

IPR and Competition Law

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- Contradictory or Complementary
- Exception to Anti-trust provisions
- However, competition policy may, in particular, address situations in which IP is used to charge excessive prices for or prevent access to protected technologies.
- IP laws grant exclusive rights of exploitation does not imply that intellectual property rights are immune from competition law intervention

IPR and Competition

- Technology is an input, which is integrated either into a product or a production process.
- Technology licensing can affect competition both in input markets and in output markets.
- For instance, an agreement between two parties which sell competing products and which cross license technologies relating to the production of these products may restrict competition on the product market concerned. It may also restrict competition on the market for technology and possibly also on other input markets

IPR and Competition

- Share the same basic objective of promoting consumer welfare and an efficient allocation of resources.
- IPR promote dynamic competition by encouraging undertakings to invest in developing new or improved products and processes.
- So does competition by putting pressure on undertakings to innovate.
- Therefore, both intellectual property rights and competition are necessary to promote innovation and ensure a competitive exploitation thereof

Pro-competition provisions under TRIPS

- parallel imports (Article 6),
- Compulsory Licensing (Article 31) and
- Control of Anti Competitive Practices (Article 40).