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USPTO announces SEP Working Group

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Patent Alert

USPTO announces Standard-Essential Patent Working Group to renew American leadership in technology standards

In furtherance of recent actions directed to the restoration of robust and predictable patent remedies, the United States Patent and Trademark Office (USPTO) today announces the launch of a Standard-Essential Patent (SEP) Working Group, reporting directly to USPTO Director John A. Squires. The new SEP Working Group will be dedicated to ensuring that all patent holders — regardless of their size or sophistication — are treated fairly and that their rights receive strong and predictable enforcement wherever standards incorporate patented technologies. Today's announcement builds upon the recent USPTO engagement on patent remedies and enforcement.

Standards form the backbone of many modern technologies. From telecommunications to automotive systems to artificial intelligence, voluntary technical standards enable interoperability, create markets, and unlock innovation. Many standards incorporate patented technologies — innovations that represent significant investment, ingenuity, and risk-taking by American inventors.

Yet the SEP ecosystem has become increasingly hostile to innovators. Patent holders who contribute their technologies to standards face widespread efforts to devalue their contributions, unclear rules about their rights, and systematic suppression of licensing rates.

To counter the erosion of patent holders' rights and ensure that American inventors — whether they work for Fortune 500 companies, small startups, universities, or in their own garages — can obtain meaningful protection for their breakthroughs, the USPTO is **establishing the SEP Working Group**. It will be comprised of a cross-functional team and

will use all available USPTO authorities to deliver meaningful policy solutions on SEP-related issues. The SEP Working Group will be co-chaired by USPTO Deputy General Counsel for Intellectual Property Law and Solicitor Nicholas Matich, and USPTO Senior Legal Advisor Austin Mayron.

In recent months, working alongside the Department of Justice Antitrust Division, the USPTO has already spearheaded efforts to restore robust patent remedies by selectively and impactfully filing express court statements and tribunal comments.

On June 24, 2025, in **Radian Memory Systems LLC v. Samsung Electronics Co.**, before the United States District Court for the Eastern District of Texas, the USPTO filed a statement of interest making clear that "the incentive to innovate at the heart of the Patent Act is undermined when the availability of preliminary injunctions to block infringement is unduly limited." The USPTO emphasized that "irreparable harm is common in patent infringement cases because patents are hard to value and damages are difficult to calculate" — regardless of whether the patent holder practices the invention or relies on licensing to commercialize it.

Further, on November 25, 2025, in **Certain Dynamic Random Access Memory (DRAM) Devices** at the International Trade Commission, the USPTO filed its first ever public interest comment explaining that "without the exclusive rights that patents secure, breakthrough innovations would remain stranded in laboratories and workshops rather than reaching consumers through competitive markets." For that reason, "the public interest overwhelmingly favors the enforcement of valid patent rights through exclusion orders at the USITC," and, "[w]hen the Commission issues exclusion orders to protect patent rights, it does not act against the public interest — it vindicates it."

The USPTO's recent joint pronouncements underscore its commitment to advance consistent and correct application and enforcement of the intellectual property laws, including the Patent Act, to safeguard patents, fuel economic growth, and spur innovation to advance American freedoms. The USPTO's filings in both Radian and Certain Dynamic Random Access Memory (DRAM) Devices also explain how patent rights complement antitrust laws to permit the creation of standards, which yield new and useful technologies, products, or services for consumers. Today's announcement is a furtherance of those efforts and is intended to formalize, institutionalize, and operationalize such policy initiatives pertaining to SEPs.

The principles articulated in **Radian** and **Certain Dynamic Random Access Memory (DRAM) Devices** — that valid patents deserve strong protection, that injunctive relief serves important functions, that difficulty calculating damages can constitute irreparable harm, and that the public interest favors enforcement of patent rights — provide the foundation for the SEP Working Group announced today.

Specifically, the SEP Working Group will focus on three core objectives:

1. **Restoring Robust Remedies for Patent Holders–**Clarifying that valid patent rights, including SEPs, deserve strong and predictable enforcement;

2. **Facilitating Meaningful Participation in Standards Development**–Exploring mechanisms to incentivize and enable broader participation in standard developing organizations (SDOs), particularly by small and medium-sized U.S. enterprises; and
3. **Engaging Stakeholders and Promoting Transparency Across the Innovation Ecosystem**–Creating channels for dialogue with patent holders, implementers, SDOs, and other stakeholders to understand the challenges they face and identify solutions, and supporting these groups by developing resources to increase predictability in SEP licensing negotiations and standards development.

In furtherance of its three core objectives, the SEP Working Group will welcome and encourage input from stakeholders across the innovation ecosystem.

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