

ABSTRACT

COMITY OF COMPETITION LAW AND INTELLECTUAL PROPERTY RIGHTS

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The relationship between Competition law and Intellectual Property Rights laws was depicted either as a pure contradiction or sheer contradiction. But is there really a tussle between them? Intellectual Property Rights and Competition Law are both founded with the purpose of achieving economic development, technological advancement and consumer welfare in our country. The common objective and goals of both these policies are to promote innovation which would eventually lead to the economic development of our country however this should not have an adverse effect on the citizens of our country in any manner. Competition law and intellectual property rights (IPRs) have grown historically as two separate systems of law. There is a substantial amount of overlapping in the goals of the two different systems of law because both are aimed at promoting innovation and economic growth. There are also potential conflicts owing to the means used by each system to promote those goals. Intellectual Property laws generally offer a right of exclusive use and exploitation to provide a reward to the innovator and also to provide an incentive to other innovators and to bring into the public domain innovative information that might otherwise remain trade secrets. Intellectual property rights encourage monopoly whereas competition law does exactly the opposite, it clearly tries to exclude monopoly. Competition authorities regulate near monopolies, mergers and commercial agreements with the aim of maintaining effective competition in markets. The major concerns of competition law in regard to intellectual property rights are the market power that may result from granting such rights, and the detrimental effects caused by the anti-competitive exercise of Intellectual Property rights. As certain privileges are being given under the IPRs it is restricted by the enforcement of Competition laws. It should be kept in mind that the only conflict arising between Intellectual Property Rights and competition laws arises due to the monopolistic effect of the Intellectual Property Rights. As it is said in Indian laws, nothing (right) is absolute, every right comes with restriction, limitations and liabilities. There exists both conflicts and complements in both the laws. There are many complementary elements, i.e., the IPR system

promotes innovation, which is a key form of competition while on the other hand, competition policy, by keeping the market open and effective, preserves the primary source of pressure to innovate and diffuse innovation. However, there are also conflicts, such as when an IPR serves to entrench the market power. Hence, a regulatory balance, therefore, should be maintained and simplistic approaches should be avoided at all costs.

India is in the nascent state of its administration of competition laws. There are sizable number of cases which came before the Indian competition authorities (CCI) and Indian courts. Like the very famous case against Microsoft India and abuse of dominant case against Ericsson filed by an Indian company named Micromax is only the beginning of the interface cases on intellectual property and competition law. There are certain defects and case laws in our Indian system, no sufficient case laws and jurisprudence available in India, in guiding the Indian authorities and courts on the interface between intellectual property and competition. It is necessary to make an analysis of the jurisprudence in the US.

This article introduces the concept of IPRs and Competition law. It highlights important areas of conflict between the two laws and also deals with the Indian antitrust law. This article also attempts to enhance the understanding of the interface between competition law and IPRs protection rules as well as some relevant issues on the subject matter as it is complex and multifaceted issue. It concludes by trying to harmonize the conflicts.