



Business Information
In A Global Context

2nd Annual

Patents & Standards in the Communications Industry

Critical Tools and Strategies to Exploit your Patent
Portfolio while Minimising Competition Risks

Hear from the experts:

European Commission
(Belgium)

European Patent Office
(EPO) (Germany)

European
Telecommunications
Standards Institute (ETSI)
(France)

World Intellectual Property
Organization (WIPO)
(Switzerland)

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Trevisan Cuonzo
Avvocati (Italy)



27 and 28 February 2008 • Millennium Knightsbridge Hotel, London, UK

Leading experts in standards and patent practitioners
in Europe and the United States come together to share
their insights and best practices on how to:

- MAKE the most out of the interface between Standards and Patents in the Telecom Industry
- UNDERSTAND your contractual obligations within the Standards-Setting process
- INCORPORATE the key competition considerations into your license negotiation strategy
- OVERCOME "Open Source" and "Open Standards" related issues
- MANAGE the business and legal risks of using open source code
- BUILD, exploit and protect your patent portfolio to effectively maximise its value
- IMPLEMENT the best strategies for enforcing your technology patents



Practical, Interactive Post-Conference Workshops

A: Negotiating, Drafting, and Streamlining Your Software Licensing Agreements – 28 February 2008

B: Drafting a Successful Technology Patent and Maximising its Value: A Global Approach Focusing on Europe, US and Japan – 29 February 2008

see inside for full details

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Critical tools and strategies to develop a value-based corporate patent policy that minimises risks of sanctions for anti competitive violations in an era of increased scrutiny and enforcement

Standard-setting is increasingly important in the communications industry. It is now more essential than ever to achieve interoperability of new products and technologies in the telecoms, electronics and software industries.

However, recent cases including Rambus, Broadcom vs. Qualcomm have sent a clear message that the on-going tension between standards and patents is triggering an increased scrutiny by competition authorities. Holders of patents incorporated into communication standards must be aware that violations of Competition laws can entail severe penalties or a complete ruling out of the market.

Moreover, software licensing is evolving with the growing popularity of open source software (OSS). However, this growth comes with legal risks companies should know how to manage through corporate open source policies whether they are primarily users or developers of technology products.

For most businesses, patents for innovations are their most valuable assets and so the stakes in litigation are high – losing a case may seriously damage a company's competitive position and even the bottom line!

Instituting responsive and forward-thinking IP policies will greatly contribute to the success of these initiatives and both protect these intangible assets while generating increased revenue.

For this 2nd Conference on Standards & Patents, focused on the Communications Industry's needs, C5 has again assembled an exceptional panel of leading experts in standards, patent practitioners and lawyers, who will provide the latest information on:

- Examining key features of the standards-setting process in relation to patents disclosure
- The impact of recent competition enforcement actions on compulsory licenses and forthcoming investigations on the industry

- How competitive authorities define an anti-competitive behaviour or abuse of dominant position?
- Overcoming digital convergence challenges and making the most of present and future opportunities
- Open standards and the relationship with the open source community: Impact of patent provisions in GPLv3
- Determining the effect of the use of open source code in the development of the product – how is the proprietary use of the software affected?
- Taking advantage of the setting up of standards to increase the business value of your patent portfolio
- How the increasing existence of standards will impact strategies for enforcing your patents
- How best to prepare your defensive strategies

Participants will also receive a comprehensive set of written materials prepared by the speakers for the conference. These are invaluable reference materials which you will use again and again long after the conference is over.

Seats at this unique event are sure to go quickly. Don't delay, register today by calling +44 (0) 20 7878 6888, by faxing your registration form to +44 (0) 20 7878 6896 or by registering online at www.c5-online.com/communication

Plus, add value to your attendance by signing up for our Post Conference Workshops:

A: Negotiating, Drafting, and Streamlining Your Software Licensing Agreements – 28 February 2008

B: Drafting a Successful Technology Patent and Maximising its Value: A Global Approach Focusing on Europe, US and Japan – 29 February 2008

Hear from industry experts, including...



