

The market for SEPs in Europe 1997-2009

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Introduction

Anecdotal evidence of growing trade of SEPs

- Nortel, Motorola, NPEs
- Mostly in the US?
- Antitrust concerns wrt FRAND

This presentation:

⇒ Empirical evidence on SEP trade in Europe

- Volume, trend
- Role of SEP declarations

⇒ Motives for SEPs acquisitions

- Mitigate double marginalization
 - Large SEP holders?
- Build a bargaining position
 - Outsiders, NPEs

Outline

1. Data sources
2. Measuring the market for SEPs
3. Impact on standards
4. SEP declarations

Data sources

- SEP declarations: ETSI, JTC1, ITUT, IEEE, ISO
- Standards: PERINORM
- Reassignments: EPO and INPI registers

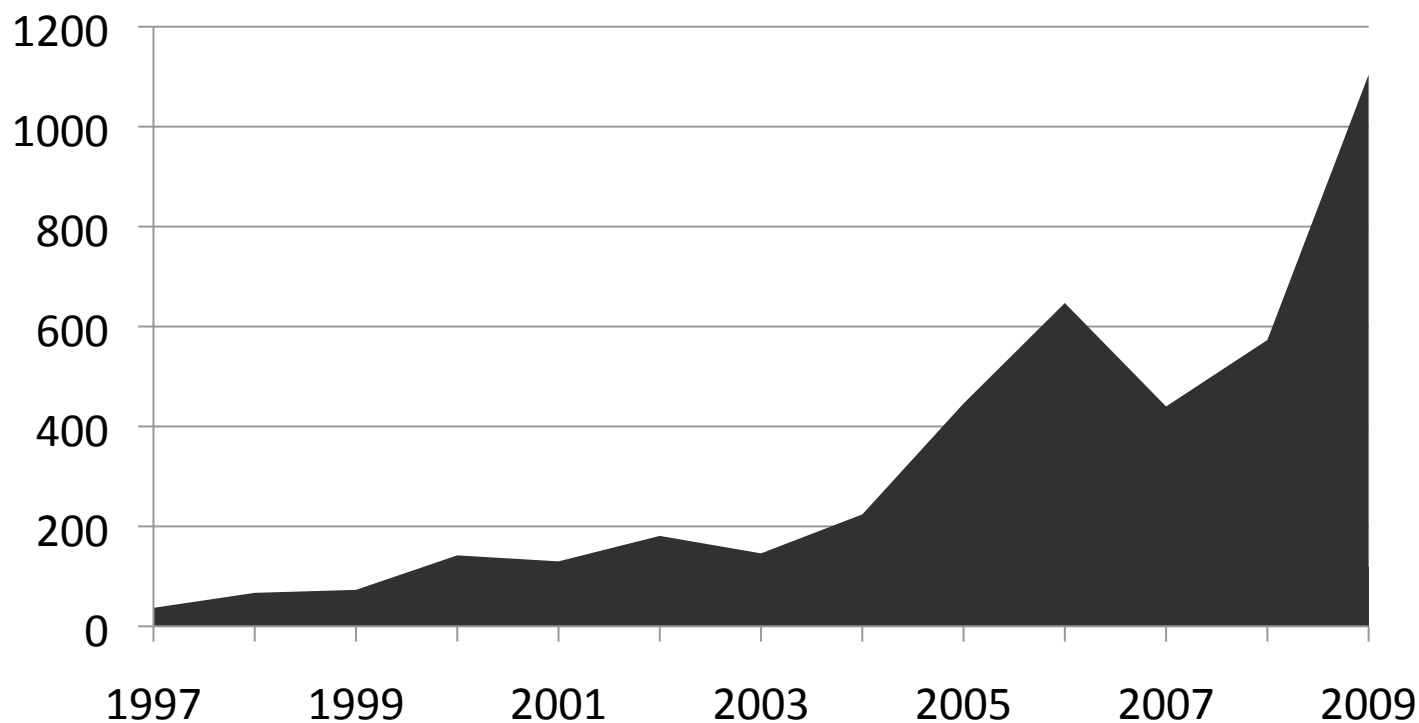
- Name harmonization and consolidation: TR, manual cleaning
⇒ We focus on « bare » patent sales and corporate « acquisitions »

