



INTERSECTION OF COMPETITION LAW AND INTELLECTUAL PROPERTY RIGHTS: ASSESSING THE INTERACTION BETWEEN PATENT LAWS AND COMPETITION REGULATIONS

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ABSTRACT

This study looks at the complex link between competition law (antitrust law) and intellectual property rights (IPR), especially patent laws. It draws attention to the basic conflict between maintaining fair market competition and promoting innovation through exclusive rights. By giving innovators temporary exclusive rights, patent laws are intended to incentivise research, development, and technical advancement. However, abuse of these exclusive rights can lead to monopolistic practices, exorbitant prices, restricted market access, and decreased consumer welfare—all of which run counter to the fundamental objectives of competition law. To assess how Competition Law can address anti-competitive practices resulting from excessive patent protections, this study will examine how patent monopolies affect market competition and consumer welfare. The study compares different legal approaches and examines international legal frameworks, including the WTO TRIPS Agreement, using a doctrinal methodology. According to the findings, activities such as evergreening and the development of patent thickets, as well as overzealous patent protection, significantly hinder market competition, resulting in unjust pricing and restricted consumer access. This paper contributes to the continuing global conversation on balancing competition law and patent law to improve market accessibility, advance consumer welfare, and maintain fair competition in a changing global economy.

Keywords: Intellectual Property Rights, Compulsory Licensing, Competition Law, Antitrust.

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INTRODUCTION

Intellectual property rights (IPR) and competition laws have been in a tussle, albeit coexisting as two sides of the same coin.¹ The Indian Copyright Act,² the Patents Act,³ and the Trademarks Act⁴ all protect a set of statutory rights known as intellectual property rights. The inventor or creator of the property is granted these rights to safeguard their creation and establish exclusivity. According to popular belief, intellectual property rights (IPRs) establish boundaries that grant monopolistic or quasi-monopolistic rights over their invention, thereby restricting the market's size and the entry of new rivals.⁵ On the other hand, competition laws are a set of guidelines and precepts that support the market's effective operation. Their goal is to prevent anti-competitive behaviour that negatively impacts a market from being carried out by participants in that market. Under Indian competition law, dominance is not an issue; rather, abuse of dominance is.⁶ India has moved to more open market policies that promote greater innovation and quick economic growth after liberalisation and privatisation. There is therefore a dichotomy between Intellectual Property Rights ("IPR") and competition policy.⁷ Intellectual property rights (IPR) and competition law are frequently referred to as "friends in disagreement."⁸ Despite having different theoretical goals, in reality, they cooperate to maintain both static and dynamic market efficiency and promote consumer welfare. This paper is focused on examining the complex interplay between intellectual property rights and competition law and assessing its impact on the market dynamics. Through analysing the legal and judicial approaches, the study tries to understand how the conflict between intellectual property rights and competition law is addressed. Moreover, it offers policy suggestions to guarantee that patent regulations promote innovation without jeopardising fair competition, ultimately fostering a more vibrant and competitive economy.

¹ `Dhanendra Kumar, 'Intellectual property and competition law: Two sides of the same coin' Business Standards <https://www.business-standard.com/author/dhanendra-kumar> (25 April 2024).

² The Indian Copyright Act, 1957

³ The Patent Act, 1970

⁴ The Trade Marks Act, 1999

⁵ `Riya, 'The Interplay Between Intellectual Property Law and Competition Law' (Enhelion Blogs, 22 August 2022), <<https://enhelion.com/blogs/2022/08/22/the-interplay-between-intellectual-property-law-and-competition-law-similarities-and-differences/>> accessed 8 March 2025.

⁶ Ibid.

⁷ `Murali Neelakantan, 'The Interplay between Competition Law and Intellectual Property Rights in the Indian Healthcare Sector' (NLS BUSINESS LAW REVIEW, 2015) V1, ISSUE 1.

