



INTERPLAY BETWEEN IPR AND COMPETITION LAWS

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ABSTRACT

The purposes and goals of competition law and intellectual property law appear to be at odds with one another. These disagreements have resulted in the formation of a long-debated issue that must be resolved. Anti-competitive practices in the market are prohibited by the Competition Law, which serves to facilitate market expansion. IPRs, on the other hand, give the owner an exclusive monopoly over the product or service.

Economic efficiency is increased when there is healthy and fair competition. The goal of putting the competition law into effect was to reduce monopolies and promote competition. In contrast to the goal of establishing competition legislation, intellectual property laws are intended to prevent ideas developed through research and development by inventor firms from being copied and sold by companies that produce comparable items and profit from the sale of those products.

Competition rules are drafted in order to prevent a dominant corporation from abusing its market position. Its goal is to eliminate monopolisation of the manufacturing process, hence stimulating the entry of new enterprises into the marketplace. Some of the primary objectives of competition law include the enhancement of consumer welfare and the increase in the value of production. However, intellectual property laws offer monopolistic legal rights to the producers and owners of works that are the outcome of human intellectual creation. When this dominant/monopoly position is abused, it is in violation of intellectual property rights and competition law. The IPR may result in a situation in which substitutes are no longer available on the market. Consequently, a dominant position in the market may be established, which may later be exploited by the dominant enterprises, thereby defeating the primary goal of the Competition Act of 2002.

Research Objectives

- LINKING PATENT AND COPYRIGHT WITH COMPETITION LAW
- BALANCING IPR AND ANTITRUST
- UNREASONABLE CONDITIONS IMPOSED BY IP HOLDER THAT COULD LEAD TO ANTI-COMPETITIVE PRACTISES
- UNDERSTAND EFFECTS OF IPRs ON COMPETITION AND WELFARE

INTRODUCTION

The interplay between competition laws and intellectual property (IP) rights is a complex and evolving area of legal and economic analysis. Competition laws aim to promote competition in the marketplace, prevent anti-competitive behavior, and protect consumer welfare, while IP rights grant legal monopolies to creators and innovators to incentivize them to invest in research and development. However, conflicts can arise when these two areas of law intersect, as IP rights may sometimes be used in a way that restricts competition.

One of the main areas of tension between competition laws and IP rights is the potential abuse of IP rights to create anti-competitive behavior. For example, a dominant firm with strong IP rights may engage in anti-competitive practices, such as refusing to license its IP to competitors or engaging in discriminatory licensing practices, which can hinder competition and harm consumers. In such cases, competition authorities may intervene to prevent abuse of IP rights and ensure that competition in the market is preserved.

Another issue is the potential for anti-competitive effects arising from the exercise of IP rights. IP rights can confer market power to the holders, allowing them to exclude competitors from the market and charge higher prices. This can result in reduced competition, leading to higher prices and reduced consumer choice. Competition authorities may scrutinize the exercise of IP rights, particularly in cases where it may result in anti-competitive effects, such as when a patent holder engages in "evergreening," which refers to the practice of obtaining additional patents for minor modifications or improvements to an existing invention, effectively extending the duration of their IP monopoly.

Furthermore, competition laws may come into play when it comes to standard-essential patents (SEPs), which are patents that are essential to implementing a widely-used industry standard. Standard-setting organizations (SSOs) often require holders of SEPs to license their IP on fair, reasonable, and non-discriminatory (FRAND) terms to ensure that the standard can be widely adopted without creating anti-competitive effects. However, disputes can arise over what constitutes FRAND terms, and competition authorities may intervene to ensure that SEP holders do not abuse their market power by engaging in anti-competitive practices, such as excessive royalties or discriminatory licensing terms.

On the other hand, IP rights are also recognized as important incentives for innovation and creativity. IP rights encourage inventors, artists, and innovators to invest time and resources in developing new technologies, products, and creative works, by granting them exclusive rights for a limited period of time. These exclusive rights allow IP holders to recoup their investments and generate profits, which can further incentivize innovation and foster economic growth.

