THE INTERPLAY BETWEEN COMPETITION LAW AND INTELLECTUAL PROPERTY RIGHTS

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Abstract

When Competition Law meets Intellectual Property Rights (IPR), lawyers find themselves in a tangle: on one hand, both want to encourage fresh ideas, while on the other they don't always agree on what protects marketplace fairness. Copyrights, patents, and trademarks promise inventors a period of sole control so the investment pays off, yet that same power can be turned into a weapon that shuts out rivals. This article looks at that tricky border inside India's own courts and regulators, weaving in home-grown cases to keep the discussion concrete. Key questions about whether a patent holder can refuse to license or set a steep royalty, for example, now land on the desk of the Competition Commission of India, or CCI. Landmark rulings demonstrate how courts and regulators are gradually shaping a more workable, though still imperfect, framework for addressing these issues.

The authors therefore conclude that while the law moves closer to a sensible give-and-take, clearer rules on timing, procedures, and on-the-ground cooperation between the two watchdogs would finish the job.

Keywords: *Competition law, CCI, Fairness, Market Place, Courts and Regulators*

INTRODUCTION

Intellectual Property Rights (IPRs) and Competition Law share both complementary and, at times, conflicting roles. On one hand, IPRs promote creativity and innovation by granting creators exclusive rights over their works or inventions. This exclusivity provides incentives for research, development, and investment by ensuring that innovators can enjoy the rewards of their efforts. On the other hand, Competition Law aims to safeguard markets from the misuse of dominance. It ensures that no single entity unfairly restricts competition, manipulates pricing, or blocks new entrants, thereby protecting consumer welfare and maintaining market fairness.

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The central challenge lies in striking a balance between exclusivity and access. This tension is particularly visible in sectors such as technology, pharmaceuticals, and the digital economy, where strong monopolistic tendencies often emerge. In such industries, the enforcement of IPRs must be carefully balanced with competition principles to encourage innovation without compromising equitable access or market fairness.

The significance of achieving a balance between intellectual property rights (IPR) and competition law is particularly critical in India, where the dual objectives of promoting domestic innovation and ensuring equitable access to knowledge, medicine, and technology must coexist. On one hand, strong IPR protection encourages investment in research, development, and creativity, reinforcing India's growing role in the global IP landscape. On the other, excessive enforcement of IPRs risks undermining market fairness by restricting competition, inflating costs, and limiting accessibility to essential goods and services.

This research therefore examines the delicate interplay between IPR and competition law in the Indian context. It first outlines the conceptual foundations of both regimes and their inherent tensions. Next, it analyzes how Indian regulatory authorities, such as the Competition Commission of India (CCI), address conflicts between market exclusivity and fair competition. It then considers sector-specific implications, particularly in pharmaceuticals, technology, and digital markets, where this balance is most contested. Finally, the study evaluates current challenges and suggests reforms to ensure that India's IP enforcement framework supports innovation while safeguarding public interest.

I. LEGISLATIVE AND DOCTRINAL FRAMEWORK

India's Competition Act, 2002 prohibits anti-competitive agreements (Section 3), abuse of dominant position (Section 4), and regulates combinations (Sections 5 and 6) [1]. However, Section 3(5) of the Act offers a partial exemption to IPRs, stating that reasonable conditions to protect IPRs are not considered anti-competitive. This clause has been central to litigation in India.

The Indian IP regime consists of laws such as:

- The Patents Act, 1970 [2]
- The Copyright Act, 1957 [3]

[1] The Competition Act, 2002, No. 12, Acts of Parliament, 2003 (India).
[2] The Patents Act, 1970, No. 39, Acts of Parliament, 1970 (India)
[3] The Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (India)

- The Trade Marks Act, 1999[4]
- The Designs Act, 2000 [5]

These Acts grant exclusive rights, but they also do not provide immunity for IP holders when those rights are used to distort market conditions and therefore, attract competition scrutiny. Added to the issues of timing and regulatory uncertainty created by the absence of a harmonized enforcement mechanism between the Competition Commission of India (CCI) and the IP offices, the need for harmony is not just bureaucratic chatter; it remains an institutional deficit to be solved when seeking an effective interface between the two regimes.

In recent years, multiple court bodies have reiterated the necessity of reading these statutes harmoniously. Recently, multiple courts have affirmed fairness in IPRs under law, but that fairness is not absolute and abuse of rights in the form of refusal to license or charging discriminatory prices may invite competition scrutiny if the actions impact market conditions or restrict consumer choice.

