3 November 2026

We write on behalf of streaming services, broadcasters and audiovisual media services large and small operating on every continent, serving local, regional, global, general entertainment, niche and genre and culturally specific audiences. The services we represent produce and distribute films and shows beloved by audiences around the world and used every day[1] to entertain, inspire and inform.

We are gravely concerned about the abuse of standard essential patents (SEPs) which is undermining the open standardisation setting process for video streaming technologies used in our services. Left unchecked this abuse will directly harm consumers, damage competition, significantly impact investment in local creative economies, misappropriate millions used to invest in creative content and innovative new offerings, and lower the quality of viewing experiences.

Modern consumer products rely on clear and agreed technical standards to ensure interoperability and enhance competition amongst device makers. Common protocols for widespread tech like USB-C charging and Wi-Fi are important foundational elements of the digital economy. The same is true for streaming technologies where standardised video coder and decoder (codec) technologies such as AVC and HEVC facilitate reliable, high-quality video from competing streamers across devices made by a multitude of competing manufacturers.

Patentholders benefit enormously when their patents cover the technical features of these standards, since inclusion in the standard greatly enhances the patent's market power by forcing every potential competitor to obtain a license for their technology. For that reason, SEPs must be licensed on "Fair, Reasonable And Non-Discriminatory" (FRAND) terms.

Unfortunately, a growing list of SEP holders – many of which invest primarily in lawyers and litigation – have abandoned that key principle when it comes to video streaming standards. They promise to license their patents on FRAND terms to persuade standard setting bodies – such as the International Organization for Standardization and the International Telecommunications Union – to incorporate technology covered by patents they hold into standards to be used by the entire industry. But once the standard is widely adopted, they renege on that promise and demand excessive royalties on threat of an injunction secured

[1] The Drum/DPP, "European TV & Streaming Outlook 2026," https://www.thedpp.com/news/european-tv-streaming-outlook-2026. *Note: In Europe, for example, 63-75% of the population use online video services every day.*

by filing lawsuits in a handful of jurisdictions where such injunctions are routinely granted without timely review of the validity of the asserted patents or before a final determination of infringement.

This bait-and-switch patent "holdup" where streamers who are locked-in for years to the standard (*e.g.* AVC and HEVC were published in 2003 and 2013 respectively) imposes enormous costs by destabilizing streaming technology standards, raising consumer prices, potentially diminishing commercial offerings through spiralling licensing demands, and chilling streaming innovation while the whole industry is mired in complex and lengthy litigation.

The threat isn't theoretical. A prominent European court recently issued advisory guidelines on FRAND royalty rates that, if adopted, would be staggering for the industry.[2] Without any supporting evidence, the court proposes that for two leading "streaming video on demand" (SVOD) services the annual royalty for codec patents should be 16% of 1/3 of annual subscription revenues (increased to 25% for premium services).[3] According to Statista, 2026 global SVOD revenues will reach nearly €85 billion, meaning that if only the lower rate were applied to both basic and premium revenue across the industry, well over €4,5 billion would be drained out of the entertainment sector, either in the form of lost opportunities for creators to make new films and shows or fewer resources devoted to inventing innovative viewing features. This would harm the creative community as well as the broader economy, with potential downstream effects for customers.

We do not level these criticisms lightly. All signatories strongly support the protection of intellectual property (IP) rights. They are fundamental to the creative and digital economies that are the lifeblood of our industry. It is precisely because we take IP rights so seriously that we object to and strongly believe these holdup tactics exceed the value of the underlying patents by a wide margin, raise real competition concerns,[4] and damage the pro-creativity and innovation reputation of IP rights we have fought for so long to defend.

Indeed, strong IP rights have been under assault for decades by some interests who claim that IP rights chill innovation and free expression.[5] We reject that narrative and others like it[6] – but the bait-and-switch, holdup strategy undermines the ability of the broader rights holder community to defend the vital role IP rights play in a thriving innovation economy from those

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[2] Mathieu Klos, "New FRAND guidelines: Munich Court aims to make proceedings more efficient," *JUVE Patent*, August 19, 2026.

[3] Noerr, "Munich Regional Court Publishes New FRAND Guidelines: A Blueprint for SEP Royalty Determinations with Important Implications for Litigation," https://www.noerr.com/en/insights/munich-regional-court-publishes-new-frand-guidelines-a-blueprint-for-sep-royalty-determinations-with-important-implications-for-litigation

[4] The details of this anti-competitive behaviour are explained extensively in an amicus curiae brief submitted by the MPA to the United District Court of Delaware in November 2025.

[5] Electronic Frontier Foundation, "A Declaration of the Independence of Cyberspace," https://www.eff.org/cyberspace-independence

[6] For instance, the oft repeated slogan "permissionless innovation" was routinely invoked to justify rampant online infringement.

who would diminish them.[7] Put plainly, the predatory conduct deployed by these SEP holders is cultivating a new generation of opponents for the IP community, from car makers to TV manufacturers to healthcare providers to farmers and more.

Streaming has introduced unprecedented competition, investment, value and choice to the video marketplace.[8] Creators have more opportunities than ever to find their audiences, and consumers can access films and shows they love when, where and how they choose at different price points[9] that make sense for their families.

The excessive practices of SEP holders threaten this progress. We need to facilitate a FRAND licensing framework that respects IP rights and allows the streaming ecosystem to continue to thrive in a way that benefits creators, innovators, consumers *and* IP rightsholders alike.

We therefore urge you to support strong public and private sector enforcement against abusive SEP licensing practices.

Sincerely,

Association of Commercial Television and Video on Demand Services in Europe

Commercial On-Demand and Broadcasting Association

Motion Picture Association

Streaming Innovation Alliance

Streamingdiensten Nederland

Asociación Española de Video on Demand

European Video on Demand Coalition

Streaming for Australia

Strima

Television Association of Programmers Latin America

[7] The campaign against IP rights has been described as "The Big Steal" by respected IP professor Jonathan M. Barnett.

[8] Video Then & Now | Streaming Innovation Alliance

[9] Luke Bouma, "Cable TV Customers Now Pay More Than Double What Cord Cutters Pay in 2025 According to New Survey," *Cord Cutter News,* April 3, 2025.