⁸ `Interface between Competition Law and Intellectual Property Laws' (Lakshmikumaran & Sridharan, 2014-15) <<https://www.lakshmisri.com/Media/Uploads/Documents/Interface%20between%20Competition%20Law%20and%20Intellectual%20Property%20Laws%20-%20INDIAN%20PERSPECTIVE.pdf>> accessed 9 March 2025.

THEORETICAL FRAMEWORK OF INTELLECTUAL PROPERTY RIGHTS AND COMPETITION LAW

Intellectual Property Rights and Patent Laws: Intellectual property (IP) refers to creations of the mind, such as inventions, literary and artistic works, designs, symbols, names, and images used in commerce.⁹ IP is legally protected by patents, copyrights, and trademarks, which allow people to profit financially or gain recognition for their inventions. The IP system seeks to create an atmosphere that encourages creativity and innovation by finding the ideal balance between innovators' interests and the general public interest. These are exclusionary rights, which grant inventors temporary rights to exclude others from using their IPR¹⁰. The owner of a patent typically has the authority to determine whether or not other people may utilise their creation. Technical details regarding the invention are made publicly available by the patent owner in the published patent document in return for this right.

Importance of Patents in Promoting Innovations:¹¹ Patents act as barriers that prevent inventions from being stolen and promote social progress. They generate new ideas, stimulate economic growth, and promote healthy competition among businesses. To promote social and economic advancement, innovation is essential. Because of its accessibility and cost, people's lives can be made better. Better goods, services, and technology are the results of innovation, which also promotes effective growth. Because they protect creativity, patents also encourage the publication of new ideas and breakthroughs. Allowing them to sell or license their ideas to third parties frees innovators from the stress of competition and lets them profit from their discoveries.¹² For inventors, this might be financially advantageous, which may motivate them to increase their R&D spending. Without patents, other companies may copy the concept and market it without paying the original author. Due to the possibility that their inventions won't be profitable, this can deter inventors from making investments in new concepts. Therefore, by facilitating the broad adoption and application of cutting-edge technology, patents encourage invention.

⁹ WIPO

¹⁰ WTO, 'What Are Intellectual Property Right.

¹¹ 'Divya Verma, 'Role of Patents in Promoting Innovation and Economic Growth' (InventIP Legal Services LLP, 19 April 2023) < <https://www.linkedin.com/pulse/role-patents-promoting-innovation-economic/>> accessed 10 March 2025

¹² 'Riya, 'The Interplay Between Intellectual Property Law and Competition Law' (Enhelion Blogs, 22 August 2022), < <https://enhelion.com/blogs/2022/08/22/the-interplay-between-intellectual-property-law-and-competition-law-similarities-and-differences/>> accessed 8 March 2025

Exclusive Right v Public Interest: The concept of exclusive rights vs. the public interest is essential to both intellectual property rights (IPR) and competition law, particularly as it pertains to patents. It is crucial to balance the exclusive rights that patents grant inventors over their inventions with broader public interest concerns like accessibility to essential goods and technology, affordability, and market competitiveness.

Comprehending Exclusive Rights in Patent Law: For a predetermined period (often 20 years from the date of filing), an inventor who obtains a patent has the legal authority to bar others from creating, using, selling, or distributing their creation.¹³

Main Goals of Awarding Exclusive Rights:

Encouraging innovation: Patents encourage investment in research and development by providing innovators with a temporary monopoly.

Encouraging economic growth: Exclusive rights enable businesses and inventors to make money off of their creations, which propels industrial development.

Recruiting investment: Robust patent protection attracts investment in expensive, high-risk research ventures, especially in industries like technology, biotechnology, and pharmaceuticals.