Patent ever greening is used to describe practices used by pharmaceutical companies to extend their monopoly beyond the original patent term through the filing of trivial or inconsequential alterations of existing drugs. Even if patent ever greening is legally allowed in the IP system, it can be anti-competitive.

The Indian Patents Act, 1970 addresses this issue through Section 3(d), which restricts patents for new forms of known substances unless they result in enhanced efficacy[6]. The landmark case of *Novartis AG v. Union of India* (2013) SC 1311 reaffirmed this provision [7].

- *Background:* Novartis sought a patent for an amended form of Glivec, an anti-cancer drug.
- *Supreme Court Verdict:* The Court denied the patent, noting that the amended version did not demonstrate significantly improved efficacy.
- *Competition Impact:* Though decided under patent law, the judgment has competition implications by preventing evergreening and enabling generic competition.

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[4] The Trade Marks Act, 1999, No. 47, Acts of Parliament, 1999 (India)
[5] The Designs Act, 2000, No. 16, Acts of Parliament, 2000 (India)
[6] The Patents Act, 1970, No. 39, Acts of Parliament, 1970 (India)
[7] Novartis AG v. Union of India, (2013) 6 SCC 1 (India)

This decision set a global precedent and emphasized India's commitment to prioritizing access over monopoly. By curbing evergreening, the courts also contribute to the larger goal of keeping markets competitive.

1.1 Interplay of Licensing Practices and Competition Law

Another domain where competition and IP law overlap significantly is licensing, especially concerning refusal to license and discriminatory terms. A refusal to license, particularly in essential facilities or technologies, can constitute an abuse of dominance under Section 4 of the Competition Act [8].

The Ericsson SEP litigation again offers valuable insights. [9]Licensing terms must adhere to FRAND (Fair, Reasonable, and Non-Discriminatory) principles, especially in technology markets where a few players control key infrastructure [10].

- FRAND disputes often arise in telecommunications and electronics.
- A refusal to license on FRAND terms can lead to foreclosure of competition.
- The CCI has clarified that such practices could attract penalties under the Competition Act.

CCI's intervention in these disputes, although not yet concluded in a final authoritative judgment, represents a growing tendency to scrutinize IP-related practices under competition norms. In FICCI *Multiplex Association v. United Producers/Distributors Forum* [11], the CCI examined allegations that film producers and distributors were engaging in a collective boycott of multiplex operators who did not accept their revenue-sharing terms. Though not strictly involving IPRs like patents or trademarks, the case reflects how collective control over copyrighted content can distort market access and consumer choice, offering useful analogies in IP-dominated industries.

Similarly, in *Matrimony.com v. Google Inc.* [12], the CCI ruled that Google abused its dominance in the online search market by favoring its own services and unfairly diverting traffic. While not an IP case per se, it is a landmark in digital competition law and illustrates how control

[8] The Competition Act, 2002, No. 12, Acts of Parliament, 2003 (India)
[9] *Telefonaktiebolaget LM Ericsson v. Competition Commission of India*, 2016 SCC OnLine Del 1951 (India)
[10] Competition Commission of India, Case Nos. 50/2013, 76/2013, Order dated 12 January 2016 (India)
[11] Competition Commission of India, FICCI Multiplex Association of India v. United Producers/Distributors Forum, Case No. 1/2009, Order dated 25 May 2011 (India)
[12] Competition Commission of India, Matrimony.com v. Google Inc., Case Nos. 07 & 30 of 2012, Order dated 8 February 2018 (India)

over digital platforms and data, often protected as trade secrets or proprietary algorithms, can become an antitrust concern.

II. INTERSECTION WITH DATA AND TRADE SECRETS

Although they are not always acknowledged by India's traditional IP laws, trade secrets and data exclusivity are becoming more and more protected as types of proprietary knowledge. Data itself is turning into a source of market power in the digital economy.

Regulating data-driven market dominance is one possible area for future legal development. Large amounts of user data, which is arguably a type of intangible property, give businesses like Meta (formerly Facebook), Google, and Amazon a competitive edge.

- The 2020 CCI probe into WhatsApp's new privacy policy touches upon this concern [13].
- Data portability and mandatory sharing frameworks may evolve as regulatory responses.

Global trends such as the EU's Data Act and the U.S. FTC focus on digital monopolies may influence India's approach. As Indian courts and regulators begin to recognize data as a competitive asset, the overlap between data protection, IP, and competition law will intensify.

