

Table of Contents

Abstract	7
Introduction	11
1. Objectives and Benefits of Standardization	15
1.1 ETSI GSM Standards	16
1.2 The Role of SSOs and Rational Behind the FRAND Commitments	19
1.3 Criticized Pitfalls of the Current FRAND Regime	21
1.3.1 The Patent Hold-Up Problem	21
1.3.2 Royalty Stacking	23
2. Competition Law and Intellectual Property Rights	27
2.1 The Objectives of Article 102 TFEU	30
3. The Applicability of Article 102 TFEU to Enforce FRAND Commitments	33
3.1 Market Definition in Technology Markets	34
3.2 Dominance in Technology Markets	35
3.3 Abusive Conducts in a Standard-setting Context	37
3.3.1 Excessive Pricing Under Article 102 (a) TFEU	38
3.3.2 Price Discrimination under Article 102 (c) TFEU	41
3.4 Other Exclusionary Practices	44
3.4.1 The Misuse of Intellectual Property Rights	44
3.5 Conclusion on the Applicability of Article 102 TFEU on FRAND Commitments	45

4. Case Studies Related to the Enforcement of FRAND Commitments under Article 102 TFEU	47
4.1 The <i>Qualcomm</i> Case	48
4.1.1 What is the Object of the European Commission's Decision to Initiate Proceedings in the <i>Qualcomm</i> case?	48
4.2 Possible Doctrinal Solutions based on the Meaning of FRAND Terms	50
4.2.1 The Meaning of FRAND Commitments under Article 102 (a) and (c) TFEU - Possible Doctrinal Solutions Based on Established EC Case Law	52
4.2.2 Deceptive Conduct in the Standard-Setting Process - Is the AstraZeneca " <i>Doctrine</i> " Applicable to FRAND Commitments?	55
4.3 Need for a Precedent from the European Commission	60
5. FRAND Defence in Patent Litigation under German Law	65
5.1 FRAND Defence and Limited Right to Injunctions	66
5.2 The ICom v Nokia Case	69
Conclusion	73
References	75