

VI. List of Works Cited

A. *Monographies and Articles*

- Rudi Bekkers and Andrew Updegrove 'IPR Policies and Practices of a Representative Group of Standards-Setting Organizations Worldwide' (2013) <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2333445> accessed 6 September 2014, 6.
- Roger G Brooks 'SSO Rules, Standardization, and SEP Licensing: Economic Questions from the Trenches' [2013] 9 (4) *Journal of Competition Law & Economics* 859.
- Ginevra Bruzzone and Marco Boccaccio, 'Standards under EU Competition Law: The Open Issues' in Giandonato Caggiano, Gabriella Muscolo and Marina Tavassi (eds), *Competition Law and Intellectual Property. The European Perspective* (Wolters Kluwer 2012) 85-112.
- Jorge J Contreras and David L Newman 'Developing a Framework for Arbitrating Standards-Essential Patent Disputes', 4/21/2014 *Journal of Dispute Resolution* (2014), 1 (forthcoming).
- Patrick D Curran 'Standard-Setting Organizations: Patents, Price Fixing, and Per Se Legality' [2003] 70 *The University of Chicago Law Review* 983.
- Thomas De Meese 'European Commission Accepts Commitments from Rambus in 'Patent Ambush' Case' [2010] 1 (3) *Journal of European Competition Law and Practice* 215.
- Josef Drexl 'Anti-Competitive Stumbling Stones on the Way to a Cleaner World: Protecting Competition in Innovation without a Market' [2012] 8 *Journal of Competition Law and Economics* 507.
- Josef Drexl 'Intellectual Property in Competition: How to Promote Dynamic Competition as a Goal' in Josef Drexl, Warren S. Grimes, Clifford A. Jones (eds), *More Common Ground for International Competition Law?* (Edward Elgar Publishing 2011) 210-229.
- Josef Drexl 'Real Knowledge is to Know the Extent of One's Own Ignorance: On the Consumer Harm Approach in Innovation-Related Competition Cases' [2010] *Anti-trust Journal* 667.
- Carter Eltzroth 'Arbitration of Intellectual Property Disputes' [2014] 1 (19) *Arbitration News: Newsletter of the International Bar Association Legal Practice Division* 88.
- Joseph Farrell, John Hayes, Carl Shapiro and Theresa Sullivan 'Standard Setting, Patents, and Hold-Up: A Troublesome Mix' [2007] 74 *Antitrust Law Journal* 603.
- Joseph Farrell, 'Standards and Intellectual Property' (1989) E-89-25 Working Papers in Economics, <<http://hoohila.stanford.edu/workingpapers/getWorkingPaper.php?filename=E-89-25.pdf>> accessed 2 September 2014.

- Michael Fröhlich “The smartphone patent wars saga: availability of injunctive relief for standard essential patents” [2014] 9 (2) *Journal of Intellectual Property Law and Practice* 156.
- Andreas Fuchs, “Patent Ambush Strategies and Art. 102 TFEU” in Josef Drexl, Warren S. Grimes, Clifford A. Jones (eds), *More Common Ground for International Competition Law?* (Edward Elgar Publishing 2011) 177-197.
- Damien Geradin and Miguel Rato “Can Standard-Setting Lead to Exploitative Abuse? A Dissonant View on Patent Hold-Up, Royalty Stacking and the Meaning of FRAND” [2007] 3 *European Competition Law Journal* 101.
- Damien Geradin, ‘Standardization and Technological Innovation: Some Reflections on ex ante Licensing, FRAND, and the proper means to reward innovators’ (Intellectual Property and Competition Law Conference, Brussels, June 2006) <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=909011> accessed 19 August 2014.
- Pierre Heitzmann, ‘Arbitration and Criminal Liability for Competition Law Violations in Europe’ in Gordon Blanke, Phillip Landolt (eds), *EU and US Antitrust Arbitration: A Handbook for Practitioners* (Kluwer Law International 2011) 1251-1292.
- Justin (Gus) Hurwitz “The Value of Patents in Industry Standards: Avoiding License Arbitrage with Voluntary Rules” [2008] 36 *AIPLA Quarterly Journal* 1.
- Robin Jacob “Competition Authorities Support Grasshoppers: Competition Law as a Threat to Innovation” [2013] 9 (2) *Competition Policy International* 15.
- Kraig A Jakobsen “Revisiting Standard-Setting Organizations’ Patent Policies” [2004] 3 *Northwestern Journal of Technology and Intellectual Property* 43.
- Alison Jones “Standard-Essential Patents: FRAND Commitments, Injunctions and the Smartphone Wars” [2014] 10 (1) *European Competition Journal* 1.
- Alison Jones, Brenda Sufrin, *EU Competition Law: Text, Cases and Materials* (OUP 2011).
- Pierre Larouche, Jorge Padilla and Richard S Taffnet, ‘Settling FRAND Disputes. Is Mandatory Arbitration a Reasonable and Non-Discriminatory Alternative?’ (2013) Hoover IP2 Working Paper Series 13003, 1 <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2346892> accessed 18 August 2014.
- Mark A Lemley “Intellectual Property Rights and Standard-Setting Organizations” [2002] 90 *California Law Review* 1889.
- Mark A Lemley and Carl Shapiro “A Simple Approach to Setting Reasonable Royalties for Standard-Essential Patents” [2013] 28 *Berkeley Technology Law Journal* 1135.
- Julian D M Lew, Loukas A Mistelis, Stefan Kröll, *Comparative International Commercial Arbitration* (Kluwer Law International 2003).
- Keith Maskus and Stephen A Merrill (eds), *Patent Challenges for Standard-Setting in the Global Economy: Lessons from Information and Communication Technology* (The National Academies Press 2013).
- Nicolas Petit “Injunctions for Frand-Pledged Standard Essential Patents: The Quest for an Appropriate Test of Abuse Under Article 102 TFEU” [2013] 9 (3) *European Competition Journal* 677.

