

# The State of Play: Standard Essential Patents

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## JPO SEP Symposium

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# The Positive Economic and Social Value of SEP Based Standards

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## **SEP based standards generate enormous consumer surplus**

- Mobile technologies have created \$6.4 trillion of annual consumer surplus, with approximately 65% of that value stemming from 3G and 4G capability

## **SEP based standards generate enormous economic value**

- The adoption of 5G will add \$1.3 trillion to the global GDP by 2030



# SEP Based Standards Success Requires a Balanced Ecosystem

## Strike the balance

- Licensors: make massive R&D investments, but effectively cede their patent-protected technologies to rivals by agreeing to put their IP into a standard
- Licensees: at risk of overpaying for (or being unable to use) technologies, disabling them from entering the marketplace



## Recognize roles of both licensor and licensee

- Without buy-in from both sides, standards don't succeed



# Rhetoric Infecting the Symbiotic Relationship

**“A fearmongering environment weakens innovators’ incentives”**

“Hold-Up”

“Royalty-stacking”

“Rampant Litigation”

“Anticompetitive”

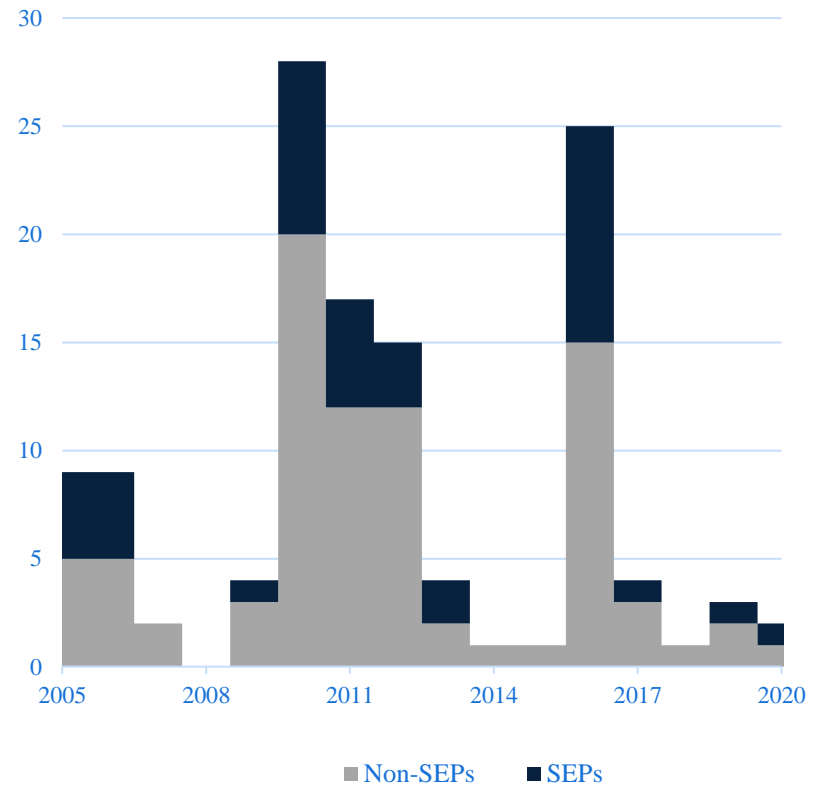
**“Consequential holdouts from the lack of incentives”**

“Sue Me” mentality

Lawsuits per Patent



Smartphone Lawsuits per Year



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# Moving Toward Balance

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## Align incentives

### Accountability from both sides

- Sensible offers and counter-offers
- Sense of urgency

### Guidance

- US policy statements
- Enforcement mechanisms or enhanced damages



**"Let's keep in mind that although quitters never win, they often manage to avoid litigation."**



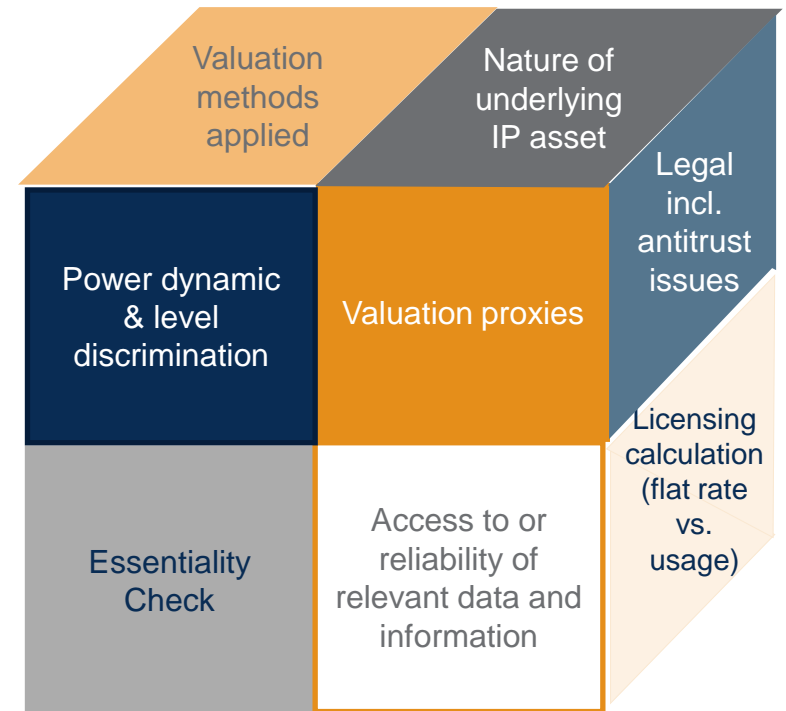
# Underlying Issues to Address

## Interdependencies

- SEPs, a core component in licensees' products
- Power dynamics in SEP negotiations

## Calculating F/RAND royalties

- Essentiality checks
- Valuation Proxies



Fair, Reasonable And Non-Discriminatory  
*plus Good Faith*

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# Conclusion

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**BALANCE &  
TRANSPARENCY**

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# Contact Information

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