Ensuring knowledge disclosure: To enable future scientific and technological breakthroughs, inventors are required to publicly reveal the technical aspects of their invention in exchange for patent protection.¹⁴

PUBLIC INTEREST CONSIDERATIONS IN PATENT LAW

Aspects of public interest in patent law: Patents provide exclusivity, but to avoid monopolistic practices and guarantee wide-ranging societal benefits, they must be weighed against concerns about the public interest. Among the important public interest factors are:

Obtaining necessary items and technologies:¹⁵ Limited availability and exorbitant costs of necessary products can result from exclusive patent rights in industries including healthcare,

¹³ The Patent Act, 1970

¹⁴ Divya Verma, 'Role of Patents in Promoting Innovation and Economic Growth' (InventIP Legal Services LLP, 19 April 2023) <<https://www.linkedin.com/pulse/role-patents-promoting-innovation-economic/>> accessed 9 March 2025.

¹⁵ Shardul Bhatt, '6 Ways Patents Drive Innovation and Technological Advancement' (Tantra, 29 July, 2024) <<https://www.tntra.io/blog/6-ways-patents-drive-innovation-tech-advancement/>> accessed 9 March 2025

medicines, and agriculture. For example, pharmaceutical companies may set excessively high prices for life-saving drugs or medical technologies due to patent exclusivity, rendering them unaffordable. To counter this, mechanisms like compulsory licensing are used to provide accessibility, allowing other manufacturers to produce a patented product under specific conditions.

Public benefit with the balancing innovation: ¹⁶ While exclusive rights encourage innovation, they must not hinder further technological advancements. For example, if one company holds patents on fundamental technologies such as standard essential patents in telecom, it may restrict access to these technologies for further innovation. Open licensing agreements, FRAND (fair, reasonable, and non-discriminatory) commitments, and patent pools help maintain a balance.

Encouraging wider dissemination of knowledge: Patent holders must publicly disclose technical details of their inventions in exchange for exclusivity. This disclosure fosters knowledge-sharing, allowing others to build upon existing innovations once the patent expires.

STRIKING THE BALANCE: HOW CONFLICTS ARE ADDRESSED BY LAWS

Various legal frameworks and policies have been developed, including:

Compulsory licensing: In case of public health emergencies or market abuse, governments are empowered to override patent rights. For instance, India's *Natco Pharma V. Bayer*.¹⁷

Patent exhaustion doctrine: This ensures fair market access by limiting the patent holders' control after the first sale of a patented product.

Antitrust laws: Prevent firms from utilising patents to stifle competition or engage in unfair licensing activities.

Patent pools and open licensing: Permits the sharing of patented technologies among several businesses, which promotes cooperative innovation.

¹⁶ Ibid.

¹⁷ *Bayer Corporation v. Natco Pharma Limited*, 2014 (60) PTC 277 (BOM)

COMPETITION LAW (ANTITRUST LAW)

One area of economics that aims to encourage free and fair competition in the market is competition law, also referred to as antitrust law. Efficiency, economic expansion, and consumer welfare are the main goals of competition law.¹⁸ To achieve them, competition law limits, to some extent, private property rights for the benefit of the community. Competition is thought to be an economic force because it fosters innovation and increases competitiveness.

The key objectives of the competition law are as follows:

Preventing Monopolies and Market Dominance: To promote free market competition, competition law works to prevent monopolies and cartelization, which happens when rivals band together to control the market.¹⁹ A market is considered monopolised when one company controls the supply of goods or services or eliminates competition. A monopolistic corporation may raise prices, limit supply, lower product quality, and dominate market conditions in the absence of competition, all of which would eventually hurt consumers and the economy.

Example: the U.S. Department of Justice sued Microsoft in 2001 for monopolising the market by integrating its Internet Explorer browser with its Windows operating system, thereby barring rivals. The case resulted in major reforms for Microsoft and encouraged competition in the software sector.²⁰

Promoting Consumer Welfare and Protecting Consumer Interests: Encourage market competition to guarantee that customers may obtain high-quality products and services at affordable costs.²¹ Competition laws place a strong emphasis on consumer welfare, which means that markets should provide affordable prices, a large selection of goods, excellent services, and continuous innovation. To draw clients, businesses that are up against competition work to enhance their goods, cut costs, and improve services. This strategy immediately benefits consumers. However, a single company that has a significant amount of

¹⁸ 'The Antitrust Law' Antitrust Division U.S. Department of Justice

¹⁹ 'Shyam Parmar', 'Principles of Competition Law That Every Business Needs to Know' (Parker & Parker, 30 August, 2022) < <https://www.parkerip.com/blog/principles-of-competition-law-that-every-business-needs-to-know/>.