Yann Dietrich
EMEA Chief IP Counsel,
Senior IP Attorney
Intel



Kent Baker
VP, Global IPR Policy & Compliance
QUALCOMM S.A.R.L



Tim Frain
IP Counsel
Nokia



Dr. Michael Frohlich
Legal Advisor
European Telecommunications
Standards Institute (ETSI)



Paul Davey
Director of Intellectual Property, Group
Vodafone Group Services Limited



Alex Gardiner
Senior Examiner
Directorate General 1
European Patent Office

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8:15 Registration Begins

9:00 Chair's Introductory Remarks

David Perkins

Partner
Milbank, Tweed, Hadley, & McCloy LLP (UK)

9:15 Standards-Setting Organisations: Understanding Your Contractual Obligations as a Participant

Dr. Michael Frohlich

Legal Adviser
European Telecommunications Standards Institute (ETSI)
(France)

Yann Dietrich

EMEA Chief IP Counsel, Senior IP Attorney
Intel (UK)

- What are the underlying benefits in participating in standards-setting
- Comparing and contrasting standards-setting organisations
 - institutionalised standards bodies
 - contact based industry consortia
- Self-regulation vs. legislation: How standardisation bodies address patents
- Examining key features of the standards-setting process - formation of new standards-setting consortia - who contributes to them?
- What patents to disclose: all your patents or only patents related to standards?
- How and when to disclose - at patent application stage or after the patent is granted?
- Ramifications of non or insufficient disclosure
- What are your obligations to license your essential patents?

10:15 The Interface between Standards and Patents: Impact of Standards-Setting on the Telecom Industry

Moderator:

Tim Frain

IP Counsel
Nokia (UK)

Panellists:

Nicholas Banasevic

Deputy Head of Unit
DG Competition-C3
European Commission (Belgium)

Dr. Michael Frohlich

Legal Adviser
European Telecommunications Standards Institute (ETSI)
(France)

Kent Baker

VP, Global IPR Policy & Compliance
QUALCOMM S.A.R.L. (USA)

Paul Davey

Director of Intellectual Property, Group
Vodafone Group Services Limited (UK)

- Why standards development organisations adopt IPR rules
- How should patent owners behave in standards development organisations?
 - disclosure of essential patents. Who determines essentiality?
 - making a FRAND licensing commitment
- How to strike the right balance between the rights of:
 - essential patent owners,
 - third parties to make and sell interoperating product,
 - and the public interest not to lock users into specific technology platforms
- Avoiding anti-competitive pitfalls

11:30 Networking Coffee Break

11:45 Key Competition Considerations: What to Look for to Avoid Lurking Pitfalls such as the Abuse of Dominant Position

David W. Hull

Partner
Covington & Burling (Belgium)

Nicholas Banasevic

Deputy Head of Unit
DG Competition-C3
European Commission (Belgium)

Dr. Peter Kather

Partner
Preu Bohlig & Partner (Germany)

- How recent competition enforcement actions on compulsory licenses and forthcoming investigations will impact the industry (EC vs. Rambus, EC vs. Microsoft, Broadcom vs. Qualcomm)
- How competitive authorities define an anti-competitive behaviour or abuse of dominant position?
 - late or no disclosure: patent ambush
 - unwilling or refusal to grant licence
 - unreasonable licensors
 - deceptive FRAND commitments
- Pros and cons of ex ante pricing: mandatory ex ante vs. voluntary ex ante
- How to comply with your obligation to license IPR on FRAND terms
- How to negotiate licenses to implement standards
- Tailoring your agreements using the official licensing terms and conditions
- When granting a license what precautions to take with regards to competition law?
- Avoiding the threat of being taken off the market pending litigation or settlement negotiations
- Other risks and ramifications in case of non compliance including costly administrative procedure, relevant penalties and fines

12:45 Networking Luncheon for Delegates and Speakers

2:00 Overcoming Digital Convergence Challenges and How to Make the Most of Present and Future Opportunities

Louise Pentland

Vice President, Legal
Enterprise Solutions
Nokia Corporation (USA)

- Overview of the convergence among multiple technologies and convergence between industries
- What are the opportunities for the key players?
- Interoperability or non-interoperability: what are the underlying benefits?
- Who are the beneficiaries: public/social interest vs. proprietary benefits
- Impact of the extent of the convergence between television, 3G technology and VoIP
- What are the main areas of risk and how should these risks be addressed
 - who owns the patent?
 - who is entitled to grant license and perceive royalties?
- How the convergence of industries is impacting cross-licensing

2:45 Overcoming "Open Source" and "Open Standards" Related Issues

Roger Bickerstaff

Head of IT Sector Group
Bird and Bird (UK)

- What is the open source business model?
- Open standards and the relationship with the open source community
- Impact of patent provisions in GPLv3
- Enforceability of the GPL:
 - GPL license recognised as valid under German law
 - US case-law latest developments
 - role of Software Freedom Law Center
- Open source - a revolutionary approach to software development?

