



**INTELLECTUAL PROPERTY MODELS TO  
ACCELERATE SUSTAINABILITY  
TRANSITIONS  
(IPACST)**

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# Open IP Pool for Sustainability Knowledge Brief

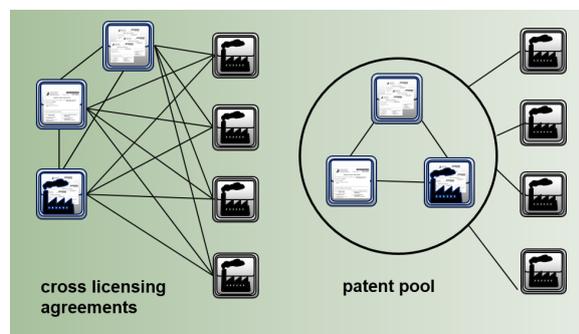
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## Open Intellectual Property Pool for Sustainability

### What are Intellectual Property Pools?

An Intellectual property (IP) pool is an agreement between at least two or – as in most pools – more than two IP owners who aggregate their IP assets to license the pooled IP portfolio to each other or the “external” interested licensees collectively. Usually the “pool” refers to a whole set of IPs, most commonly being patents in conjunction with a particular technology. IP pools may also include trademarks, copyrights, utility models, design rights, and even trade secrets regarding how to implement or use a certain technology or product.

Open and closed IP pools differ based on whether a third party has access to the IP portfolio of the pool and a new IP owner can join as a contributor and member of the pool. If each involved IP holder grants the rights to one another reciprocally, this mutual agreement is also known as cross-licensing. In general, cross-licensing and IP pools should not distort competition in an illegal manner, e.g. through manifesting cartells amongst market leaders and increase market prices. Anticompetitive legislation does not differentiate between cross-



### Definition of Open IP Pool for Sustainability

Open Intellectual property pools are agreements between at least two or more owners of relevant IPs for certain sustainable technologies, products or solutions to aggregate their IP assets and provide non-discriminatory access to each other and to further interested licensees to the whole IP portfolio of the pool through a standard license. Open IP pools for sustainability should be nondiscriminatory for other licensors and licensees, and bundle an IP portfolio for a specific technology or product that positively impacts sustainability .

### Open IP Pool License

The lowest barrier for licensees would include a standard license free of charge, but could consist of obligations to ensure a certain quality and performance standard.

licensing and pool arrangements when assessing the setup and impact of these arrangements.

Popular pool arrangements are patent pools in information and communication technologies (ICT) to facilitate standard-setting (e.g., Bluetooth Special Interest Group 2021), and medical products’ access to health and medicine (e.g., Medicines Patent Pool 2021). In the electronic sector, members of a standard-setting organization usually set up an IP pool. These patent pools are either managed by one of the patent owners or by a separate entity. For increasing access to health, IP pools for medicines are recommended by the World Health Organization and the Lancet

Commission on Essential Medicines Policies (Mermelstein and Stevens, 2021), the Medicine Patent Pool (MPP) being one example of such IP pools.

#### **Benefits for the IP providers/ licensors:**

- Saves cost, time, and other resources involved in individual licensing negotiations
- Serves as a risk mitigation instrument where the chances of IP litigation are high
- Serves as a valuable tool to reach an agreement when competitors block important IP assets
- Easier negotiation process: instead of the usual individual licensing, the procedure is standardized
- Efficiency is increased and network effects can contribute to increasing the diffusion of the sustainable technology/ product
- Determine licensing conditions, e.g. comply with quality standards, reporting of products and beneficiaries, e.g. using trademarks
- Inspires competitors to contribute their IP in the same way/ to the IP pool
- Demonstrates a stance on sustainability by using IP to enable technology diffusion
- Increased impact of sustainable technology, can also be listed in sustainability reporting
- Benefits from broad use of own IP, including economies of scale and network effects, instead of lawsuits, mediation and arbitration
- Increase sales of IP-related services and products

#### **Potential challenges:**

- Risk of anticompetitive practices and high prices set by members of the IP pool
- A strong IP portfolio creates market power that puts pressure on potential competitors making market access more difficult, an effect similar to that of cartels

#### **Benefits for the IP users/ licensee:**

- Gain access to IP for sustainable technologies and products
- Reduce licensing negotiation barriers
- Reduce and avoid R&D costs and associated risks

- Free up resources for other necessary activities such as setting up manufacturing lines, developing supply chains and markets
- Benefit from economies of scale and network effects

#### **Popular IP pools examples**

##### **Medicines Patent Pool**

The Medicines Patent Pool facilitates manufacturing and access to HIV/ Aids treatments is the most prominent example of the pharmaceutical sector. It also serves as a knowledge hub and also provides technology transfer services.

*(Medicines Patent Pool, 2021)*

***Bluetooth Special Interest Group: In 1998 Nokia, Intel, Ericsson, and IBM founded an interest group and pooled their Bluetooth related IP. Over the years, more than 34.000 companies have joined forces to make Bluetooth the global standard for wireless short distance data transmission, used in all kinds of electronic devices including consumer electronics and professional machinery.***  
*(Bluetooth, 2021)*

#### **Benefits for society**

- The accelerated pace of creating and diffusing sustainable technologies and products by utilizing IP to facilitate collaboration amongst relevant stakeholders
- Reduced overall costs for sustainable technologies and products, and thus speeding up transition towards sustainability, including circular economy concepts
- Reduced court hearings and disputes about standards.
- Reduced information biases at technology markets. For consumers, this can lead to lower prices.

#### **IP pools and F/RAND terms**

As outlined in our [Sustainability FRAND Licensing Knowledge Brief](#), FRAND, also known

as RAND, refers to a voluntary licensing commitment between IPR owners and users, with the licensing conditions including royalty rates being Fair, Reasonable and Non-Discriminatory. As described above, IP pools pose a risk of dominating a market due to their potential cartel-like status and the associated increased fees so that prices that do not correspond to market value or even result in patent blockades. Licensing under F/RAND terms can turn these disadvantages into an advantage for everyone: The companies involved in the patent pool benefit from further

disseminating their achievements. This allows their achievements to establish a new standard, leading to increased license income. The licensees can benefit from the F/RAND terms and participate in the market under correspondingly good conditions.

#### **Note: Alternatives to IP pools**

There is an overlap between IP pools, open access IP licensing and IP pledges. See also our other knowledge briefs in this regard.

### **Further readings**

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