VI. List of Works Cited

- Nicolas Petit and Miguel Rato “Abuse of Dominance in Technology-Enabled Markets: Established Standards Reconsidered?” [2013] 9 (1) European Competition Journal 1.
- Eliza G Petritsi “The case of Unilateral Patent Ambush under EC Competition Rules” [2005] 28/1 World Competition 25.
- Urška Petrovčič, *Competition Law and Standard Essential Patents: A Transatlantic Perspective* (Kluwer Law International 2014) 3.
- Andrew L Russell “Standardization in History: A Review Essay with an Eye to the Future” in Sherrie Bolin (ed), *The Standards Edge: Future Generations* (Ann Arbor, MI: Sheridan Press 2005) 247-260.
- Sven Sattler “Standardization under EU competition rules – the Commission’s new horizontal guidelines” [2011] 32 European Competition Law Review 343.
- DongBack Seo “Analysis of Various Structures of Standards Setting Organizations (SSOs) that Impact Tension among Members” [2013] 11 (2) International Journal of IT Standards and Standardization Research 52.
- Daniel F Spulber, “Innovation Economics: The Interplay Among Technology, Standards, Competitive Conduct, and Economic Performance” [2013] 9 (4) Journal of Competition Law & Economics 777.
- Robert Tallman “U.S. and E.U. Antitrust Enforcement Efforts in the Rambus Matter: A Patent Law Perspective” [2012] 52 IDEA 31.
- Claudia Tapia, ‘Industrial property rights, technical standards and licensing practices (FRAND) in the telecommunications industry’ (DPhil thesis, Augsburg University 2010).
- David J Teece and Edward F Sherry “Standards Setting and Antitrust” [2002] 87 Minnesota Law Review 1945.
- John Temple Lang “Patent pools and agreements on standards” [2011] 36 (6) European Law Review 887.
- Joel M Wallace “Rambus v. F.T.C. in the Context of Standard-Setting Organizations, Antitrust, and the Patent Hold-Up Problem” [2009] 24 Berkeley Technology Law Journal 661.
- Richard Whish and David Bailey, *Competition Law* (OUP 2012).
- Alexandros S Zografos “The SEP Holder’s Guide to the Antitrust Galaxy: FRAND and Injunctions” [2014] 37 (1) World Competition 53.

B. *International Legal Acts*

World Intellectual Property Organization Arbitration Rules, 1 October 2002 (as amended 1 June 2014).

C. *European Union Legislation*

Consolidated version of the Treaty on the Functioning of the European Union [2008] OJ C115/1.

D. *European Union Court of Justice Case Law*

Case 27/76 *United Brands v Commission* [1978] ECR 207.

Case 85/76 *Hoffmann-La Roche v Commission* [1979] ECR 461.

C-241/91 P and C-242/91 P *RTE and ITP v Commission* [1995] ECR I-00743.

T-111/96 *ITT Promedia v Commission* [1998] ECR II-02937.

C-126/97 *Eco Swiss China v Benetton International NV* [1999] ECR I-03055.

C-418/01 *IMS Health GmbH & Co. OHG v NDC Health GmbH & Co. KG* [2004] ECR I-05039.

T-119/09 *Protégé International v Commission* [2012] (unpublished).

