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Scanias remissvar EU-kommissionens patentpaket Ju2023/01196

Scania tackar för möjligheten att inkomma med remissvar på EU-kommissionens patentpaket avseende förslaget om reglering av SEP-licensiering. Vårt inspel på patentpaketet görs nedan på engelska.

Scania welcomes the proposed regulatory framework

Scania wants to express our strong support for the regulatory framework regarding the licensing of standard essential patents (SEPs) that the European Commission is now proposing. Regulatory intervention in this field is needed and should not be further delayed or watered down in any way.

There are challenges with the current system

We can confirm that the current system is not working well and is in strong need of reform. Our experience with the use of standardised cellular communications technology in connected vehicles is that there is little true negotiation with patent holders for securing required licenses. Scania, as well as other vehicle manufacturers, is often threatened with injunctions and risk paying excessive royalties to avoid time-consuming and even more costly litigation or production stoppages.

One specific problem is that our suppliers are denied licenses as most SEP holders choose to license only vehicle manufacturers - something we consider anti-competitive and a violation of the principle that licenses should be granted on fair, reasonable and non-discriminatory (FRAND) terms to any willing licensee regardless of its position in the supply chain. It is worth highlighting that the only patent license needed for the development of a motor vehicle that a supplier usually cannot obtain is that for cellular communications. This reduces the incentive for our suppliers of cellular communications technology to invest in technology development and thus reduces innovation in their sector.

Another main problem is the plethora of declared SEPs, many of which being either not true SEPs or non-valid. These are not easily identified in the vast amount and boost the number of alleged SEPs being licensed by the patent holders risking unjustifiably increased royalty demands.

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A reform of the patent system is necessary for the competitiveness of the European manufacturing industry

Reform is therefore necessary to maintain and enhance the competitiveness of the entire European manufacturing industry, which increasingly makes use of cellular communications. The problems we encounter in the automotive sector currently are most likely to spill over to other sectors and the wider Internet of Things. Since the vast majority of 5G patents are held by non-European companies (China 33%, South Korea 27%, EU 17%, US 14%, Japan 9%) it is clear that a licensing system that excessively favours SEP holders over licensees is not in the interest of Europe's industry.

A quick adoption of the regulatory framework is needed

Scania believes that the regulatory framework laid down by the European Commission regarding the licensing of standard essential patents provides a balanced set of proposals that rightly focuses on creating more transparency, providing parties with mechanisms to conduct more balanced licensing negotiations, and reducing litigation. It should be adopted without any further delay.

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