

STANDARD ESSENTIAL PATENTS

The Basics: Terminology

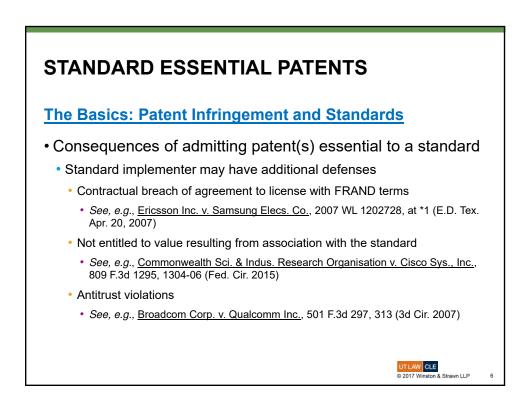
• Fair, Reasonable, Non-Discriminatory Royalty (FRAND)

- License grant to an unrestricted number of applicants on a worldwide, non-discriminatory basis and on reasonable terms and conditions.
- Not FRAND
 - **Patent Hold-Up:** "The ability of a holder of as SEP to demand more than the value of its patented technology and attempt to capture the value of the standard itself."
 - <u>Microsoft Corp. v. Motorola, Inc.</u>, No. C10-1823JLR, 2013 WL 2111217, at *10 (W.D. Wash. Apr. 25, 2013)
 - **Royalty Stacking:** When a standard implicates numerous patents, perhaps hundreds, if not thousands, if companies are forced to pay royalties to all SEP holders, the royalties will "stack" on top of each other and may become excessive in the aggregate.

• Ericsson, Inc. v. D-Link Sys., Inc., 773 F.3d 1201, 1209 (Fed. Cir. 2014)

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