INNOVATION V. ANTITRUST: THE ANTITRUST-PATENT INTERFACE

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ABSTRACT

Antitrust laws and intellectual property rights have often been perceived as conflicting, due to their opposing objectives. On one hand, antitrust laws aim to limit concentration of economic power and foster fair competition. Whereas, IPR laws grant exclusivity to further innovation. However, both ultimately serve the same goal which is enhancing consumer welfare and incentivising innovation. This article aims to establish the dual objective of fostering innovation through IP rights while also ensuring market competition remains fair and dynamic, through a detailed examination of key cases and regulatory practices. It also draws comparisons with international perspectives. Judicial precedents, such as Ericson v. CCI [1]and Monsanto v. Nuziveedu Seeds[2], establish that exclusivity under IPR does not necessarily mean unrestricted market access, and competition law intervenes only when consumer interests are affected or market competition is distorted. The article further analyses emerging challenges like Standard Essential Patents (SEPs) along with its associated regulatory frameworks such as FRAND licensing, concluding with the need to find a balance between the two regimes.

Keywords: Patent Law, Competition Law, Standard Essential Patents (SEP), FRAND licensing.

[1] *Telefonaktiebolaget LM Ericsson (Publ) v. Competition Comm'n of India,* 2023 SCC OnLine Del 4078 (India) (Div. Bench decision, dated July 13, 2023, allowing Ericsson's appeal and quashing the CCI proceedings)

[2] Monsanto v Nuziveedu Seeds [2019] IND 3 SCC 381

I. Introduction

Competition law and intellectual property law are distinct legal regimes with different objectives. Intellectual property laws balance the rights of creators by encouraging innovation, while competition laws prevent monopolistic practices, ensuring fair markets. The Researchers would like to point out that the laws are not conflicting but divergent. Both these laws manage different domains of the market, and thus, there is a need to create a balance between these laws.

Building on this foundation, the Competition Act, 2002 [3]was passed with its objective being to provide a law relating to competition among enterprises that will ensure the process of competition is left free without stronger trading enterprises manipulating the market to their advantage and, following from that, to the disadvantage of the consumers. [4]It seeks to maintain market equilibrium by restricting cartels, abuse of power, dominance, and anti-competitive mergers.

Intellectual property law encourages innovation by granting creators and inventors exclusive rights to use, distribute, and commercialize their works. In a way, it lets a creator have a monopoly and exclusive control over their work. The law exists to incentivise research and investment by ensuring protection from free-riding competitors. Without such time-limited monopolies and exclusivity, innovators may lack motivation or resources to pursue costly research. This could lead to a limited scope of innovation.

The tensions revolve around these laws. IP confers exclusive rights to creators, while competition law resists the concentration of market power. The major debate is whether IPRs attribute dominance or market power to their holders, and what antitrust law should do when firms use IPRs-driven practices that harm competition.[5] This article analyses the stance and dynamics of these laws while also highlighting the need to balance them.

II. Historical Evolution of Antitrust and Intellectual Property Regimes

[3] The Competition (Amendment) Act, 2023 (India).

[4] Laura Zoboli, *The Intersection Between Intellectual Property and Antitrust Law*, in Handbook of Intellectual Property Research: Lenses, Methods, and Perspectives (2021), https://doi.org/10.1093/oso/9780198826743.003.0009

[5] Mariateresa Maggiolino and Laura Zoboli, Handbook of Intellectual Property Research: Lenses, Methods, and Perspectives (Oxford, 2021; online edn, Oxford Academic, 23 Sept. 2021) 124-128 https://doi.org/10.1093/oso/9780198826743.003.0009, accessed 15 Sept. 2025.

India's antitrust laws were not adopted from a single source but evolved over time, influenced by global factors as well as domestic conditions. The US has a long history of antitrust laws, stemming from the Sherman Antitrust Law (1890), which was refined by later statutes such as the Clayton Antitrust Act (1914) and the Federal Trade Commission, prohibiting monopolization and restraints of trade.[6] The European Union has its own set of competition laws, which aim to ensure fair and free competition within its internal markets. In contrast, antitrust laws evolved differently in India while Western regimes focused mainly on consumer welfare, India's approach was broader and balanced public interest with market efficiency.

