

DEMAND-SIDE FRAMEWORKS FOR PATENTED INVENTIONS: ANALYSING THE LICENCES OF RIGHT SYSTEM AND THE FRAND LICENSING SYSTEM

This article examines the licences of right system in English law and the ETSI FRAND licensing system to explore underlying reasons and approaches informing the establishment and design of these voluntary licensing schemes. It argues that both these systems are demand-side frameworks established to advance specific demand-side objectives. The institutional arrangement of these frameworks closely aligns with the commons management strategy applied to traditional infrastructural resources, characterised by public access to inventions on non-discriminatory terms. This alignment facilitates public access to inventions for productive activities. However, their institutional arrangements are further qualified by the underlying demand-side objectives that initially motivated their creation. The development of such a demand-side framework must devise mechanisms to mitigate the barriers to public access created by patent rights, while simultaneously preserving incentives for patentees to contribute their inventions to demand-side frameworks.

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2 MAY 2025 (Friday)
3 pm to 4 pm
LI-6310 Moot Court
In Person

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