



Article

# Standard-Setting and International IP Policy

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**Abstract:** Standard-setting and international intellectual property (IP) policy form the dual backbone of global innovation and interoperability. As industries become increasingly digitized and interconnected, the coordination between technical standards and IP rights—particularly around standard-essential patents (SEPs)—has become a key concern for regulators, innovators, and standard-setting organizations (SSOs). This article examines how SSOs and global treaties balance the incentive for innovation with open market access through FRAND licensing principles, transparency mandates, and inclusive governance processes. Focusing on frameworks like the WTO's TRIPS Agreement, WIPO's IP treaties, and UNESCO's contributions to IP culture policy, the article outlines how legal tools evolve to address challenges including patent hold-up, incomplete licensing contracts, and the technological convergence of AI, 5G, and biotech. Drawing on recent policy debates, global indices, and jurisdictional analysis, it maps the evolving contours of global IP governance in 2025 and highlights the need for adaptive, equitable, and innovation-friendly legal structures.

**Keywords:** Intellectual property, standard-essential patents (SEPs), FRAND licensing, international IP law, WIPO, WTO TRIPS, standard-setting organizations (SSOs), global innovation policy, IP enforcement,

## INTRODUCTION

Standard-setting and international intellectual property (IP) policy together form a foundational pillar of the global innovation ecosystem. As technologies evolve rapidly and markets globalize, coordinating standards becomes essential to ensure interoperability, foster competition, and promote innovation while respecting IP rights. Simultaneously, harmonized international IP policies create legal certainty, encourage investment, and help balance the interests of creators, industries, and consumers across jurisdictions. This article explores the mechanisms of standard-setting, the role of IP in these processes, key international policy frameworks, and emerging challenges and trends in 2025.

## I. THE ROLE AND MECHANISM OF STANDARD-SETTING

### A. What is Standard-Setting?

Standard-setting refers to the development and adoption of technical or operational norms and specifications that ensure products and services can function cohesively across different manufacturers and regions. This process typically happens within Standard-Setting Organizations (SSOs), which operate through voluntary, consensus-driven procedures involving stakeholders including industry players, governments, and experts.

### B. Intersection with Intellectual Property Rights

A critical complexity in standard-setting arises when proposed standards incorporate patented technologies known as Standard-Essential Patents (SEPs). SSOs generally require disclosure of any IP rights that may be essential to a standard

and impose commitments that these patents be licensed on fair, reasonable, and non-discriminatory (FRAND) terms to prevent abuse and facilitate widespread adoption.

This balance between promoting innovation incentives through IP protection and ensuring open access is central to the ongoing debates in standard-setting governance<sup>[1][2]</sup>.

### C. Key Principles in Standard-Setting for IP

- **Transparency:** Open disclosure of IP rights relevant to standards.
- **Participation:** Equal opportunity for all relevant market actors to contribute.
- **Non-Discrimination:** No undue preferential treatment of dominant players.
- **FRAND Licensing:** Commitments to license SEPs in a fair and reasonable manner.
- **Ex-ante Disclosure:** Advanced notification of licensing terms to prevent hold-ups<sup>[3]</sup>.

## II. MAJOR INTERNATIONAL POLICIES AND FRAMEWORKS GOVERNING IP AND STANDARDS

### A. World Intellectual Property Organization (WIPO)

WIPO, a UN specialized agency, plays a pivotal role in establishing and harmonizing international IP rules. It administers over 26 IP treaties and facilitates global discussions on IP laws, administration, and enforcement. WIPO promotes coordination between IP standards and technological standards, fostering socioeconomic development, and innovation chains<sup>[4]</sup>.

### B. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

Under the World Trade Organization (WTO), the TRIPS Agreement (1995) sets minimum global standards for IP protection, including patents, copyrights, trademarks, and trade secrets. TRIPS fosters uniformity but allows some flexibility for national policies, particularly important for developing economies balancing IP protection and access<sup>[3]</sup>.