Post-independence, India's economic policy emphasized centralized planning and state planning. The private sector was restricted, leading to government monopolies. In 1965, the Monopolies Enquiry Commission was set up, which led to the passing of the Monopolies and Restrictive Trade Practices Act (MRTP) in 1969, with the goal of reducing monopolies and concentration of economic power.[7] However, this Act was vague and failed to recognize and address new areas of anti-competitive conduct in the liberalized economy.

In 1999, the Raghavan Committee was set up, which recommended replacing the MRTP Act. Instead, in 2002, the Parliament enacted the Competition Act, which came into effect from 2010. The Competition Act introduced an effect-based approach; the focus shifted from curbing monopolies to promoting and sustaining competition. It established the Competition Commission of India (CCI) as an enforcement authority.

IPR laws in India evolved from British-era regulations focused on patents, copyrights and trademarks, disrupting the indigenous practices and emphasizing extractive commercial benefits for colonial powers. Following independence, the Ayyangar Committee was set up to revise the patent law, the focus shifted to development of indigenous laws. The Patent Act, 1970 was passed, replacing all earlier laws. In the 1990s, India joined the World Trade Organization and signed the TRIPS Agreement, marking significant changes in India's IPR laws.

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[6] C. Paul Rogers III, A Concise History of Corporate Mergers and the Antitrust Laws in the United States(2013), NLSIR: Vol. 24: Iss. 2, Article 2.

[7] Utkarsh Kumar, 'Evolution of Antitrust Law: Comparative Analysis of Western and India Jurisprudential Development' IJLLR VII

III. Conceptual INTERSECTION: Balancing Competition with Innovation

Theoretical Foundations

The intersection between intellectual property law and competition law has always been a zone of inherent tension. IPR are based on granting innovators an exclusive right (or a negative right) to exclude anyone else from using, reproducing or commercialising their creation. This right is erga omnes, or against the whole world. In a way it incentivises innovation through the promise of temporary monopoly. Antitrust laws are concerned with the exact opposite: maximise production, equitable allocation of resources, fair market competition and curbing concentration of economic power. At first glance, these laws might appear to go in conflicting directions. Yet, ultimately, they aim at augmenting innovation, market efficiency and consumer welfare. Thus, the intersection of IPR and competition law is pivotal for modern legal and economic policy, especially in developing economies like India.

IPR in Competition- The primary law governing market competition in India is the Competition Act, 2002 which was enacted with the objective of curbing anti-competitive practices and unfair trade practices that harm consumer welfare and market fairness.

Section 3 of the Act provides for the regulation of anti-competitive agreements, subsection (5)(i) carves out an exemption to protect the legitimate exercise of IP rights under various statutes. It specifically excludes any agreement formed to prevent any breach of IPR. Section 4 further goes on to curtail the abuse of a dominant position, therefore preventing the creation of monopolies of granting IP rights.

Competition in IPR- It has been established that granting of IPR tends to create monopolies, IPR framework in India as well as the legal framework recognizes this fact and tries to accommodate it. The Patents Act, 1970[8] states that patents are granted not just for an individual to enjoy market monopoly, but rather for the welfare of society[9]. Section 3 (a) and (e) of the Act prohibit evergreening of patents.

In the case of Ericson v Competition Commission of India[10], the High Court held that Section 21 of the Competition Act, 2002 and Section 82 of the Patent Act, 1970 are not mutually

[8] The Patents Act 1970, s. 82(b)
[9] The Patents Act 1970 s. 83(c)
[10] Telefonaktiebolaget LM Ericsson (Publ) v. CCI [2014] IND W.P. (C) 464/2014

exclusive and CCI can assert jurisdiction in cases of abuse of dominance even if it is a matter of patents. Later, this principle was reaffirmed in the case of Monsanto v Nuziveedu Seeds[11], wherein a complaint was filed regarding dominance and anti-competitive practices in the BT Cotton market. The Court relied on the judgement delivered in the Ericson case, stating that CCI has jurisdiction over anti-competitive aspects of patent licensing.