²⁰ United States V. Microsoft Corporation, 253 F.3d 34 (D.C. Cir. 2001).

²¹ 'Riya', 'The Interplay Between Intellectual Property Law and Competition Law' (Enhelion Blogs, 22 August 2022), < <https://enhelion.com/blogs/2022/08/22/the-interplay-between-intellectual-property-law-and-competition-law-similarities-and-differences/>> accessed 8 March 2025.

market share may abuse its power by raising prices, lowering the quality of its goods, or participating in unfair trade practices, all of which could lead to customer exploitation. The pharmaceutical industry is one example. When a pharmaceutical business has a patent on a life-saving medication, it may demand outrageous fees. Competition law, on the other hand, can step in by requiring other producers to create reasonably priced generic versions of the medication. This safeguards the welfare of consumers by guaranteeing reasonably priced access to necessities.

PROMOTING MARKET EFFICIENCY AND INNOVATIONS:

Foster an environment that encourages innovation, efficiency, and economic growth by maintaining healthy competition. ²²In a competitive market, companies strive to develop better products, adopt advanced technologies, and improve efficiency to outperform competitors. This continuous competition drives innovation, which benefits society as a whole. However, if a small number of businesses control the market (oligopoly or monopoly), they have little motivation to develop new products or provide better services. Because of competition legislation, no one organisation can stifle innovation by controlling important resources or technology.

Example: In the telecom industry, if one service provider holds a substantial share of the market, the development of better services or infrastructure may be slowed down. However, competition laws promote fair competition, which in turn promotes technological advancement and better customer service.

Preventing Anti-competitive Practices: It prohibits anti-competitive practices such as price fixing, predatory pricing, and market allocation bid rigging, which distort market competition.²³ Anti-competitive practices occur when companies engage in unethical behaviour to restrict competition. These practices include:

Price-fixing: When competitors agree to fix prices, they reduce competition.

Market allocation: When companies agree to divide markets to avoid competition.

²² `Shyam Parmar, 'Principles of Competition Law That Every Business Needs to Know' (Parker & Parker, 30 August 2022) <<https://www.parkerip.com/blog/principles-of-competition-law-that-every-business-needs-to-know/>>.

²³ `The Antitrust Law' Antitrust Division U.S. Department of Justice

Predatory pricing: When a dominant company lowers its prices to drive competitors out of the market and then raises prices again after eliminating competition.

Cartels: A group of businesses colluding to manipulate prices or supply.

Competition law strictly prohibits such practices to maintain a fair market.

For example, Google was fined €2.42 billion by the European Union (EU) for breaking competition regulations by favouring its retail comparison service above rivals in search engine results.²⁴

KEY PRINCIPLES OF COMPETITION LAW

The application of competition law is guided by many fundamental ideas that are intended to safeguard consumer welfare and increase market efficiency. These principles are:

Principle of market competition: A free and fair market should exist without artificial barriers or restrictions, according to this principle. To compete effectively, businesses should focus on price, quality, innovation, and consumer satisfaction.

Principles of consumer welfare: Ultimately, competition law aims to ensure that consumers benefit from fair prices, high-quality products, and innovation. A practice that harms consumer welfare (such as price-fixing or monopolies) must be prohibited.

Principle of market access and fair opportunity: Makes sure all businesses, regardless of size, have equal access to the market. It prohibits discriminatory practices that prevent smaller firms or new entrants from competing.