III. CHALLENGES IN REGULATORY ENFORCEMENT

While the CCI has taken on cases of potential abuse of IP rights, several challenges remain:

- **Jurisdictional overlaps:** A key difficulty lies in determining whether disputes involving potential misuse of IP rights, such as patent hoarding or refusal to license, should first be addressed by IP offices or by the Competition Commission of India (CCI). This overlap often results in conflicting approaches, with IP authorities focusing on rights enforcement and the CCI prioritizing market fairness. The lack of a clear demarcation leads to delays and legal uncertainty for businesses.
- **Delays in adjudication:** Lengthy litigation and procedural delays further undermine enforcement. Patent-related competition disputes often involve complex technical and economic questions, which prolong court or tribunal proceedings. As a result, enforcement becomes reactive rather than proactive, allowing dominant firms to

[13] Competition Commission of India, In Re: Alleged anti-competitive conduct by WhatsApp, Case No. 15 of 2020 (India).

continue their practices unchecked during litigation. This erodes the deterrent value of regulatory oversight.

- **Lack of economic analysis:** Competition cases involving IP frequently require sophisticated economic assessments, such as determining market power, assessing licensing practices, or evaluating the impact of exclusivity clauses on consumer welfare. However, enforcement agencies often lack adequate economic expertise and analytical capacity. Without robust economic evidence, regulators may struggle to identify anti-competitive behavior or design proportionate remedies.

One possible solution is to establish joint committees or expert panels comprising representatives from both the CCI and IP offices. Including economists and technical experts on these panels would allow for a more nuanced understanding of complex disputes, bridging the gap between legal rights and market realities.

CONCLUSION AND SUGGESTIONS

India's regulatory framework has made significant strides in addressing IP-linked anti-competitive conduct. However, several improvements are essential:

1. **Clarify Section 3(5):** The scope of "reasonable conditions" should be elaborated through guidelines or amendments.
2. **Institutional Coordination:** Formal coordination between the CCI and IP authorities (like the IPO and the IPAB successor) is needed to handle complex cases involving dual regimes.
3. **Sector-Specific Rules:** Introduce sandbox regulations for digital and pharmaceutical sectors, where IP and competition issues are most prominent.
4. **Awareness and Training:** Judges and regulators should receive periodic training on international trends and economic tools in IP and antitrust interplay.
5. **Encourage Voluntary Licensing:** Promote licensing frameworks like patent pools and open standards under CCI's watch to pre-empt litigation.
6. **Address Patent Evergreening:** Encourage proactive monitoring of evergreening practices and ensure strict application of Section 3(d) of the Patents Act.[14]

[14] The Patents Act, 1970, No. 39, Acts of Parliament, 1970 (India)

7. **Protect Against Data Monopolies:** Develop cross-sectoral data regulation frameworks that include competition law considerations.

CONCLUSION

India must continue to evolve a nuanced framework where innovation and competition co-exist. In the age of digital transformation and integration into global IP regimes, balancing strong IPR protection with fair competition is not just a regulatory necessity but a developmental imperative. Excessive enforcement of exclusivity risks stifling access and fairness, while weak protection may discourage innovation. Thus, a carefully balanced approach is essential for sustainable growth.

To achieve this balance, India should strengthen coordination between the Competition Commission of India (CCI) and IP offices through joint mechanisms, integrate economic expertise into enforcement, and adopt clearer statutory guidelines for handling overlaps between IPR and competition law. Additionally, sector-specific reforms in pharmaceuticals, technology, and digital markets would ensure that innovation is rewarded without compromising consumer welfare or market fairness.

References

1. **Competition Commission of India**, Case Nos. 50/2013, 76/2013, Order dated 12 January 2016 (India).

2. **Competition Commission of India**, *FICCI Multiplex Association of India v. United Producers/Distributors Forum*, Case No. 1/2009, Order dated 25 May 2011 (India).

3. **Competition Commission of India**, *In Re: Alleged anti-competitive conduct by WhatsApp*, Case No. 15 of 2020 (India).

4. **Competition Commission of India**, *Matrimony.com v. Google Inc.*, Case Nos. 07 & 30 of 2012, Order dated 8 February 2018 (India).

5. *Novartis AG v. Union of India*, (2013) 6 SCC 1 (India).

6. *Telefonaktiebolaget LM Ericsson v. Competition Commission of India*, 2016 SCC OnLine Del 1951 (India).

7. **The Competition Act, 2002**, No. 12, Acts of Parliament, 2003 (India).

8. **The Copyright Act, 1957**, No. 14, Acts of Parliament, 1957 (India).

9. **The Designs Act, 2000**, No. 16, Acts of Parliament, 2000 (India).

10. **The Patents Act, 1970**, No. 39, Acts of Parliament, 1970 (India).

11. **The Trade Marks Act, 1999**, No. 47, Acts of Parliament, 1999 (India).