In this context, competition laws need to strike a balance between protecting competition and promoting innovation. Striking this balance can be challenging, as the objectives of competition laws and IP rights may sometimes conflict. While competition laws aim to promote competition and prevent anti-competitive practices, IP rights aim to incentivize innovation by granting exclusivity to IP holders. Therefore, it is important for competition authorities and courts to carefully analyze the specific circumstances of each case to determine whether the exercise of IP rights is anti-competitive or if it promotes innovation and consumer welfare.

In these recent years there has been an increasing attention given to the interplay between competition laws and IP rights, with some advocating for greater scrutiny of the exercise of IP rights to prevent anti-competitive behavior, while others argue for the preservation of strong IP rights to foster innovation. Some jurisdictions have adopted guidelines or established frameworks to assess the intersection between competition laws and IP rights, providing guidance for businesses, policymakers, and courts in navigating this complex area of law.

There are various ways in which competition laws can intersect with IP rights. For example:

1. **Abuse of Dominant Market Position:** Competition laws may prohibit a dominant firm from abusing its market power by engaging in anti-competitive conduct, such as refusing to license IP on reasonable and non-discriminatory (RAND) terms or using IP to foreclose competition. This can be seen in cases where a company with a dominant market position uses its IP rights to exclude or hinder competitors from entering the market, thereby distorting competition.
2. **Technology Standards:** Standards-setting organizations (SSOs) often require members to commit to licensing their IP on RAND terms to ensure that technology standards are adopted widely and do not create unnecessary barriers to entry or competition. Competition laws may come into play if a company fails to honor its commitment to license its IP on RAND terms, and engages in anti-competitive behavior related to standard essential patents (SEPs), which are patents that are necessary for complying with a technology standard.
3. **Mergers and Acquisitions:** Competition authorities may scrutinize mergers and acquisitions involving companies with significant IP portfolios to assess the potential impact on competition. If the consolidation of IP rights results in a substantial reduction of competition in the market,

competition authorities may require remedies, such as divestiture of certain IP assets, to restore competition¹.

4. **Anti-Competitive Licensing Practices:** Competition authorities may intervene in cases where licensing practices related to IP are found to be anti-competitive, such as exclusive licensing arrangements, territorial restrictions, or tying arrangements. Such practices may be seen as restricting competition and limiting consumer choice.
5. **Patent Settlements:** Settlements between companies involved in patent disputes may also come under scrutiny of competition authorities, especially if they involve "pay-for-delay" agreements, where a patent holder pays a potential competitor to delay or refrain from entering the market. Such agreements may be seen as anti-competitive, as they can delay or prevent the entry of generic or competing products, and extend the monopoly power of the patent holder.

In practice, this balance is achieved through a variety of means, including:

1. **Antitrust Exemptions:** Some jurisdictions have carved out specific exemptions for IPRs under their competition laws. These exemptions recognize the importance of IPRs in promoting innovation and provide greater flexibility for companies to use their IPRs without fear of being accused of anti-competitive behavior.
2. **Licensing Agreements:** Companies can also use licensing agreements to strike a balance between IPR protection and competition. Licensing agreements can allow companies to monetize their IPRs while also allowing other players to use the technology and compete in the market.
3. **Competition Law Enforcement:** Competition authorities can use their powers to investigate and prosecute anti-competitive behavior related to IPRs. For example, they can investigate companies that use their IPRs to exclude competitors from the market or charge excessive prices for their technology.
4. **Patent Pools:** Patent pools allow companies to pool their patents together to promote innovation and competition. Patent pools can reduce the transaction costs associated with licensing IPRs, which can make it easier for smaller players to access the technology and compete in the market.

The purposes and goals of IPR and Competition laws are at odds. These disagreements have resulted in the formation of a long-debated issue that must be resolved. The Competition Law prohibits anti-competitive practices in the market, facilitating market expansion. IPRs, on the other hand, give the owner an exclusive monopoly over the product or service.

¹ 20 years on – the substantial lessening of competition test in

<https://www.lexology.com/library/detail.aspx?g=78410d03-1a05-4972-a3b8-594fa51eccab>

Economic efficiency is enhanced when there is healthy and fair competition. Putting the competition legislation into force intended to remove monopolies and encourage competition. In contrast to the purpose of implementing competition regulations, intellectual property laws are meant to prohibit ideas produced from by innovator businesses from being replicated and traded by companies who make identical commodities and benefit from the marketing and distribution of those products.