Request for a preliminary ruling from the Landgericht Düsseldorf C-170/13 *Huawei Technologies Co. Ltd v ZTE Corp., ZTE Deutschland GmbH*.

E. *European Commission Decisions*

Rambus (Case COMP/38.636) Commission Decision [2009] OJ 2010 C30/17.

Google/Motorola Mobility (Case COMP/M.6381) Commission Decision [2012] OJ c 75.

Samsung – Enforcement of UMTS standard essential patents (Case AT.39939) Commission Decision [2014] (unpublished).

Motorola – Enforcement of GPRS standard essential patents (Case AT.39985) Commission Decision AT.39985 [2014] (unpublished).

F. Other European Union Materials

- Commission, Communication ‘A Stronger European Industry for Growth and Economic Recovery Industrial Policy Communication Update’ COM (2012) 582 final.
- Commission, ‘Guidelines of 14 January 2011 on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements’ OJ C 11.
- Commission, ‘Guidelines on the application of Article 81(3) of the Treaty’ OJ C 101.
- Proposed Commitment of Rambus Inc. Case C-3/38.636 (8 June 2009) <http://ec.europa.eu/competition/antitrust/cases/dec_docs/38636/38636_1003_5.pdf> accessed 11 March 2014.
- Commission, Press Release ‘Commission confirms sending a Statement of Objections to Rambus’ MEMO/07/330.

G. Legislation from other jurisdictions

- Law on Employee Inventions (Gesetz über Arbeitnehmererfindungen), 25 July 1957 (as amended 24 June 1994).

H. Case law from other jurisdictions

- Georgia-Pac. Corp. v. U.S. Plywood Corp.* 318 F. Supp. 1116, 1120 (S.D.N.Y. 1970) modified and aff’d 446 F.2d 295 (2d Cir. 1971) cert. denied 404 U.S. 870 (1971).
- Image Technical Servs. v Kodak* (9th Cir. 1997).
- BGH, GRUR 2009, 694 – Orange Book Standard.
- Samsung Electronics Co. Ltd/Apple Inc.* D.C. Hague March 14 2012 Dkt. Nos. 400367 / HA ZA 11-2212, 400376 / HA ZA 11-2213, 400385 / HA ZA. 11-2215.

I. Internal documents of SSOs

- European Telecommunications Standards Institute’s Guide on Intellectual Property Rights (as amended 19 September 2013).
- DVB’s Memorandum of Understanding (as amended 3 January 2014).
- European Telecommunications Standards Institute’s Intellectual Property Rights’ Policy (as amended 19 March 2014).

J. *Conference materials*

Magdalena Brenning, 'Competition & Intellectual Property Policy Implications of Late or No IPR Disclosure in Collective Standard-Setting' (American Bar Association's International Roundtable on International Standards, Brussels, June 2002) <http://ec.europa.eu/competition/speeches/text/sp2002_037_en.pdf> accessed 21 August 2014.

Damien Geradin, 'Standardization and Technological Innovation: Some Reflections on ex ante Licensing, FRAND, and the proper means to reward innovators' (Intellectual Property and Competition Law Conference, Brussels, June 2006) <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=909011> accessed 19 August 2014.

Joseph Straus, Courts as Pacemakers of Innovation - As Reflected in Case Law on Patentable Subject Matter (The Role of Courts in IP and Innovations, Proceedings of the 2013 Judicial Symposium in Korea, Seoul).

International Association for the Protection of Intellectual Property Summary Report (Executive Committee Meeting in Lisbon, Portugal, June 2002).

Standard-Setting, Competition Law and the Ex Ante Debate, Cisco Systems, Presentation to ETSI SOS (Interoperability III Meeting, Sofia Antipolis, February 2006) <<http://www.etsi.org/images/files/SOSInteroperability/SOSInteropIIIpresentation3-02.pdf>> accessed 19 August 2014.

K. *Websites and blogs*

Miguel Rato, European Union (Global Competition Review, 28 May 2014) <<http://globalcompetitionreview.com/know-how/topics/80/jurisdictions/10/european-union/>> accessed 12 August 2014.

Jonathan Kanter, 'What a Difference a Year Makes: and Emerging Consensus on the Treatment of Standard-Essential Patents' (*CPI Antitrust Chronicle*, 15 October 2013) <<https://www.competitionpolicyinternational.com/what-a-difference-a-year-makes-an-emerging-consensus-on-the-treatment-of-standard-essential-patents/>> accessed 19 August 2014.

Information from WIPO website 'WIPO Arbitration for FRAND Disputes' <<http://www.wipo.int/amc/en/center/specific-sectors/ict/frand/>> accessed 23 August 2014.