

**To:** Whom it may concern

**Subject:** Public consultation on patents and standards: A modern framework for standardisation involving intellectual property rights

Dear Sir/Madame,

Corallia is the first organisation (under Athena Research and Innovation Center) established in Greece for the management and development of Innovation Clusters, in specific sectors and regions of the country, aiming at boosting competitiveness, entrepreneurship and innovation, in knowledge-intensive and exports-oriented technology segments, where Greece has the capacity to build a sustainable innovation ecosystem. Its mission is to underpin and accelerate the development of cohesive and productive innovation ecosystems, within which actors operate in a coordinated manner, in specific sectors and regions of the country and where a competitive advantage and export orientation exists.

Corallia, in the course of executing its mission, has set up and operates three clusters, on microelectronics (mi-Cluster), space technologies (si-Cluster) and gaming and creative technologies (gi-Cluster). Collectively in these clusters 170 Greek companies and academic institutions participate giving employment to around 11,500 people and achieving exports of around €2 billion. Evidently, all of the above cluster participants are knowledge-intensive organisations, essentially commercializing on their intellectual property rights. In this context, more than 200 national (Greek) and international patents and patent applications have been filed by the above cluster-participants. Finally, it should be noted that all of the above organisations fall within the SME category, as per applicable EU law.

Given the above, **Corallia is in principle against any patents involved in any industry standards.** Patents by definition limit market competition, awarding (justifiably) a business advantage to the inventor for a limited period of time. Nevertheless, inclusion of such a patent, meaning a legal advantage against competitors, in standards that are mandatorily applicable by these same competitors obviously distorts competition and eventually drives them out of the market. SMEs, with their limited resources to participate in an international patenting strategy (requiring more than €50.000 in fees per patent) are particularly damaged by this development.

Nevertheless this is a development that indeed takes place and is known to our cluster-participants that are affected by it. **We therefore congratulate the European Commission on its initiative to undertake legislative measures to limit the effect of patents on standards.**

With regard to the key issues raised by the Commission, we note the following:

- 1. Transparency and openness are key factors in any successful attempt to limit the effect of patents on standards.** SMEs frequently have no way of knowing which patents are applicable in

which standards until it is too late. SMEs may have developed a product, making the relevant investment, or may have participated in an international tender, only to be informed late in the process that their costs will be raised substantially because of a patent lurking behind the otherwise mandatorily applicable standards. **This is why patent holders need to be forced to make public, in open registries, both granted patents and filed applications on specific standards at their own initiative and burden of proof.**

2. **A principle of accountability to notify and publicize ought to be placed upon patent holders particularly of essential patents (and patent applications) in standards.**
3. **FRAND terms is a reasonable and pragmatic solution of an in principle distorted and anti-competitive market condition.** They need to be reinforced **and quantified** in the Commission legislative proposal (eg. distinguishing between “essential” or “non-essential” patents and “granted patents” or “filed applications”, and capping royalties to a specific percentage in each case).
4. **Any patent dispute resolution mechanism ought to take into consideration SMEs located in the EU periphery and their access to (specialized and expensive) justice under fair and financially sustainable terms.**
5. Particularly in EU public sector tenders **a general principle of non-inclusion** in the respective specifications of standards where essential patents have been identified would greatly assist SMEs and foster competition.

We remain at your disposal for any further information you may require.

Kind regards,

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