In Entertainment Network India Ltd. v Super Cassettes Industries Ltd.[12], the issue was whether if one broadcaster had a compulsory licence, could another broadcaster be issued the same. The Supreme Court clarified the intersection between IPR and competition laws in the market. They limited copyright monopoly, stating that a refusal to licence becomes competitive when it harms or limits market competition.

Standard Essential Patents (SEP)- A standard may be defined as a common layout (or blueprint)[13] through which a multi-variate system operates. In other words, a standard is a common operation system for various machines. Standards are created to ensure uniformity in operation and to facilitate consumer efficiency in utilizing the product. Sometimes these standards may be patented and are referred to as Standard Essential Patents. This creates a scope for the abuse of dominant position. For example, Universal Serial Bus (USB), a widely adopted standard interface that enables devices to connect easily. USB technology relies on standardized protocols, which are protected by SEPs. The owners of these SEPs hold a dominant market position, creating opportunities for anticompetitive behaviour, such as charging excessive fees or imposing discriminatory licensing terms. Such conduct, known as patent hold up, can hinder competition and limit consumer choice[14]. In response to the perceived holdup problem, many governments impose conditions on the use of SEPs and have made it mandatory to offer them on a Free, Reasonable, and Non-Discriminatory (FRAND) basis, which means that SEP holders are required to provide licenses at reasonable rates.

In Qualcomm Inc v Federal Trade Commission[15], the FTC challenged Qualcomm's licensing practices for SEPs. The case highlighted concerns of SEP holders using their dominant positions to impose unfair terms. This case demonstrates the tension between IPR protections

[11] Monsanto v Nuziveedu Seeds [2019] IND 3 SCC 381
[12] Entertainment Network India Ltd. v Super Cassettes Ltd. [2008] IND 13 SCC 30
[13] Mark A. Lemley, Herbert Hovenkamp, Mark D. Janis, Christopher R. Leslie, 'IP and Antitrust: An Analysis of Antitrust Principles Applied to Intellectual Property Law' (2010 Austin: Aspen Publishers)
[14] Joseph Farrell et al., 'Standard Setting, Patents & Hold-up' (2008) 74 Antitrust Law Journal 603, 603-04
[15] Federal Trade Commission v. Qualcomm Inc. [2020] USA 969 F.3d 974 (9th Cir. 2020)

and competition.

The Supreme Court, in Federal Trade Commission v. Actavis Inc.[16], held that reverse payment patent settlement agreements (pay-for-delay) are not automatically exempt from antitrust scrutiny simply because they fall within the scope of patent rights. The court reversed the Eleventh Circuit and allowed such settlements to proceed under the rule of reason standard, a legal doctrine used by courts to evaluate whether business practices constitute an unreasonable restraint of trade and thus violate antitrust law. The court clarified that both patent law and antitrust principles must be balanced, and patent rights do not grant blanket immunity from antitrust laws for settlement terms.

The U.S. District Court case of Epic Games, Inc. vs. Apple Inc[17] presents a critical decision affirming that ownership of Intellectual Property rights, such as Apple's patented IOS ecosystem and App Store platform, does not provide absolute immunity from antitrust laws when those rights are used to potentially restrain competition. This court opined "mere market dominance from a patented platform or ecosystem does not constitute illegal monopoly power without evidence of anti-competitive conduct and barriers to entry". Nevertheless, the court found that Apple's anti-steering provisions, prohibiting app developers from informing users about alternative payment options or linking to an external purchase mechanism, violated California's Unfair Competition Law. The decision highlights that patent and IP rights, while granting lawful exclusivity, are subject to antitrust balancing under the "rule of reason" framework

IV. Antitrust and IPR: A cross jurisdictional analysis

The intersection of IPR and Competition Law is a global issue that varies significantly across jurisdictions. This section explores how major jurisdictions: namely the United States (US) and European Union (EU), approach the balance between the two regimes.