- Data limitations
 - Reassignment is required to sue an infringer
 - Yet costly, not always immediate, not systematic
 - Imperfect match between SEPs and declarations

- Few observations (341)

MEASURING THE MARKET FOR SEPS

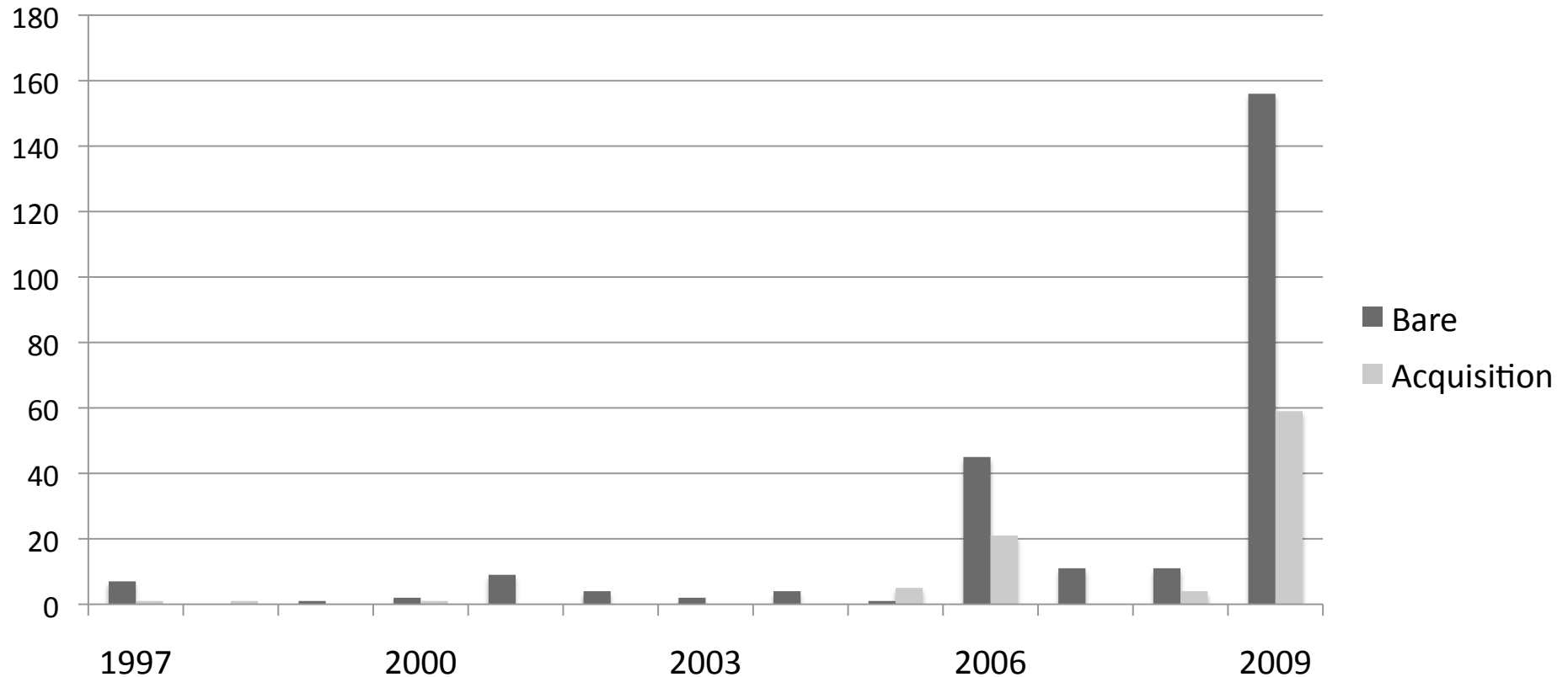
Sales of European patents in the Telecom industry 1997-2009



2,410 “bare” sales of (high quality) patents over the period.

A real take-off after 2004.

