

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

1. What are the potential benefits and risks to the United States taking a more robust role in the international standards and SEP systems?
2. A great deal of attention has been devoted to the availability (or lack thereof) of injunctive relief in SEP cases. Does the availability of injunctive relief tend to have any impact on the outcome of licensing negotiations? If so, in what way?
 - a. Many commentators assert that injunctive relief is no longer available for patent infringement in the United States. Is that true, and does it matter if the patent at issue is an SEP? If so, why?

Questions for the Record from Rep. Scott Fitzgerald for Professor Cotter
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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?

Questions for the Record from Rep. Ben Cline for Professor Cotter
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1. How can the draft EU SEP Regulation address concerns about Chinese or PRC-backed entities leveraging European courts to hold American manufacturers hostage?
2. Can you please explain whether standard development organizations actually evaluate whether patents are essential to the standard, or whether instead the owners of the patents are the ones who make those assessments in their declarations?