### C. Other Key Treaties and Systems

- **Patent Cooperation Treaty (PCT):** Simplifies the international patent application process.
- **Madrid Protocol:** Facilitates international trademark registration.
- **Hague Agreement:** Governs international registration of industrial designs<sup>[3]</sup>.

### D. Role of UNESCO in Standard-Setting

UNESCO contributes by developing international conventions, recommendations, and declarations that influence national legal frameworks relating to IP, culture, and education—integral to intellectual property policy in cultural and creative sectors<sup>[5]</sup>.

## III. THE DYNAMIC CHALLENGES OF IP IN STANDARD-SETTING

### A. Patent Hold-Up and FRAND Disputes

The risk of “patent hold-up” occurs when SEP owners seek excessive royalties or restrict access after standards adoption. This has led to growing scrutiny by antitrust authorities worldwide and calls for clearer and enforceable FRAND commitments.

### B. Incomplete Contracts and Regulatory Responses

SSO contracts often face issues of incompleteness and ambiguity, leading to inefficiencies or litigation. Authorities, including US FTC and DOJ, suggest evolving antitrust policies to curb opportunistic behavior without stifling innovation<sup>[6]</sup>.

### C. Technological Convergence and New Frontiers

Emerging technologies such as 5G, AI, biotechnology, and renewable energy bring complex IP and standard-setting intersections. Global collaboration is essential to harmonize standards while protecting innovators’ rights.

## IV. CURRENT TRENDS AND DATA ON INTERNATIONAL IP POLICY IN 2025

### A. Global IP Landscape

According to the 2025 U.S. Chamber of Commerce International IP Index, countries with robust IP frameworks—high in transparency, enforcement, and cooperation—tend to lead global innovation rankings. The U.S., UK, Germany, and Japan are key leaders; meanwhile, many developing countries seek to strengthen frameworks in line with international standards<sup>[7]</sup>.

### B. Increasing Emphasis on Standards in Digital Economy

With the rapid growth of digital platforms and the proliferation of patented technologies incorporated into standards, there is greater focus on balancing standard-setting with IP rights to ensure fair access and sustained innovation.

Jurisdiction	IP System Strength	Standard-Setting Coordination	FRAND Enforcement Robustness
United States	Very Strong	High	High

EU	Strong	Very High	Medium-High
China	Medium-Strong	Emerging	Developing
India	Developing	Improving	Developing

### C. Enforcement Actions and Policy Dialogues

In 2025, dialogues at WIPO assemblies and WTO continue addressing SEP licensing transparency, cybersecurity in standards, and the inclusion of emerging economies in standard and IP governance.

### D. Visual Insights

#### 1. Standard-Setting Process and IP Management Flowchart

- Proposal of standard → IP rights disclosure → Consensus on technical specs → FRAND licensing commitments → Implementation and enforcement

#### 2. Global IP Framework Scores (Illustrative Bar Chart)

Shows comparative scores from the 2025 IP Index highlighting variation in IP system development and standard-setting integration.

### CONCLUSION

Standard-setting and international IP policy constitute vital, interlinked elements sustaining the global innovation ecosystem. Careful crafting of IP rules within standard-setting processes enhances collaboration, trust, and competition, delivering consumer and societal benefits. International bodies like WIPO, WTO, and UNESCO continue to foster harmonized policies reflecting technological progress and market realities. Going forward, adaptive governance addressing the complexities of emerging technologies and equitable participation by all nations remains critical to balance innovation incentives with broad accessibility.

*Scholars, policymakers, and industry stakeholders should monitor evolving IP policy trends, enforcement practices, and technological advancements to shape effective and fair standard-setting frameworks worldwide.*

[image: Flowchart of standard-setting process with IP disclosure and licensing step]  
[image: Comparative bar chart of IP framework scores by country/region, 2025]

This article is structured to meet a 4-6 page research article standard and can be expanded graphically or with further case studies as needed.

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