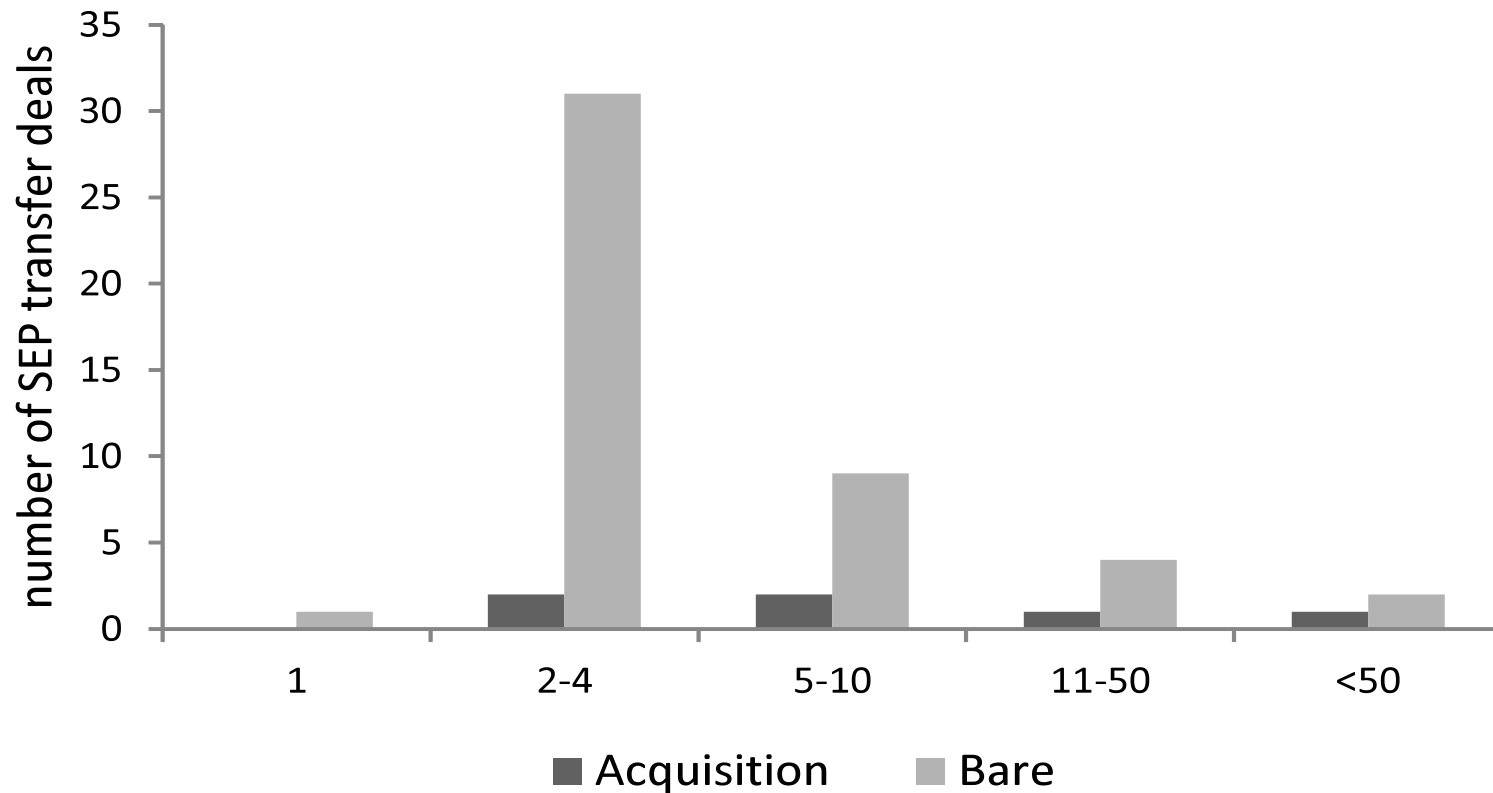
The case of standard essential patents (ETSI, ISO, ITUT, IEEE, JTC1)



Also suggests a take off in the last 4 years.