Competition rules are drafted to prevent a dominant corporation from abusing its market position. Its goal is to eliminate monopolisation of the manufacturing process, stimulating new enterprises' entry into the marketplace. Some of the primary objectives of competition laws include the enhancement of consumer welfare and the increase in production value². However, intellectual property laws offer monopolistic legal rights to the producers and owners of works that result from human intellectual creation. When this dominant/monopoly position is abused, it violates IPR and competition laws. The IPR may result in a situation where substitutes are no longer available on the market. Consequently, a dominant position in the market may be established, which may later be exploited by the dominant enterprises, thereby defeating the primary goal of the Competition Act of 2002.

Compulsory licensing and parallel imports are essential mechanisms frequently included in competition laws to prevent intellectual property monopolies. A compulsory license is when the state has authorised an IPR holder to relinquish his exclusive right to use the IP in exchange for a monetary reward. Certain circumstances, such as protection of public health, national emergencies, and advancing the general national interest, necessitate granting required permits³.

Innovations have always played a role as a catalyst in growing a developing economy, leading to additional innovation. Intellectual property restrictions assist in preventing these breakthroughs from being unlawfully exploited. Consequently, intellectual property and competition rules must be balanced to guarantee that the best interests of every stakeholder, including the inventor and the customer or the general public, are preserved and respected.

Both legislation has as a common purpose the encouragement of inventiveness, which will ultimately result in economic progress. To achieve this, the competition authorities need to ensure the cohabitation of competition policy with intellectual property laws since a harmonious relationship between the two laws leads to improvements in economic growth and welfare for consumers, respectively. Consequently, recognising the smooth transition from intellectual property laws to competition laws is the most demanding and urgent topic. Aside from India, this subject is being argued all over the globe today. So

² Intellectual Property Archives - Page 4 of 4 - Enhelion Blogs. <https://enhelion.com/blogs/tag/intellectual-property/page/4/>

³ The Effects of COVID-19 on Sanctions and Export Controls | Hughes Hubbard & Reed.

<https://www.hugheshubbard.com/news/the-effects-of-covid-19-on-sanctions-and-export-controls>

this matter boils down to a difference between IPR and competition legislation, which must be resolved calmly⁴.

As a result, this dissertation study will detail all of the factors that lead to conflicts between the laws (I.P. and Competition) and some current case laws. It also sheds some light on the measure and the suggested recommendations, leading to the harmonisation and ethical consequences of both laws being implemented. It has already been established that conformity with both laws is required to maintain a functioning economy. INTRODUCTION TO COMPETITION/ANTI-TRUST LAW

Competition law in India is regulated by the Competition Act of 2002, which replaced the earlier Monopolies and Restrictive Trade Practices Act, 1969⁵. The primary objective of the Competition Act is to ensure fair competition in the market and prevent the formation of monopolies and abuse of dominant positions. The Competition Commission of India (CCI), established in 2003 as an independent body, enforces the Competition Act and promotes and sustains competition in the market.

Applicable to all sectors of the economy, the Competition Act of 2002 prohibits anti-competitive agreements, abuse of dominant position, and harmful combinations that could adversely impact competition. The law prescribes penalties, including fines and imprisonment, for anti-competitive behavior. The Competition Act also includes leniency provisions that incentivize companies to disclose anti-competitive behavior in exchange for reduced penalties. Additionally, it provides for a fast-track procedure for the clearance of mergers and acquisitions that do not have an adverse effect on competition.

The CCI has been proactive in its enforcement efforts, investigating cases of anti-competitive behavior such as cartels and abuse of dominant positions, and imposing fines on violators. The CCI has also played a vital role in regulating the e-commerce sector by introducing regulations for online marketplaces to promote competition.

However, there have been concerns regarding the effectiveness of the Competition Act in promoting competition in the market. Criticisms include the perceived leniency towards dominant players and concerns about the transparency of the decision-making process of the CCI.

