STANDARD ESSENTIAL PATENTS - THE STAKES FOR JAPANESE AUTOMAKERS

Authored by Gaurav Choubey (Partner – Kochhar & Co.)

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Toyota and Suzuki have announced combined investments exceeding $11 billion in Indian manufacturing, Honda has designated India as the production base for its Zero series EV, and Japan's direct investment in India's transport sector rose more than sevenfold between 2021 and 2024. A legal risk once confined to the smartphone industry is now migrating into the automotive supply chain: Standard Essential Patent (SEP) licensing.

Every modern connected vehicle implements global wireless standards: 4G/5G for telematics and OTA updates, C-V2X for collision avoidance (standardised under 3GPP Releases 14 and 16), Wi-Fi 6 and Bluetooth for infotainment, and ISO/IEC 15118 for EV charging communication. Each of these standards is SEP-encumbered. Unlike a conventional patent, which a competitor can design around, an SEP provides for no alternative. To implement the standard is to use the patent.

Japan developed CHAdeMO, a pioneering DC fast-charging standard. Bureau of Indian Standards has, however, mandated CCS2 pursuant to IS 17017 (aligned with IEC 61851), and by 2024 CHAdeMO infrastructure had been largely phased out. Japanese OEMs must implement CCS2, which operates on ISO/IEC 15118 — a distinct SEP landscape. Standard selection is a licensing decision that locks in obligations for the vehicle's entire commercial life, potentially fifteen years or more.

Indian SEP Framework

Patents Act, 1970 contains no definition of an SEP and no FRAND formula. The Delhi High Court rules recognised SEPs procedurally, but all substantive law is court-made.

In Ericsson v. Lava [2024:DHC:2698] — India's first full-trial FRAND determination — Delhi High Court awarded ₹244 crores (~USD 29.2 million) to Ericsson. Three holdings directly affect automotive companies. First, implementing a standard means implementing all essential patents; damages are assessed across the entire SEP portfolio. For any OEM implementing 5G and C-V2X, a single enforcement action generates portfolio-wide liability. Second, Lava was held an "unwilling licensee" for failing to engage meaningfully, a finding that increased damages. Third, the Court scrutinised pre-litigation negotiation conduct in detail, making every licensing communication a potential exhibit in future proceedings.

Further, the Delhi High Court's ruling in Ericsson v. Competition Commission of India [2023 SCC OnLine Del 4078] held the Patents Act to be lex specialis, excluding the CCI from

investigating SEP licensing conduct. For SEP holders, this lowers the risk of parallel antitrust proceedings. For implementers, it closes the antitrust defence, making proactive licensing engagement the primary risk management tool.
In Intex Technologies v. Ericsson [2023:DHC:2243], the Division Bench overruled the four-step injunction threshold of Nokia v. Oppo [2022 SCC OnLine Del 4014] as erroneous. SEP holders can obtain interim injunctions on a prima facie showing alone. For just-in-time automotive supply chains, an injunction on a Telematics Control Unit or cellular chipset could halt production with no short-term alternative.

Priorities for OEMs

Conduct a supply chain SEP audit. Map every connectivity standard across each vehicle model and confirm, at each supply chain tier, whether licences exist and extend to the OEM level. Indian courts have affirmed that royalties are calculated on finished vehicle price, making the OEM the primary target regardless of where the SEP is physically implemented.

Evaluate Avanci participation. The Avanci 5G Vehicle programme offers a single per-vehicle licence covering cellular SEPs (2G–5G). This consolidates the largest SEP risk category at a predictable cost.

Build a FRAND negotiation record. Respond to every licensing approach promptly, request claim charts, document counterproposals, and maintain a full audit trail. Ericsson v. Lava makes this record central to any future court assessment of remedies.

Conclusion

With India's 5G network covering 773 of 776 districts as of early 2025, every connected vehicle manufactured or sold in India is already an SEP implementer. The courts have set enforceable FRAND rates, validated portfolio-wide damages, sidelined competition law as a counterweight, and confirmed interim injunctions as an available remedy. Japanese automotive companies that treat SEP licensing as a core element of their India strategy, will be best positioned to protect both their IP and their supply chains.