(two large transactions in 2009 are not sufficient to explain the peak)

Distribution of transaction size



SEPs are traded in (usually small) packages

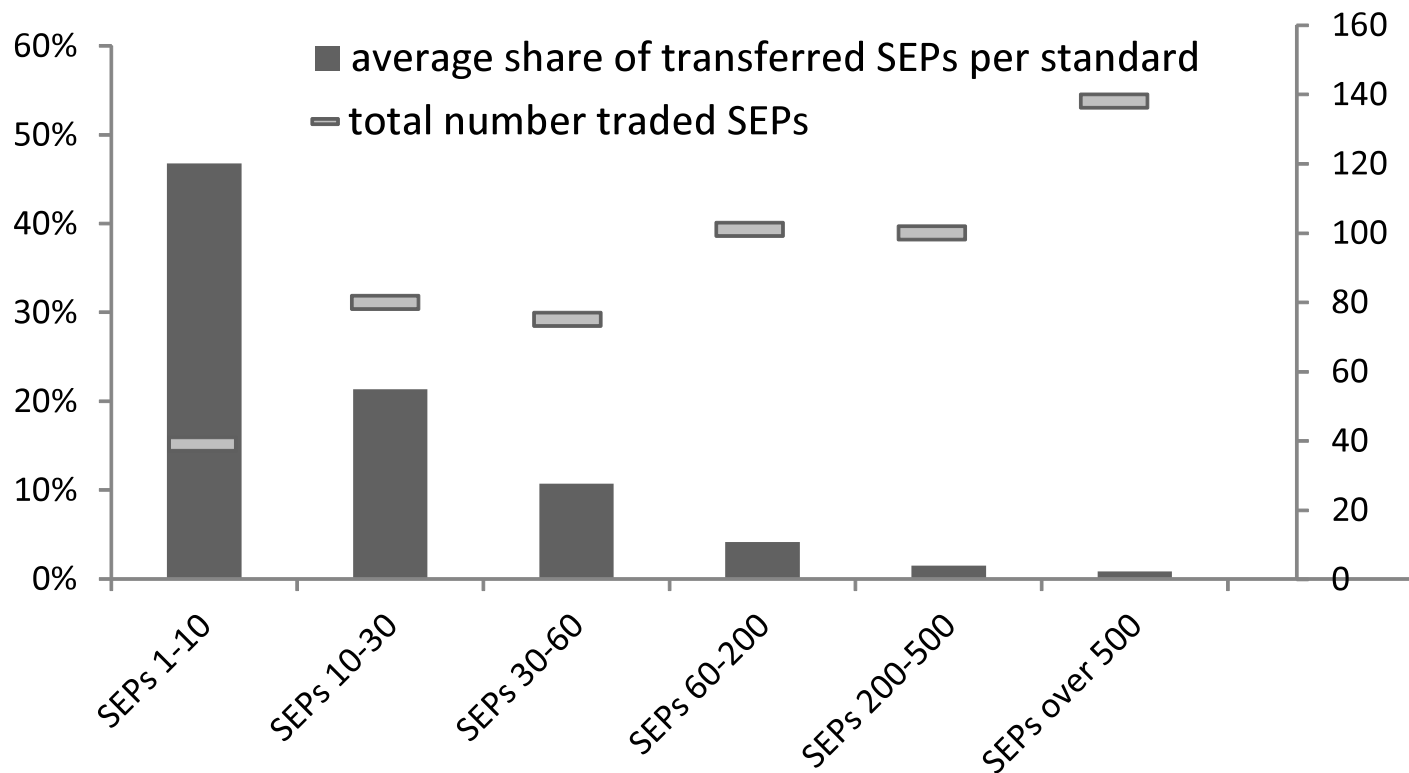
SEP transfers by SSOs

SSO	Transferred SEPs	Share of all declared SEPs	Standards s.t. SEP transfers	Share of all standards
ETSI	261	3%	78	16%
JTC1	48	7%	7	12%
IEEE	17	1%	4	5%
ITU-T	13	2%	9	4%
ISO	2	2%	1	3%

Transfers concern a small fraction of all declared SEPs, but more than 10% of standards at ETSI and JTC1.