The passage of the Competition Act 2002 was a significant step forward in developing a statute that could deal with the commercial challenges the country was experiencing following the NEP⁶ of 1991. As a result, strict legislation was enacted to ensure that commercial disputes were resolved, and the Competition Act, 2002, was passed. Healthy and fair competition is an effective strategy for increasing the economy's efficiency. However, if the laws are examined in a broader context, it is possible to identify advantageous

⁴ 2. Objectives Of IPR And Competition Law. <https://studylib.net/doc/10228077/2.-objectives-of-ipr-and-competition-law>

⁵ Indian Competition Law: a comprehensive analysis of MSMEs and bid <https://www.ibanet.org/Indian-competition-law-analysis>

⁶ New Economic Policy of 1991, that stands for LPG (Liberalization, Privatization, Globalization).

provisions for consumers, manufacturers/sellers/traders. The statute is intended to increase the level of competition while also improving the welfare of consumers.

India has replied to globalisation by opening its economy, abolishing regulations, and re-instituting liberalisation to achieve greater prosperity. Unlike most other competition laws worldwide, the Competition Act, 2002 is written in broad strokes, like in the case with the majority of the other competition laws throughout the world. In particular, the 2002 Act is notable because it is not restricted to regulating the commercial activities of private parties.

The Indian competition laws system is still in its infancy. It has only been a decade since our country's new competition laws, known as the Competition Act, went into effect⁷. For several years before the Competition Act was effective in May, 2009, the MRTP Act served as the operating laws governing certain features of competition.

The main features of the results for which the Competition Act, 2002 was brought into force are-

- To maintain and protect the competitive process.
- To protect freedom of trade⁸.
- Maximise consumer welfare.
- Providing the consumer with wider choices.
- Better availability at affordable prices.

Monopoly, on the other hand, results in expensive pricing, which in turn leads to decreased productivity. As long as there is healthy competition, the consumer is in charge since their welfare is optimized. A monopoly is terrible for both customers and the economy. The monopolist exercises control over the marketplace in many techniques, including increasing prices and lowering quantities, among other things.

The link between IPR and competition legislation is very personal and complicated. The competition act forbids monopolies, exclusive supply agreements, and abuse of power, and it fosters lower pricing in a free market environment. On the other hand, IPR provide the exclusive right to deal with and monopolise the product or notion.

The issue today is whether someone may claim immunity under Section 3(5) of the 2002 Act in the name of IPR and therefore dominate the market, resulting in a monopoly. This dissertation deals with many instances, reports, findings, and author's judgements, all of which support the incompatibility of the applicability of both laws (the Intellectual Property Rights Act and the Competition Act). Both regulations

⁷ Prior to the 2002 act, The MRTP Act was in force.

⁸ Article-19 of the Indian Constitution, 1950.

should be considered as if they were running parallel to one another rather than as if they were intersecting.

In conclusion, competition laws in India is governed by the Competition Act of 2002, enforced by the Competition Commission of India. The act prohibits anti-competitive behavior and provides for penalties, while the CCI has been active in enforcing the law. However, concerns remain about its effectiveness in promoting competition in the market, and ongoing efforts may be required to ensure fair competition and prevent anti-competitive practices.

INTRODUCTION TO IPR

Intellectual property (IP) laws in India are aimed at safeguarding creations of the mind, such as inventions, artistic works, trade marks, and geographical indications. The primary legislation governing IP in India includes the Indian Patents Act of 1970, the Copyright Act of 1957, the Trade Marks Act of 1999, the Designs Act of 2000, and The Geographical Indications of Goods (Registration and Protection) Act of 1999.

Under the Indian Patents Act, patents can be granted for the inventions that are new, non-obvious, and useful. Notably, the Act also includes provisions on compulsory licensing, which allow the government to grant licenses for patented inventions in certain circumstances, such as during public health emergencies or when the patent holder is not utilizing the invention in India⁹.

The Copyright Act provides protection for original literature, musical, drama, and artistic works, as well as computer programs and sound recordings. Fair use provisions are also included, allowing for limited use of copyrighted works without the copyright holder's permission for specific purposes such as criticism, comment, news reporting, teaching, scholarship, or research¹⁰.

