

Questions for the Record from Rep. Darrell Issa for Dr. Copan
Hearing on “IP and Strategic Competition with China: Part IV – Patents, Standards, and
Lawfare”
May 7, 2024

1. There has been a shifting approach to antitrust enforcement against SEP holders over the past three administrations. How does the uncertainty of inconsistent antitrust SEP policy affect U.S. innovators and their ability to participate in standard setting?
 - a. What has been the response of foreign governments and jurisdictions given the uncertainty in U.S. policy?
 - b. What has been the impact of SEP policy setting and SEP adjudication in other jurisdictions, such as China and the EU, on both U.S. SEP owners and U.S. implementer companies?
2. A number of PRC-based entities have been heavily involved in standards setting activities with significant support of the Chinese Communist Party and have been increasingly having their technology included in standards. How much of this is based on the merit of the Chinese companies' contributions, and how much is based on coordinated efforts by the PRC delegations to the standard setting organizations?
 - a. How do we ensure that U.S. companies and researchers are not at a disadvantage against such coordinated efforts?
 - b. Is there a formal process in place within the U.S. government to provide such support? If so, what is it and how can it be better supported?
 - c. What can the U.S. government do to ensure that standard setting organizations are better able to resist the coordinated manipulation tactics of the PRC?

Questions for the Record from Rep. Scott Fitzgerald for Dr. Copan
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1. The UK Supreme Court decided two landmark cases in the last few years in which it made FRAND determinations on a worldwide basis – *Unwired Planet v. Huawei* and *Interdigital v. Lenovo*. In those cases, the court articulated a framework for making FRAND determinations. What do you think of the decisions in those cases?”
2. Despite being on multiple U.S. sanctions lists, Huawei utilizes its massive patent portfolio to collect licensing revenue from U.S. companies, which generated the sanctioned company more than \$560 million in 2022. Should the United States continue to allow sanctioned companies, like Huawei, to circumvent U.S. sanctions through the licensing of U.S. patents to U.S. companies?
3. If you ask five people to define what constitutes fair, reasonable, and non-discriminatory (FRAND) licensing terms, you are likely to get five different answers. What do you think is the best method to determine FRAND terms, and who should ultimately be the arbitrator of that decision?