Principle of preventing abuse of dominance: Limits dominant companies' use of market power to eliminate competition or manipulate market conditions. To prevent unfair pricing, refusal to deal, exclusive agreements, and excessive pricing.²⁵

LEGAL FRAMEWORK & REGULATORY AUTHORITIES FOR ADDRESSING CONFLICT

The legal framework varies from country to country, but generally consists of:

²⁴ Case T-612/17, Google and Alphabet v European Commission, (2017) ECLI:EU: T:2021:763.

²⁵ Dhanendra Kumar, 'Intellectual property and competition law: Two sides of the same coin', Business Standards (25 April 2024).

The Competition Act²⁶ (India): It is the primary law regulating competition in India. It prohibits anti-competitive agreements (section 3), abuse of dominant position (section 4), and regulates mergers and acquisitions (sections 5 & 6). The Competition Commission of India was established under the said act to regulate competition in India.

Antitrust Laws (United States): The Sherman Act²⁷ prohibits monopolistic behaviour. The Clayton Act²⁸ regulates mergers and acquisitions. The Federal Trade Commission Act²⁹ prevents unfair trade practices. The Federal Trade Commission (FTC) regulates competition in the USA.

European Union (EU) Competition Law:³⁰ Article 101³¹ prohibits anti-competitive agreements; Article 102³² prevents abuse of dominant market position. The European Commission (EC) regulates competition in the European Union.

WTO TRIPS AGREEMENT – THE INTERNATIONAL FRAMEWORK

The TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights) was established in 1995 under the World Trade Organisation (WTO)³³. It sets global standards for patent rights and allows member countries to enforce Competition Law to promote fair competition.

KEY PROVISIONS OF TRIPS IMPACTING COMPETITION LAW

Article 31³⁴ – Compulsory Licensing: Allows governments to issue compulsory licenses in cases of public health emergencies and Market exploitation by IPR holders.

Article 40³⁵ – Control of Anti-Competitive Practices: Allows member countries to take action against anti-competitive practices arising from patent rights to prevent exclusive supply agreements, refusal to license, and excessive pricing.

²⁶ The Competition Act, 2002

²⁷ The Sherman Act, 1890

²⁸ The Clayton Act, 1914

²⁹ The Federal Trade Commission Act, 1914

³⁰ Treaty on the Functioning of the European Union (TFEU)

³¹ Treaty on the Functioning of the European Union (TFEU), A.101

³² Treaty on the Functioning of the European Union (TFEU), A.102

³³ Overview: The TRIPS Agreement, WORLD TRADE ORGANIZATION, <https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm>.

³⁴ TRIPS Agreement, A.31.

³⁵ TRIPS Agreement, A.40.

Flexibility to Implement Competition Law: TRIPS gives developing countries the flexibility to design their Competition Laws to balance IPR and market competition.

THE INTERACTION BETWEEN PATENT LAWS AND COMPETITION LAW

The link between intellectual property rights (IPR) and competition policy is intricate and has sparked considerable discussion. A renowned author wrote in his book ³⁶that if a Martian (any kind of extra-terrestrial body) were to visit Earth for the first time, and were exposed to the knowledge of IPR and Competition law, it would undoubtedly think that there exists a certain sense of friction between these two systems. However, it is argued that they are merely complementary to each other, which promotes innovation and consumer welfare.³⁷ Ultimately, their shared goal is to enhance consumer welfare in society by fostering market innovation. They accomplish this goal through various approaches. To guarantee that producers and inventors are fairly compensated for their investment in research and development, intellectual property rights (IPRs) grant them exclusive rights. However, by controlling private rights, including intellectual property rights, competition law protects the interests of the general public and keeps the market free from anti-competitive behaviour. These dynamics foster greater innovation and result in improved products for consumers. Consequently, both IPRs and competition law work together to enhance consumer welfare by promoting innovation.³⁸

