fed. Trade Comm’n v. Qualcomm Inc.*, 969 F.3d 974 (9th Cir. 2020). The DOJ’s participation in the litigation was notable because it advanced a position that differed from the FTC’s, reflecting broader debates regarding the proper role of antitrust law in addressing SEP licensing and FRAND disputes. See Statement of Interest of the United States, *FTC v. Qualcomm Inc.*, No. 5:17-cv-00220 (N.D. Cal. May 2, 2019), ECF No. 1490; Brief for the United States of America as Amicus Curiae Supporting Appellant and Urging Reversal, *FTC v. Qualcomm Inc.*, No. 19-16122 (9th Cir. Aug. 30, 2019).

⁷¹ *Broadcom Corp. v. Qualcomm Inc.*, 501 F.3d 297 (3d Cir. 2007).

⁷² Statement of Interest of the United States, *Disney*, No. 1:25-cv-00996-MN, ECF No. 28 (D. Del. Oct. 6, 2025).

Recent Observations from the DOJ on FRAND and Standards. Recent remarks by Dina Kallay, Deputy Assistant Attorney General for International, Policy and Appellate at the DOJ Anti-trust Division, further illuminate current U.S. enforcement thinking on FRAND commitments and standard-setting.⁷³ Kallay emphasized that IP and antitrust are complementary tools for promoting innovation, noting that firms compete through innovative performance as much as through price. She described collaborative standard-setting backed by FRAND commitments as highly successful but stressed the importance of monitoring competitive dynamics within standards development. In particular, Kallay seemed to raise caution about proprietary standards (such as the newly created AV1 video coding standards), cautioning that royalty-free licensing requirements can “allow a group of dominant implementers to fix the price of royalties at zero” and “can effectively operate as collusive schemes among dominant players to promote closed, proprietary standards” that would have the effect of “stifling innovation.”⁷⁴

European Commission Review of the AV1 Standard and AOM’s Licensing Framework. Beyond the U.S., similar issues have drawn attention in Europe, where the European Commission (EC) has assessed video-codec licensing and standard-setting conduct under EU competition rules.

In July 2022, the EC opened a preliminary inquiry into the AOM and its AV1 video-codec licensing framework.⁷⁵ The review focused on whether AOM’s royalty-free, cross-licensing obligations could discourage participation by patent holders whose technologies become essential after standard adoption, and whether such terms might disadvantage innovators that rely on royalties to recoup research and development investments. Although the EC closed the inquiry in May 2023 without further action, it noted that the decision did not constitute a finding on compliance and indicated that it would continue monitoring competition issues in video-codec standard-setting and SEP licensing.⁷⁶

Looking Ahead—Importance of FRAND Rate Determination

As the global landscape for standardized video technologies becomes increasingly complex, the determination of FRAND terms has emerged as a central economic question. The growing number of video codec SEPs, the formation and reorganization of patent pools, and the rise of multi-jurisdictional enforcement actions involving these patents create substantial variability in licensing and litigation outcomes. In such an environment, the ability to evaluate FRAND commitments in an empirically grounded manner is critical to promoting stable industry expectations and coherent market signals.

FRAND royalty determination for video-codec SEPs occurs within a relatively new and still-developing licensing environment. Pools are forming and changing, participation is shifting, and bilateral agreements now span device makers, streaming platforms, and content providers. As a result, the available licensing activity patterns differ from cellular SEP standards.

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⁷³ Dina Kallay, *supra* note 17.

⁷⁴ *Id.*

⁷⁵ Foo Yun Chee, *EU Antitrust Regulators Probing Tech Group AOM’s Video Licensing Policy*, Reuters (July 7, 2022), <https://www.reuters.com/technology/exclusive-eu-antitrust-regulators-probing-tech-group-aoms-video-licensing-policy-2022-07-07/>.

⁷⁶ Foo Yun Chee, *EU Antitrust Regulators Drop Probe Into Tech Group’s Video Licensing Policy*, Reuters (May 23, 2023), <https://www.reuters.com/technology/eu-antitrust-regulators-drop-probe-into-tech-groups-video-licensing-policy-2023-05-23/>.

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estimate the incremental value of specific patented contributions. In the video-codec context, where licensing practices are still emerging and market participants span device manufacturers, content platforms, and service providers, these tools can help organize the available technical and commercial evidence, assess contributions to standardized technologies, and provide structured reference points for negotiation or adjudication. These analytical tools also help identify whether proposed licensing terms remain consistent with FRAND principles in ways that support competitive outcomes in both upstream and downstream markets.

Economically sound valuation frameworks serve an important coordinating function between technical inventions and market implementation. FRAND valuation contributes to maintaining balance in industries that depend on technology standards. It provides a mechanism through which patent holders can obtain a fair return on their investments in innovation, while allowing implementers to access the technologies required to develop and distribute standard-compliant products without facing prohibitive costs that could limit participation or deployment. A coherent valuation framework supports this balance by aligning incentives among participants in the standardization process and by promoting conditions that sustain both innovation and the broad diffusion of standardized technologies.

As successive generations of video codecs support a widening range of applications—from media streaming to connected devices, the need for rigorous economic principles becomes more pronounced. Establishing coherent approaches for assessing the economic value of standard-essential technologies is crucial for producing evidence that can inform negotiation, adjudication, and policy analysis. In this sense, economists view FRAND valuation as a critical analytical tool that links technological progress to measurable effects within industries shaped by global standardization. ●