

## **Diverging and Converging Competition Law Regulations on Standard Essential Patent: Review of Taiwan's Qualcomm Decision**

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### **Abstract**

The Taiwan Fair Trade Commission (TFTC) fined Qualcomm TWD 23.4 billion on October 11, 2017, which triggered a heated debate concerning the competition law regulation on standard essential patents (SEPs). In focusing attention on this issue, this article splits the discussion into the following two parts. First, the article provides a comprehensive overview of evolving SEP regulations in different jurisdictions by analyzing competition law regulation in chronological order in the United States, China and the European Union. Among the jurisdictions, the United States used to actively intervene in SEP disputes but has become more moderate nowadays. Both contrast, both China and the European Union tend to apply competition law to SEP issues, and China even enacted new legislation in relation to them. Despite their diverging national positions, these countries seem to have converging competition law regulations regarding Qualcomm's antimonopoly case. Therefore, the second part of the article analyses and compares the antimonopoly decisions against Qualcomm in different jurisdictions. Based on the comparison, the article in

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the end turns to TFTC's Qualcomm decision and reviews the significant legal issues through comparative perspectives, which might serve as reference for Taiwanese competition law agencies and courts in the future.

**Keywords:** Standard Essential Patent, Competition Law, Qualcomm Antimonopoly Case, Fair, Reasonable, Non-Discriminatory (FRAND), Standard-Setting Organization.