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WHEN ALTERNATIVE FACTS DISTORT INNOVATION: WHY EVIDENCE MATTERS IN IP POLICY

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When alternative facts distort innovation: why evidence matters in IP Policy

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I. Why evidence, not fake news, should guide IP policymaking

Simple messages matter because they help us navigate complexity, making ideas easier to understand, remember, and disseminate. However, simplicity should never come at the expense of precision. This is particularly true when decisions that guide innovation, economic growth and social welfare depend on it.

Whether or not to regulate intellectual property (IP), and if so, to what extent, is an inherently complex question. It requires careful consideration of legal doctrines, economic incentives, technological evolution, and geopolitical aspects. Yet, policy debates often reduce this complexity to emotionally driven narratives, which can contradict verifiable evidence.

Perception-driven decision-making can easily lead to rules that are inconsistent, unpredictable or misaligned with technological market realities. Those most affected are knowledge-based firms, which rely on intellectual assets, such as IP, data and know-how, to generate value and preserve competitiveness. When these companies are weakened, innovation suffers, as their continuous creation, integration, and diffusion of knowledge stimulate progress across industries. Thus, supporting these companies, or at least avoiding measures that undermine incentives to innovate, is crucial for broad technological advancement and sustainable economic growth.

In general, innovators can justify investments that drive technological evolution only when the IP framework offers stability and legal certainty. A predictable environment for IP rights allows them e.g., to assess risks, enter partnerships with confidence, and plan investments.

Take Ericsson as an example. Recognized as the leader in cellular standards, from 2G to 5G, Ericsson's success illustrates that developing and implementing high-quality standards requires us to (i) conduct transformative research, (ii) build advanced testbeds to explore new network architectures, (iii) anticipate and assess future technological developments and their potential impacts on society, business, and policy, (iv) turn innovations into practical products, (v) establish partnerships and other forms of collaboration, (vi) strengthen customer relationships, (vii) enhance capabilities, deepen expertise, and attract talents, and (viii) build trust in the market.

Such ambitions demand sustained and substantial resources. Ericsson devoted close to 5 billion USD in R&D last year. This effort resulted in an industry-leading patent portfolio of over 60,000 patents. We are prepared to grant licenses under our patents essential to 3GPP cellular standards on fair, reasonable, and non-discriminatory (FRAND) terms. This allows others to use our innovations without costly and time-consuming independent development. This approach accelerates innovation and gives consumers access to advanced technologies at fair prices. It also enables us to continue investing in research, maintaining a continuous cycle of innovation that benefits society as a whole.

II. Toward evidence-based IP policymaking

IP policymaking is particularly challenging, as only a limited number of regulators possess sufficient industry expertise to appreciate the complexities of IP systems. The underlying causes are primarily structural: rapid technological change, limited resources, and frequent staff rotations. Institutional incentives also favor generalist skills over long-term specialization, leaving capable policymakers with limited exposure to the intricacies of IP systems.

This creates a vulnerability: policymakers may be unduly influenced by simplified or ideologically charged narratives that obscure the multifaceted nature of IP rights. In such an environment, the proliferation of "alternative facts"—selective or misleading representations of reality—can gain traction. This especially applies when they align with prevailing political or cultural sentiments.

To counteract this trend, it is imperative that policymakers actively invite evidence-based input. Industry stakeholders should also take a more proactive role in presenting robust, data-driven arguments. This entails not only articulating the strategic value of IP rights but also substantiating claims with empirical evidence, case studies, and transparent methodologies, as well as making sure that such elements are evaluated taking into account a broader perspective that encompasses the many intricacies and the multifaceted nature of IP rights. When industry actors provide well-founded insights into how IP supports their activities, they contribute to a more informed and evidence-driven policy discourse. Their perspectives in e.g., R&D investments, innovation cycles, and market dynamics help to bridge the gap between regulatory intent and commercial reality. This, in turn, ensures that policy outcomes are both effective and sustainable.

Skepticism toward patents remains strong in the technology and IT sectors. Many see them as tools for litigation or monopolization rather than drivers of R&D. This view is common in open collaboration circles, where IP, especially patents, is often mistaken for a barrier rather than a framework for secure innovation. Some companies also reject patents to maintain market dominance, integrating technologies without compensating innovators. Yet patents

foster openness by enabling access, licensing and fair competition. For example, open source thrives on transparency and shared progress but still depends on IP rights to protect contributions and ensure compliance. Properly used, patents and copyrights are not obstacles to openness but foundations for sustainable and trusted collaboration.

III. A way forward

In conclusion, the intersection of narrative-driven policy and alternative facts poses a significant challenge to the integrity of IP regulation. Addressing this requires a concerted effort to elevate the quality of discourse through industry-led, evidence-based engagement. It also demands reframing IP as a driver of innovation rather than a barrier to it. When properly understood and applied, IP can support both proprietary and open models of technological development, enabling trust, accountability, and long-term viability. Only through such a balanced and informed approach can IP policy fulfill its role in promoting innovation, economic growth, and societal benefit.

***Disclaimer**: Mathias Hellman is VP Head of IPR Strategy and Value at Ericsson. The views expressed in this article are those of the author and do not necessarily represent Ericsson's views.*