The framework of SEPs and FRAND operates on a balance between IPR and competition law. FRAND obligations arise from competition concerns, ensuring that essential patents are licensed fairly[18]. The intersection of both the fields is quite peripheral in the regulatory

[16] Federal Trade Commission v Actavis Inc. [2013] USA 570 US 136 (2013)
[17] Epic Games, Inc. v. Apple, Inc., [2023] USA No. 21-16506 (9th Cir. 2023)
[18] Alexia Rossi, 'Corporate Governance and Board Accountability in MNCs: A comparative analysis of US, UK/EU IE International Policy Review.'

mechanism of different countries according to their economic priorities and legal philosophies. The US, EU and India have different approaches to align innovation with market competition.

1. *United States*

In the US, antitrust and IP laws are designed to align under a framework that generally favours IP protection as an incentive for innovation. The US Patent and Trademark Office (USPTO[19]), handles patent and trademark laws while the US Copyright Office oversees copyrights. The Sherman Act[20], Clayton Act[21], and Federal Trade Commission Act [22]form the basis of US Antitrust laws. The FTC and Department of Justice are the regulatory authorities.

In United States v Microsoft Corp.[23] (2001), the court addressed monopolistic practices and how they impact competition. It was held that Microsoft's bundling of Internet Explorer with Windows was anti-competitive, showing how IPR can entrench market dominance and restrict competition.

A patent does not necessarily make the patentee a monopolist in an economic sense, instead it affords a degree of immunity from the activities of a rival firm. The duty-to-deal doctrine can compel monopolists to deal under specific conditions. Mainly, the refusal to deal must harm consumers and be unjustified[24]. However, a dominant firm shall not be forced to share something that competitors can easily get elsewhere or enter new ventures with competitors.

With respect to intellectual property rights, this framework does not work well. Many US courts protect the rights of patent holders to refuse sharing their IP, largely disregarding the possible harm to the market competition. Hence, it is evident that US laws favour IP rights over competition concerns.

2. *European Union*

The European Union puts forth an interventionist approach compared to the US, with

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[19] U.S. Patent & Trademark Office, https://www.uspto.gov/ (last visited Aug. 28, 2026)
[20] Sherman Antitrust Act, 15 U.S.C. Sec 1–7 (2018)
[21] Clayton Antitrust Act, 15 U.S.C. Sec 12–27 (2018) (also codified in scattered sections of 29 U.S.C.)
[22] Federal Trade Commission Act, 15 U.S.C. Sec 41–58 (2018)
[23] United States v Microsoft Corp. [2001] USA 253 F.3d 34 (D.C. Cir. 2001)
[24] Mariateresa Maggiolino and Laura Zoboli, Handbook of Intellectual Property Research: Lenses, Methods, and Perspectives (Oxford, 2021; online edn, Oxford Academic, 23 Sept. 2021) 124-128 <https://doi.org/10.1093/oso/9780198826743.003.0009> accessed 20 Sept. 2025.

competition law playing a stronger corrective role on IP exclusivity. The European Patent Office (EPO) manages patents. Trademarks and designs are handled by the European Union Intellectual Property Office (EUIPO)[25]. The EU offers a comprehensive regime for IP protection for member states. The Treaty on the Function of the European Union (TFEU) through Articles 101 and 102 [26]address anti-competitive agreements and abuse of dominance. The EU imposes compulsory licensing more readily, especially when refusals impede innovation or competition in downstream markets.

