Over-declaration of Standard Essential Patents and Determinants of Essentiality

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CRESSE 2/7/2017
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Motivation

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- This is why SSOs must decide on the rules to promote innovation and competition.
- Self-disclosure and licensing of essential patents on FRAND terms are examples of such rules.
- However, are the disclosed patents essential to the standard?
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- This is why SSOs must decide on the rules to promote innovation and competition.

- Self-disclosure and licensing of essential patents on FRAND terms are examples of such rules.

- However, are the disclosed patents essential to the standard?

- Industry experts (Pohlmann, 2016) and policymakers (European Commission 2016a) assert that SSOs policies create incentives for patent owners to over-declare their patents as being essential to the standard.
Research Question

- The paper evaluates the patent and owner characteristics associated with SEPs that are evaluated to be standard essential as determined by independent evaluation of technical essentiality.
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- The authors focus on SEPs disclosed to the ETSI for the 4th generation cellular telecommunications standard LTE.
Empirical Method

1 \((Essentiality)_{p,f,t} = F(X_P, X_f, T_t, I_p, O_p)\)
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- Forward citations from other SEPs declared to the same standard are positively correlated with essentiality

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Introduction: By expanding the potential product and patent licensing market, standards encourage investment in research and development of new technologies.
Comments

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To inform policy on whether patent applications should be declared, more work on grant lags and changes in the essentiality status during the application prosecution is needed.