The Trade Marks Act governs the registration and protection of trade marks, which are used to distinguish goods or services. Trade marks can be registered with the Controller General of Trade Marks, Patents, and Designs, and registration grants the owner exclusive rights to use the mark in relation to any goods or services for which it is registered¹¹.

The Designs Act provides protection for original designs of articles that are not purely functional. Designs can be registered, and registration confers exclusive rights to use the design for a period of ten years from the day of registration.

The Geographical Indications of Goods Act governs the registration and protection of geographical

⁹ USMCA what it means for patents and pharmaceuticals | Gowling WLG. <https://gowlingwlg.com/en/insights-resources/articles/2018/usmca-what-it-means-for-patents-and-pharmaceuticals/>

¹⁰ Non-fungible Token (NFT) - Arts Law Centre of Australia. <https://www.artslaw.com.au/information-sheet/non-fungible-token-nft/>

¹¹ Rights of Registered Trademark Holder Vs. Prior User of ... - TaxGuru. <https://taxguru.in/corporate-law/rights-registered-trademark-holder-vs-prior-user-descriptive-trademark.html>

indications, which identify products as originating from a specific geographic location and possessing certain qualities or characteristics. Registration of a geographical indication grants the owner exclusive rights to use the indication in relation to the goods for which it is registered.

Enforcement of IP rights in India is primarily carried out through the courts, which have the authority to grant injunctions, damages, and other remedies for IP infringement. The Indian government has also established specialized IP courts to handle IP disputes.

In conclusion, India's IP laws are intended to protect a wide range of creations of the mind, promote innovation, creativity, and economic growth. While there are some unique provisions, such as compulsory licensing, India's IP laws generally align with international standards.

Intellectual property (IP) is an elusive innovation of the human mind that is generally translated into a physical form to which particular property rights are attributed. An example of intellectual property is a patented technique for making chewing gum, which may be used to explain the notion. The issuance of IPR frequently offers the creator exclusive rights over their work for a defined duration (say 20 years).

IP refers to the production of the mind, inventions, creative works and literature, symbols, and imagery utilised in commerce and protected by IP laws. The underlying essence of IP is that it is an asset that is intangible with exclusive rights given to the creator by the laws of the state that controls it¹².

Classification of IPRs-

- **Patents:** A patent is an IP right that grants the holder exclusive right to use and sell an invention after its development. A person who owns a patent has an exclusive right to use that patent. Although the exclusive right is a true monopoly, it is granted through a formal administrative proceeding.
- **Copyright:** Copyright is a realm that includes artistic, literary, and scientific creativity, as well as audio-visual works, musical compositions, software, and other things. Copyright safeguards the original expression of ideas, the process by which results are created, and the language employed.
- **Trademark rights:** Trademark rights legislation protects graphic representations of words, logos, sounds, and odours that are distinctive and serve as a form of identification for the trademark owner. The trademarks serve as a means of communicating with the public. Once a valid representation is established, the mark owner is granted an exclusive right to use the mark. After that, the procedure is completed with registering and publishing trademarks.
- **Trade secrets:** Trade secrets provide a competitive advantage to the owner of business knowledge

¹² What types of trademarks can be registered in Argentina?. <https://legalcoregroup.com/blog/what-types-of-traemarks-can-be-registered-in-argentina/>

by granting them the right to restrict others from accessing that information (unknown). The owner is responsible for taking all necessary efforts or precautions to keep a trade secret protected from a rival or competitor—for example, the Coca-Cola formula from becoming public knowledge.

CONCLUSION

The interplay between competition laws and intellectual property rights (IPRs) in India is different from other countries in several ways.

Firstly, India has a unique legal framework for competition laws and IPRs. The Competition Act, 2002, governs competition law in India, while the Indian Patent Act, 1970, and the Copyright Act, 1957, regulate IPRs. Unlike in some other countries, India does not have a specialized court or tribunal to hear cases related to both competition and IPRs. Instead, cases related to competition and IPRs are heard by different courts and tribunals.

