

## Settling FRAND Disputes:

### Is Mandatory Arbitration a Reasonable and Non-Discriminatory Alternative?

By

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#### ABSTRACT

This paper reviews the recent proposal that SSOs amend their IPR policies to require SEP owners and willing licensees to resolve disputes over licensing terms, particularly FRAND royalty rates, using mandatory, binding baseball-style (or “final offer”) arbitration. We first consider the fundamental underlying premise of the arbitration proposal - namely, that there are systemic problems relating to FRAND-based standardization and that current disputes are not being efficiently addressed. We find that mandatory baseball arbitration is a solution in search of a problem, will not necessarily afford “better” outcomes, and is more likely to lead to decisions that undermine the standardization process.