From a business standpoint, one might envision competition law as delineating the boundary between acceptable business practices and the misuse of intellectual property rights (IPRs)³⁹. Determining when and how that boundary is crossed often presents challenges. On one side, IPRs can be viewed as government-granted monopolies aimed at promoting innovation and consumer protection, meaning that premature intervention from competition law could undermine the very objectives of granting these rights. Conversely, if competition law intervenes too late, certain IPR-related behaviours might inflict greater damage on market competition than they do in promoting innovation or protecting consumers. An international agreement known as the Agreement on Trade-Related Aspects of Intellectual Property Rights

³⁶ Meir P. Pugatch, "The Intellectual Property Debate-Perspectives from Law, Economics, and Political Economy"

³⁷ R. Agarwal & R. Raju, 'INTELLECTUAL PROPERTY RIGHTS AND COMPETITION LAW: AN EU AND INDIA ANALYSIS' < <https://nliulawreview.nliu.ac.in/wp-content/uploads/2022/01/Volume-V-Issue-I-141-166.pdf> > accessed 8 March 2025.

³⁸ Ibid.

³⁹ Dhanendra Kumar, 'Intellectual property and competition law: Two sides of the same coin' Business Standards (25 April 2024).

(TRIPS) governs the link between IPR and competition. By Article 8(2)⁴⁰ of the TRIPS Agreement and the general principles stated in paragraph 1 of the TRIPS preamble, member nations are allowed to take the necessary actions that comply with TRIPS to prevent the abuse of intellectual property rights by their owners. Public health concerns, national emergencies, inadequate or nonexistent use of the patent in another nation (as noted in the 'Doha' declaration), anti-competitive behavior by patent holders or their assignees, and the greater national interest are among the circumstances listed in Article 31 of the TRIPS Agreement that specify when compulsory licenses may be granted.

Anti-competitive behaviour regarding contractual licensing is covered in Article 40 of the TRIPS Agreement. Other clauses of the Agreement enable member nations to take the necessary steps to control or stop restrictive licensing practices that have a detrimental effect on competition. Exclusive grant-back clauses, provisions that forbid validity challenges, and coercive package licensing are a few examples of these tactics. Members may also create restricted exceptions to patent rights under Article 30 of the TRIPS Agreement. Article 30 can also be seen as a pertinent clause that empowers members to address abusive practices in the acquisition and use of intellectual property rights (IPRs), given the reference to "abuse" in Article 8 of the TRIPS agreement. Limited monopolies granted by intellectual property rights (IPRs) are recognised by Canadian law as not being intrinsically anticompetitive or unduly exploitative. They may, however, take on anticompetitive traits if the owner of the intellectual property rights tries to use them for purposes other than those for which they were created or if monopolies divide markets among businesses in an unnatural way, which could impede the creation of new goods and services.⁴¹ Section 3(5) of the Competition Act ⁴²lays out the legal framework that connects the competition regime and intellectual property rights. According to a simple reading of the aforementioned section, India's competition regime makes sure that the Act doesn't try to impede the exercise of rights that are provided and protected by different intellectual property rights (IPR) laws. This modern strategy is in contrast to the earlier framework for competition set up by the 1969 Monopolistic and Restrictive Trade Practices (MRTP)⁴³ Act. It is commonly known that Section 3(5) does not

⁴⁰ TRIPS Agreement, A.8(2).

⁴¹ 'R. Agarwal & R.Raju, 'INTELLECTUAL PROPERTY RIGHTS AND COMPETITION LAW: AN EU AND INDIA ANALYSIS' < <https://nliulawreview.nliu.ac.in/wp-content/uploads/2022/01/Volume-V-Issue-I-141-166.pdf> > accessed 8 March 2025.

⁴² The Competition Act, 2002.

⁴³ 'Interface between Competition Law and Intellectual Property Laws' (Lakshmikumar & Sridharan, 2014) <<https://www.lakshmisri.com/Media/Uploads/Documents/Interface%20between%20Competition%20Law%20and%20Intellectual%20Property%20Laws%20-%20INDIAN%20PERSPECTIVE.pdf>> accessed 9 March 2025.

remove the Competition Commission of India's (CCI) authority to hear disputes involving intellectual property rights. The Act now takes precedence over other laws, but competition law does not prohibit the implementation of other legal frameworks.