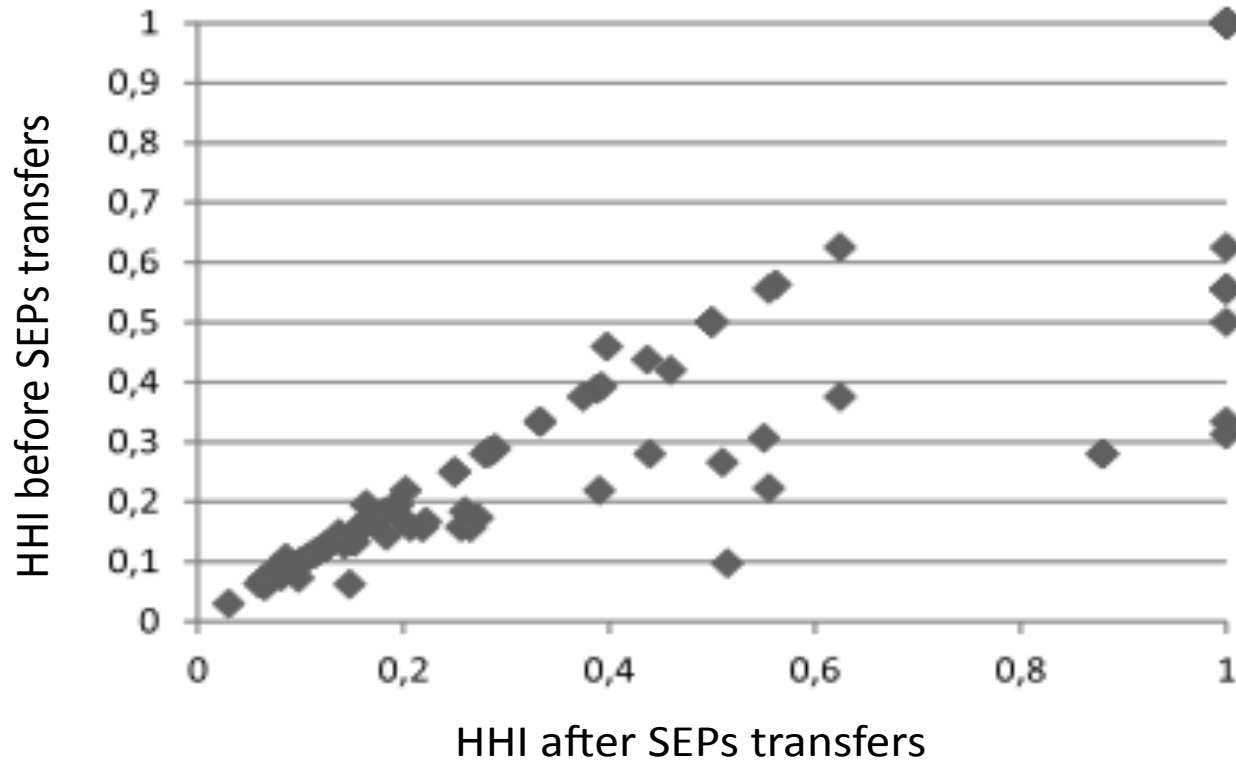
IMPACT ON STANDARDS

Impact of SEP distribution



A minor effect on SEP fragmentation for large standards
Real impact only on standards with less than 60 declared SEPs