3:45 Refreshment Break

4:00 Licensing Agreement: Ensuring it Allows for the Use, Manipulation, and Control of Open Source Code

Nigel Swycher

Partner
Olswang (UK)

- Understanding what the development and business models are for open source software
- Determining the effect of the use of open source code in the development of the product – how is the proprietary use of the software affected?
- Best practices for determining ownership of the IP when open source code is used
- Adhering to the requirements of open source licenses and making the determination of when it is or is not beneficial to go to open source
- Exploring the intersection of open source and M&A transactions – defining and attributing ownership during joint ventures and post-consolidation
- Examining the implications of the use of open source software in the context of financing
- Considering the business and legal risks of using open source code

5:00 Conference Adjourns for the Day

Thursday 28th February 2008

9:00 Chair's Introductory Remarks

Daniel Pavin

Partner
Taylor Wessing LLP (UK)

9.15 Building, Exploiting and Protecting Your Patent Portfolio

Dr. Paul Cozens

Partner, IT and Engineering Group
Mathys & Squire (UK)

Jane Clark

Patent Attorney
Mathys & Squire (UK)

This session will provide you with the key legal considerations and practical tips that should be considered when building, implementing and maintaining a winning patent strategy. Working through case studies and real-life examples, the speakers will focus on practical solutions to bring into the communication industry increasingly under standards' influence.

- Integrating your patent strategy with you technological and business strategy
- Moving IP issues from the periphery to the forefront in business decisions
 - instituting best practices to protect your organisation's IP in order to maintain your competitive advantage
 - offensive and defensive strategies for IP protection
- Strategic filing of patents
 - generating and identifying patentable inventions
 - when, where and what to patent?
 - evaluating the risk of filling applications too soon and loose competitive advantage
- Prosecution
 - tailoring the prosecution strategy
- Portfolio management
 - introducing a robust in-house IP programme that gains the support of other management officers
 - what IP issues can you practically cover in house, and when should you call in the specialists?
 - how should IP counsel harmonize their practice with other in-house counsel?
 - examples of successful portfolio management
- Exploitation
 - Taking advantage of the setting up of standards to increase the business value of your patent portfolio

- choice of offensive or defensive use of patent portfolio and implications of that choice
- licensing options including cross-licensing, patent pooling and others: capitalising on them to establish strategic alliances
- Standards and IP best practice

10:15 Networking Coffee Break

10.30 Practical Considerations and Best Strategies for Enforcing Your Technology Patent

Panel Moderator and Panellist:

James Marshall

Partner
Taylor Wessing (UK)

Panellists:

Gabriel Cuonzo

Partner
Trevisan Cuonzo Avvocati (Italy)

Jeffrey Butler

Partner
Kenyon and Kenyon LLP (USA)

Dr. Peter Kather

Partner
Preu Bohlig & Partner (Germany)

There is no doubt that patenting offers a tremendous opportunity for holders to increase commercial profitability. This can be guaranteed through a strong enforcement strategy you should incorporate to prevent others from infringing your patent. This panel discussion gathers outstanding experts with an in-depth experience in standards & patents related issues in the communication industry, who will provide you with comprehensive tactics on how you can successfully implement a sustainable enforcement strategy that secures a solid patent position, both offensively and defensively. Topics include:

- How the increasing existence of standards will impact strategies for enforcing your patents
- Ensuring that you have taken the necessary steps as soon as your patent is issued
 - "marking" of your invention
 - notifying your competition and the industry
 - disclosure of the patent to Standards bodies
- Exploring enforcement strategies having regard the differing litigation procedures in the important jurisdictions in Europe
- How best to prepare your defensive strategies
- approach of national courts to validity
- What is the current state of enforcement across key jurisdictions in Europe, having regard to the Enforcement Directive?
- What remedies are open to patent holders in different jurisdictions?
- How to use customs detention as a way of enforcing patents
- Taking the judicial route when litigation is the only solution
 - Choosing the right jurisdiction and one over the other
 - importance of expert evidence
 - is it possible to bring the suit before the patent is granted or before the standard is issued?
 - cross border injunctions and cross border declarations – are they available?
 - When is it possible to obtain an interim injunction?
 - how long will it take to litigate in each jurisdiction?
 - what are the prospects of success in each jurisdiction?
 - what damages are available across various jurisdictions in Europe

12.00 Benefits of Using ADR and Mediation in Patent & Standards Disputes

Eun-Joo Min

Head – Legal Development Section
Arbitration and Mediation Center
WIPO (Switzerland)

12:30 Chair's Closing Remarks and Conference Ends

12:30 Luncheon for the Workshop Attendees

Fax order form to +44 (0) 20 7878 6896 or register online at C5-online.com/communication

Thursday 28th February 2008

1:30 pm – 5:00 pm
(Registration Begins at 1:00 pm)
(3 CPD points)

**Negotiating, Drafting, and Streamlining
Your Software Licensing Agreements**

Eun-Joo Min

Head - Legal Development Section
Arbitration and Mediation Center
WIPO (Switzerland)

Roger Bickerstaff

Head of IT Sector Group
Bird and Bird (UK)

The workshop leaders, highly regarded experts within the licensing field, will address the myriad of issues involved in the sophisticated licensing agreements common in today's global economy. With their significant level of expertise, they will walk you through the process: from the negotiating phase through to drafting a complex license, addressing exploitation and meeting clients business objectives and they will provide you with the tools you need to put together strong license agreements that will be well positioned to withstand future challenges.

