



2017 AIPPI World Congress – Sydney
Panel Session XI: How much for your FRAND?

In recent years there have been a number of high profile cases in a number of jurisdictions concerning FRAND-committed standard essential patents (SEPs). One of the main topics considered in these cases has been the availability of injunctive relief, but a crucial issue which has not yet been addressed in many jurisdictions is a determination of an appropriate FRAND royalty. This is paradoxical since a disagreement about royalties is often the cause and origin of the dispute.

Reasonable royalties have been determined in some US cases (e.g. *Microsoft v Motorola*). In Europe, the first significant determination of FRAND was carried out in *Unwired Planet v Huawei and others*, a judgment of the UK Patents Court handed down in April 2017. Following previous findings of infringement and validity, the UK Patents Court addressed the issue of the determination of a FRAND royalty rate, and the nature of the FRAND commitment, in a comprehensive 166-page judgment.

This session will consider the UK case, as well as cases from other jurisdictions, and provide an overview of royalty rate determination issues for SEPs, related issues for standard setting organizations (SSOs), approaches adopted by other entities, such as patent pools and non-practicing entities (NPEs), and also touch on the use of arbitration to resolve royalty rate disputes.