Impact on SEP fragmentation at the standard level

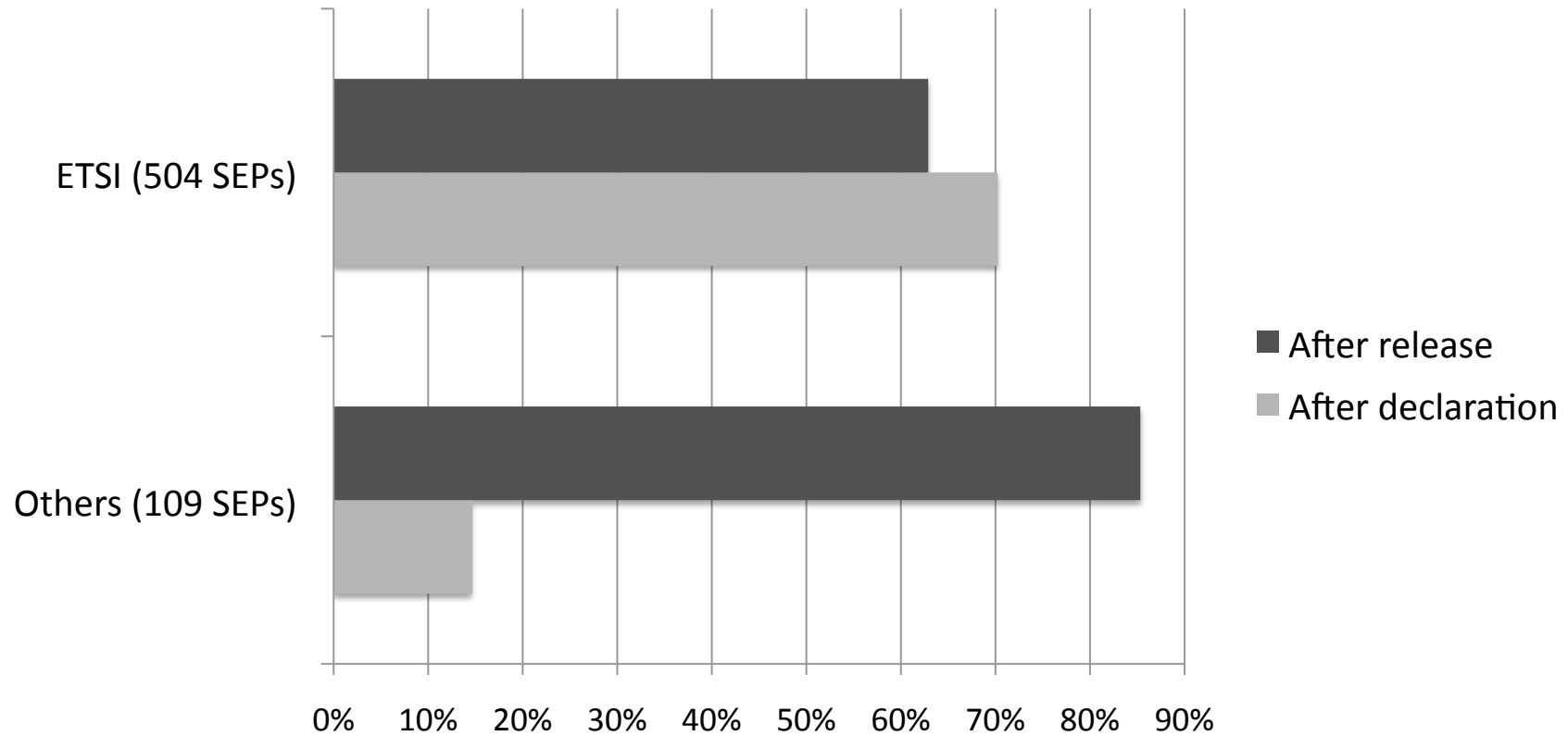


80% of the transfers increase concentration.

80% of transfers that concentration increases concern ETSI standards.

ROLE OF DECLARATIONS

Timing of SEP transfers



Most transfers take place after standard release.
Declarations take place before transfer at ETSI only.

Who buys before/after declaration?

- “Insiders”: 102 firms that declared other SEPs on the same standard
- “Outsiders”: 15 firms that declared no other SEPs

Likelihood that declaration follows sale (Probit)

335 obs.	Coefficient	Standard Error
Insider	.93181***	.3553431
ETSI	-1.816759***	.1865517
Cons.	.0390708	.3533412

“Outsiders” mostly target declared patents.

“Insiders” also buy undeclared patents.

Summary

- A take off SEPs trade in Europe in the late 2000s - to be confirmed
- SEP trade favours SEP concentration
 - Suggests a double-margins mitigation effect
 - Easier for “small” standards
- Information matters
 - Standard release is a prerequisite
 - “Insiders” cluster both declared and undeclared SEPs
 - Declarations facilitate access to SEPs for “outsiders”