This hands-on, interactive workshop on software licensing will ensure that you build on the foundations set out in the main programme.

Workshop highlights include:

- Strategies for working with your client and negotiating the agreement
- Using preliminary documents (term sheets, letters of intent and nondisclosure agreements) to the best advantage
- Defining the rights to be licensed
 - what is and is not included in the grant
 - exclusivity and other limitations and restrictions
 - term of license, termination and renewal rights
- Charging strategies
- Understanding how license models can effect revenue recognition
- Developing maintenance and support strategies
- Structuring ownership of the underlying rights and of any derivative works or improvements
- Making the most of risk allocation provisions
 - indemnification – issues and approaches
 - limitations of liability
 - warranty coverage
- Anticipating third-party use issues
 - assignments
 - sublicenses and consents
- Understanding the meaning of boilerplate provisions and knowing when they're necessary
 - dispute resolution mechanisms
 - choice of law
 - waiver

Friday 29th February 2008

8:45 am – 1:00 pm
(Registration Begins at 8:00 am)
(4 CPD points)

**Drafting a Successful Technology Patent
and Maximising its Value: A Global Approach
Focusing on Europe, US and Japan**

Alex Gardiner

Senior Examiner Directorate General 1
European Patent Office (Germany)

John Collins

Patent Attorney
Marks and Clerk (UK)

Tim Clise

US Patent Attorney
Schwegman, Lundberg, Woessner & Kluth P.A (USA)

Tad Itoh

ITOH International Patent Office (Japan)

The drafting of a patent application is a complex area in which global differences in patentability, formal requirements and interpretation lead to competing requirements for patent drafting. This master class is led by a Patent Attorney with global experience in obtaining and enforcing patents, two senior officials at the EPO, a US Patent Attorney and a Japanese Patent Attorney. This team will provide you with the right tools to draft patent applications which will be structured to provide strong patent protection globally, with a focus particularly on Europe, the US and Japan.

This interactive session will include analysis of structuring specifications and claim formats and will provide hints and tips on how to avoid unduly limiting the scope of patent protection as a result of differences in national patent practices.

Attend the master class and you will gain an understanding of how to protect technology effectively internationally

- Understand the differences in practices in Europe, Japan and the US that impact on patent drafting
- What are examiners looking for
- What should you try to include and what should you try to avoid in drafting a successful patent application
- How to structure specifications
- Using different claims types
- Avoid transnational enforcement problems
- Considering licensing opportunities and enforcement issues when drafting claims
- Plan for the future prosecution
- Filing strategically
- A case study

If you would like to sponsor or exhibit at this event, please contact Colin Carter on +44 (0) 20 7878 6933 or email c.carter@C5-Online.com for more information

Who Should Attend

- IP Counsel
- Legal Counsel – IPR Policy and Compliance
- Head of Intellectual Property Law
- IP Technology Legal Counsel
- Vice Presidents, IPR
- Director, Managers
 - Licensing
 - Strategic Business and Corporate Development
- Private Practice Lawyers
 - Intellectual Property
 - Technology, Media & Telecoms
 - Information Technology
 - Competition
- Patent attorneys

2nd Conference on

Patents & Standards in the Communications Industry



Business Information
In A Global Context

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722L08.EUROCOMM

ADMINISTRATION DETAILS

CONFERENCE

Date: 27 & 28 February 2008
Time: 8:15 am - 5:00 pm
Venue: Millennium Knightsbridge Hotel, London
Address: 17 Sloane Street, Knightsbridge, London, SW1X 9NU
Tel: +44 (0) 20 7235 4377 Fax: +44 (0) 20 7235 3705
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MASTER CLASS

Date: 28 & 29 February 2008
Time: 1:30 pm - 5:00 pm & 8:45 am - 1:00 pm

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CONTINUING EDUCATION

16.5 hours (Master Class 3.0 & 4.0 hours) towards Continuing Professional Development hours (Law Society Reference No: BJEURO).

DOCUMENTATION

If you are not able to attend, you can buy copies of the presentations provided to delegates on the day of the event. Please send us this completed booking form together with payment of £350 per copy requested. For further information please call +44 (0) 207 878 6888 or email enquiries@c5-online.com.

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