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**Panel Session VI:
Forming portfolios for FRAND licensing: who decides?**

A patent that protects technology essential to a standard is called a SEP. When a patent holder declares a patent essential to a standard set by a standard setting organization (SSO), e.g., ETSI telecommunications standard, it must make a commitment to license that patent on FRAND (Fair, Reasonable, and Non-Discriminatory) terms.

This panel session will not address the “normal” FRAND issues (methodology of the calculation of FRAND rates, availability of injunctive relief etc.), but rather focus on two principle questions:

1. Who decides what the territorial scope of a FRAND licensing offer/contract is? Can a national court or an arbitration panel rule on a FRAND rate for a global/regional/local portfolio? Is it in the discretion of the patentee to determine the territorial scope of an SEP portfolio, and can a court/panel overrule such determination made by the patentee?
2. Who is best positioned to decide on FRAND rates? National courts or arbitration panels, or any other alternative dispute resolution mechanisms? What is the required qualification of the judges? Given the associated costs of litigation, is the court/panel expected to make its own FRAND calculation, or shall they rather approve/disapprove the concrete FRAND proposals submitted by the parties?