CASE STUDIES

Nacto Pharma Ltd. v Bayer Corporation:⁴⁴ Bayer Corporation possessed the patent for Nexavar, a crucial cancer medication effective against kidney and liver cancers. However, the company charged an exorbitant price of INR 2.8 lakhs per month (approximately \$3,600), rendering it unaffordable for the majority of Indian patients. In response, Natco Pharma Ltd., an Indian generic pharmaceutical company, sought a compulsory license under Section 84 of the Indian Patent Act⁴⁵, enabling it to produce and distribute the drug at a considerably reduced cost. The case highlighted a clash between Intellectual Property Rights (IPR), represented by Bayer's patent protection, and the Public Interest, specifically regarding affordable access to life-saving medications. The Controller General of Patents, Designs, and Trademarks has issued a compulsory license to Natco Pharma under Section 84 of the Patent Act. This case demonstrated the intersection of competition law and intellectual property rights (IPR) within the realm of public health. The ruling prioritised consumer welfare by guaranteeing the affordability and accessibility of life-saving medications. Additionally, it established a precedent that exclusive patent rights must not hinder public access to vital goods, especially in the pharmaceutical sector.

Google LLC Android Antitrust Case:⁴⁶ Google LLC has established a stronghold in the mobile phone market in India through its Android operating system (OS). The company has imposed anti-competitive conditions on manufacturers by mandating the pre-installation of its applications—such as Chrome, YouTube, and the Play Store—as default options, thereby hindering competitors. This conduct has limited competition in the market, enabling Google to monopolise the Android ecosystem. A key question raised is whether Google's exclusive control over Android, which is safeguarded by intellectual property rights, can legitimise its anti-competitive practices. This case underscored that Intellectual Property Rights (IPR) do not grant tech companies unrestricted authority to dominate markets. Despite owning an intellectual property like the Android OS, Google's actions were found to be anti-

⁴⁴ Bayer Corporation v. Natco Pharma Limited, 2014 (60) PTC 277 (BOM)

⁴⁵ The Indian Patent Act, 1970, s.84.

⁴⁶ Google LLC & Anr V. Competition Commission of India & Ors, Competition Appeal (AT) No.01 of 2023.

competitive. The decision fostered consumer welfare, encouraged market competition, and spurred innovation.

Microsoft Corporation Antitrust Case:⁴⁷ Microsoft Corporation faced allegations of anti-competitive behaviour by integrating its Windows operating system with the Internet Explorer browser, effectively sidelining competitors such as Netscape Navigator. The company leveraged its strong market position, safeguarded by intellectual property rights over the Windows OS, to suppress competition. The central issue was whether Microsoft's exclusive rights to Windows (intellectual property rights) could legitimise its anti-competitive practices. The U.S. Department of Justice (DOJ) determined that Microsoft breached antitrust laws by leveraging its intellectual property rights (IPR) to stifle competition. This ruling clarified that protecting IPR cannot be used as a justification for anti-competitive behaviour. It fostered a competitive free market, enabling various companies to innovate and contend with one another. Additionally, it underscored the important regulatory function of antitrust authorities in preventing monopolistic practices in the market.

RECOMMENDATIONS

Ensuring Limited Market Exclusivity under IPR to Prevent Monopolies: Introduce time-bound market exclusivity within patent laws, especially in vital fields such as pharmaceuticals, technology, and healthcare. Regulatory bodies must guarantee that when the patent period ends, generic options or rival products are permitted in the market. The government can step in if the patent holder is abusing their rights by setting prices that are too high, denying licenses to other manufacturers and hindering innovation and the transfer of technology.

