

# UK's SEP system needs overhaul, open-source industry body urges

By **Douglas Clarke-Williams**

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An industry group advocating for open-source software has said that the proposed revision to the UK's regime for standard-essential patents is an opportunity to advance the cause of open standards over patented tech in the country. The system around SEPs and FRAND rates has been subject to "policy capture" by incumbent companies and standards bodies, OpenUK claimed.

The UK's current system for standard-essential patents and the determining of fair, reasonable and non-discriminatory rates for their use hinders innovation, an industry group representing the interests of open-source software and hardware development has said.

The system around SEPs and FRAND rates has been subject to "policy capture" by incumbent companies and standards bodies, OpenUK claimed.

In a response, published on Tuesday, to the UK Intellectual Property Office's consultation on proposed changes to the SEPs and FRAND system, the industry body urged the IPO to recognize the entrenched influence of standards bodies in maintaining a system that it said limits innovation.

"SEPs are perceived to be a significant area of policy capture, where large companies and incumbents are able to use their funded representation to both attend and influence standards bodies and despite safeguards, are able to capture standards through this participation and patents," it said.

"They are able to use their funding position to engage in the standard-setting process."

OpenUK, which counts ARM, Microsoft and Intel among its sponsors, is calling for reform of the FRAND process to go beyond just the transparency and procedural adjustments put forward by the IPO.

It proposed that FRAND commitments should include not only making the standard in question available at no cost, but that there should be carveouts for technologies licensed on open-source terms with no SEP fees to be paid.

It predicted that if open-source technologies were sufficiently supported and factored into considerations around technology licenses, the number of SEPs would diminish and fewer patents would be deemed essential in the future.

Open source was stressed as a particularly crucial aspect of the UK's national digital infrastructure; the report said that the UK is home to Europe's biggest open-source software development community, measured both by number of individuals and lines of code contributed.

"As open source increasingly underpins foundational layers of modern infrastructure supporting the global digital economy — from AI frameworks to connected devices and green technologies in both enterprise and public sector — it becomes imperative that the SEP environment is designed with accessibility, inclusivity, and legal clarity in mind and thereby enables its functioning in

today's software world," OpenUK said.

The response is one of the few positive endorsements of the IPO's approach, which has been largely criticized by companies large and small (see here).

Also in support of the suggested reforms was the Fair Standards Alliance, which represents large tech companies including Amazon, Apple and Google. In its consultation response, seen by MLex, it praised the IPO's efforts to increase transparency and "reduce information asymmetry" between SEP licensors and licensees.

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