Secondly, India's approach to balancing competition and IPRs is different from other countries. India's competition law regime is relatively new, and its enforcement has been vigorous, particularly with respect to abuse of the dominant position and anti-competitive agreements¹³. As a result, Indian courts have been cautious in recognizing and enforcing IPRs that may be deemed anticompetitive. For instance, in 2017, the Competition Commission of India imposed a fine on Google for abusing its dominant position in the online search-engine market by promoting its own services over its competitors. The commission found that Google's conduct was in violation of both competition law and intellectual property law¹⁴.

Thirdly, India has a unique approach to compulsory licensing of IPRs. Under the Indian Patent Act, the government can issue compulsory licenses for patented products or processes in certain situations, such as a public health emergency or if the patented product is not being made available at a reasonable price. This approach has been controversial, particularly in the pharmaceutical industry, where some argue that it undermines incentives for innovation.

The interplay between competition laws and intellectual property rights (IPR) can vary from country to country, including India. Here are some key differences in the interplay between competition laws and IPR in India compared to other countries:

¹³ Competition Commission of India, Government of India - CCI. <https://www.cci.gov.in/combination/legal-framework/act>

¹⁴ India fines Google \$162 million for anti-competitive practices on <https://techcrunch.com/2022/10/20/india-fines-google-162-million-for-anti-competitive-practices-on-android/>

1. **Balancing Competition and IPR:** In India, the Competition Act, 2002, and the IPR laws, including the Patents Act, 1970, the Copyright Act, 1957, and the Trademarks Act, 1999, seek to strike a balance between competition and IPR. While IPR provide exclusive rights to the holders, competition laws aim to prevent anti-competitive practices that may harm competition in the market. Indian competition laws focus on promoting competition, preventing abuse of dominance, and regulating anti-competitive agreements, while also recognizing the importance of protecting IPR.
2. **Compulsory Licensing:** India has provisions for compulsory licensing, which allow the government to grant licenses to third parties to use patented inventions in certain situations, such as when there is a national emergency, public interest, or non-working of the patented invention. This provision is aimed at preventing abuse of IPR and ensuring access to essential goods and services. In some other countries, compulsory licensing provisions may be more limited or not available at all, and IPR holders have more exclusivity.
3. **Technology Transfer and Anti-Competitive Agreements:** Indian competition laws have provisions to regulate anti-competitive agreements, including those related to IPR. For example, agreements that restrict competition, such as agreements that impose excessive royalties or impose restrictions on the use, production, or sale of goods or services, can be considered anti-competitive. Competition laws in some other countries may have similar provisions, but the interpretation and enforcement of such provisions may vary.
4. **Abuse of Dominance:** Indian competition laws prohibit abuse of dominance, including abuse of IPR. This means that dominant firms holding IPR cannot engage in anti-competitive practices that harm competition, such as imposing unfair or discriminatory conditions, engaging in predatory pricing, or leveraging their IPR to exclude competitors. This is aimed at preventing anti-competitive behavior by dominant IPR holders. The approach to abuse of dominance and IPR may vary in other countries depending on their competition laws and enforcement practices.
5. **Public Interest Considerations:** Indian competition laws provide for public interest considerations, such as protecting small and medium-sized enterprises (SMEs), promoting consumer welfare, and ensuring access to affordable goods and services. These public interest considerations can be taken into account while assessing the interplay between competition laws and IPR. Some other countries may also have similar public interest considerations, but their application and weightage may differ.

It's important to note that the interplay between competition laws and IPR can be complex and subject to evolving legal interpretations and enforcement practices in different countries, including India. It's advisable to consult legal experts and refer to the specific laws and regulations in the relevant jurisdiction for accurate and up-to-date information.

In light of the emergence of numerous instances and laws to prevent the intervening effect of IPR over competition laws, it has become essential to examine acutely the matter in great depth concerning statutory

provisions and judicial precedents. However, a divided perspective on the much-debated issues of IPR and competition laws prevails in the current environment.

The goals and purposes of IPR and competition laws are complementary in that, both seek to stimulate innovation, competition, and the welfare of consumers. Maintaining competition in innovation is critical because it ensures consumers receive the greatest possible outcome¹⁵.