In the case of *Bayer v. Natco Pharma*⁴⁸ (India), Bayer's patent for the cancer drug Nexavar was revoked through a mandatory license due to its high pricing, which restricted public access. **Compulsory Licensing in the Public Interest:** Governments should enforce compulsory licensing regulations under competition laws when:

- There are public health crises.
- Essential goods are priced excessively.

⁴⁷ United States V. Microsoft Corporation, 253 F.3d 34 (D.C. Cir. 2001).

⁴⁸ Bayer Corporation v. Natco Pharma Limited, (2014) (60) PTC 277 (BOM)

- There is an obstruction to technology transfer.

Competition authorities should be empowered to impose compulsory licenses when patent rights are exploited to suppress competition. This would encourage - Consumer benefits, Reasonable pricing, Market competition. During the distribution of COVID-19 vaccines, numerous countries sought compulsory licenses to produce vaccines in a cost-effective and accessible manner.

PREVENTING PATENT THICKETS AND EVERGREENING PRACTICES

Establish robust anti-evergreening legislation to prevent companies from submitting trivial patents to prolong their monopoly, hinder new competitors through overlapping patent claims and regulate patent pooling under competition law (when numerous companies consolidate their patents to stifle competition).

Example: In the pharmaceutical sector, prominent drug manufacturers file additional patents to obstruct generic challengers. Regulatory authorities must curb such anti-competitive actions.

STRENGTHENING COMPETITION LAW ENFORCEMENT AGAINST IP ABUSE

Enhance the enforcement of competition law concerning large corporations that exploit their patent rights. Competition agencies should investigate and penalise dominant companies that misapply intellectual property rights (IPR), encourage market access for small and medium enterprises (SMEs) and ensure the availability of affordable products.

Example: In the Google Android Antitrust Case,⁴⁹ the Competition Commission of India (CCI) imposed a fine of \$161 million on Google for monopolising the mobile app market via patent rights.

THE FUTURE OF IP AND COMPETITION LAW – EMERGING TRENDS

The future of intellectual property (IP) and competition law will encounter new obstacles, particularly in the digital era. Some emerging trends include large technology firms (Google, Apple, Microsoft, Amazon) utilising patents, trademarks, and copyrights to dominate the marketplace. Future policies must oversee the AI and software patents, Big Data and data monopolies and digital platforms and licensing agreements. Nations must align their

⁴⁹ Google LLC & Anr V. Competition Commission of India & Ors, Competition Appeal (AT) No.01 of 2023.

competition laws with the WTO⁵⁰ TRIPS⁵¹ Agreement. The forthcoming policy framework should encourage fair competition, prevent global patent monopolies and facilitate cross-border technology transfer. The path ahead for intellectual property rights (IPR) and competition law involves developing a balanced legal framework.

CONCLUSION

The intricate and evolving relationship between Intellectual Property Rights (IPR) and Competition Law has gained significant importance in today's interconnected economy. Intellectual property laws are designed to encourage innovation and safeguard the rights of creators, while Competition Law works to prevent market monopolies, enhance consumer welfare, and ensure equitable competition.⁵² However, tension arises when IP rights are exploited to stifle competition, limit market entry, or impose unfairly high prices, thereby undermining the fundamental goals of competition law. This research reveals that the improper use of patent rights, anti-competitive licensing deals, patent thickets, and dominance gained through IPR exclusivity can result in significant market distortion. By examining key global legal frameworks in the United States, the European Union, India, and China, as well as the stipulations of the WTO TRIPS Agreement, the paper illustrates how various jurisdictions are addressing the tensions between IPR and Competition Law.

⁵⁰ World Trade Organization

⁵¹ The Agreement on Trade-Related Aspects of Intellectual Property Rights

⁵² 'R. Agarwal & R.Raju, 'INTELLECTUAL PROPERTY RIGHTS AND COMPETITION LAW: AN EU AND INDIA ANALYSIS' < <https://nliulawreview.nliu.ac.in/wp-content/uploads/2022/01/Volume-V-Issue-I-141-166.pdf> > accessed 8 March 2025.