The market's competition must consider the IPR of inventors, who always help grow the market. After examining the relevant legislation and case law, it is possible to conclude that competition laws is not sufficiently equipped with the analytical tools necessary to assure intellectual property promotion and protection. Both laws (competition and intellectual property protection) have the same fundamental goals: the "promotion of innovation and the benefit of society."

In all nations, complete competition policies for IPR is essential in licencing agreements, market dominance control, and mergers. Rather than justifying efficiency from a short-term perspective, it is preferable to encourage long-term efficiency. The aims of I.P. and competition laws are harmonious and corresponding. Intervention under the anti-trust laws is only necessary when monopoly rights are being systematically abused.

New patent enforcement tactics are being developed in response to the demands of changing economies. The implimentation of competition laws in US and EU has increased due to the financial crisis. India is in a normative phase, and competition legislation must be strengthened to combat intellectual property abuses.

The protection of IPR may be addressed via a competition policy, which can be quite successful. Anti-competitive licencing activities in intellectual property are addressed by the TRIPs Agreement, which provides a basic basis for intellectual property protection. General advice is given in Article 8(2) of the Agreement, which indicates that appropriate steps may be taken to prevent its holders from misusing their IPR.

Using various techniques to deal with the requirements' difficulties is possible. In the standard-setting community, there have been multiple instances of non-disclosure of patents by companies and abuse of dominance. As the European Union's position on the Microsoft case demonstrated, stricter tactics for monopolising the market and abusing supremacy are needed¹⁶.

In the US and the EU, intellectual property licencing processes are governed by guidelines. Such standards should also be developed in India to improve the management of the world's largest market economy. The enforcement policies of India must be linked directly to the country's economic policies and development

¹⁵ Objectives Of IPR And Competition Law. <https://studylib.net/doc/10228077/2.-objectives-of-ipr-and-competition-law>

¹⁶ Recent developments in intellectual property laws in India <https://economictimes.indiatimes.com/small-biz/legal/recent-developments-in-intellectual-property-laws-in-india-part-1/articleshow/47780038.cms>

objectives. However, the recommendations may differ from economy to economy. Just copying and pasting policies US and EU and implementing them in India will not produce the desired results.

The pharmaceutical industry's continued emphasis on intellectual property protection has ramifications for emerging countries such as India. For example, in the fight against diseases such as HIV/AIDS. Aside from that, active enforcement of IPR and deal with with competition laws will increase operation costs and reduce societal welfare.

It is vital to note that more than 100 nations have enforced competition legislation, while more than 159 countries have simultaneously put intellectual property legislation in place. Both enforcement and regulating authorities must play a role in formulating intellectual property and competition policies, particularly in emerging nations. To deal with anti-competitive practises in technology licencing and transfer in INDIA, the recommendations set by US and EU in dealing with intellectual property and competition issues can be used as a foundation of the TRIPs Agreement¹⁷.

At this early stage of the creation of competition laws in India, the growing jurisprudence in India and elsewhere offers an adequate foundation for constructing competition laws and a regulatory regime for IPR. Furthermore, knowing the sensitive and crucial portions of the controversial topic of the conflict between IPR and their influence on competition laws is equally vital from the viewpoint of a rising nation like India. The framework has been designed ineffectively to deal with any hindrance to economic progress. While having a thorough grasp and implementation of the laws and the rationale behind the precedents is essential, it is also vital to guarantee that both domains and the unique needs of the Indian market are functioning well.

In conclusion, the interplay between competition laws and intellectual property rights is a complex and evolving area of law that requires careful balancing of interests. While IPRs are essential for fostering innovation, they can also be misused to stifle competition. Competition laws play a crucial role in preventing anti-competitive behavior, including potential abuse of IPRs, while preserving incentives for innovation. The approach to the interplay between competition laws and IPRs may vary across jurisdictions, and there is a increasing recognition of the need for a coordinated approach to address challenges arising from new technologies and changing market dynamics. Overall, finding the right balance between competition laws and IPRs is crucial to promote competition, innovation, and consumer welfare in the rapidly changing global economy.

¹⁷ Conflict of Intellectual Property Rights in Competition Law. <https://libertatem.in/articles/conflict-of-intellectual-property-rights-in-competition-law/>