The Magill case involved three dominant UK and Irish television broadcasters that refused to license their programme listings to Magill, who sought to publish a comprehensive TV guide. The European Commission [27]held this refusal to license as an abuse of their dominance under Article 102 of the TFEU[28], since it blocked the creation of a new product having consumer demand. This decision was upheld by the General Court and the Court of Justice, ruling that invoking copyright to withhold basic information unlawfully restricted competition and innovation. This judgement established that IPRs do not exempt dominant firms from competition laws, introducing compulsory licensing in exceptional circumstances[29]. A similar position was seen in the IMS Health case[30], where the commission imposed a duty to license when refusal risked excluding competition or stifling innovation.[31]

While in India, the evolving nature of competition law under the Competition Act, 2002, integrates elements inspired by both US and EU laws but implemented in a way to cater to the economy's developmental goals as the Competition Commission of India recognises IP rights but scrutinises their exercise when it leads to abuse of dominance or restricts competition arbitrarily.

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[25] World IP Review, *Directory*, https://www.worldipreview.com/directory (last visited Aug. 28, 2026)
[26]Consolidated Version of the Treaty on the Functioning of the European Union arts. 101–102, Oct. 26, 2012, 2012 O.J. (C 326) 47, 89
[27] *The Essential Facilities Doctrine: Bridging Competition Law and IP Rights*, TheLaw.Institute (Nov. 19, 2025), https://thelaw.institute/trade-secrets-competition-law-and-protection-of-tce/essential-facilities-doctrine-competition-ip-rights/
[28] Consolidated Version of the Treaty on the Functioning of the European Union arts. 101–102, Oct. 26, 2012, 2012 O.J. (C 326) 47, 89
[29] Richard Whish & David Bailey, Competition Law, Oxford 7th Edition
[30] IMS Health GmBH v NDC Health GmbH, CJEU 2004
[31] Mariateresa Maggiolino and Laura Zoboli, Handbook of Intellectual Property Research: Lenses, Methods, and Perspectives (Oxford, 2021; online edn, Oxford Academic, 23 Sept. 2021) 124-128 <https://doi.org/10.1093/oso/9780198826743.003.0009> accessed 20 Sept. 2025.

V. RECOMMENDATIONS

Building upon the same analysis, the following measures are recommended to strengthen the interface between India's antitrust and patent regimes

1. *Legislative Clarification of CCI's Jurisdiction over IPR Disputes*

While Ericsson v CCI [32]and Monsanto v. Nuziveedu Seeds [33]have judicially affirmed that Section 21 of the Competition Act, 2002[34] and Section 82 of the Patents Act[35], are not mutually exclusive, this positive rests on judicial interpretation rather than statue. An explicit legislative provision, potentially building on the framework introduced by the Competition (Amendment) Act, 2023 [36]would remove the jurisdictional ambiguity that forces litigants into parallel proceedings before the CCI and patent authorities.

2. Codified FRAND Guidelines for SEP Licensing

India currently lacks a dedicated regulatory framework for FRAND determinations, leaving courts to develop principles case by case. The CCI in consultation with the Department for Promotion of Industry and Internal Trade, should issue formal guidelines addressing royalty base methodology, non-discrimination benchmarks, and negotiation timelines, drawing on the US DOJ- FTC Licensing Guidelines [37]and the EU's compulsory licensing jurisprudence in Magill and IMS Health, while adapting these to India's technology import dependent market.

3. Institutional Capacity- Building within the CCI

Antitrust-patent disputes require technical fluency in both economic and technological domains. Establishing a dedicated IP-competition bench or expert panel within the CCI, akin to specialised IP tribunals in other jurisdictions, would improve the consistency of dominance and licensing determination is patent- heavy cases. Given the pace of change in SEP and platform-related antitrust enforcement globally, including the European Union's Digital

[32] *Telefonaktiebolaget LM Ericsson (Publ) v. Competition Comm'n of India,* 2023 SCC OnLine Del 4078 (India) (Div. Bench decision, dated July 13, 2023, allowing Ericsson's appeal and quashing the CCI proceedings)
[33] *Monsanto Tech. LLC v. Nuziveedu Seeds Ltd.,* (2019) 3 S.C.C. 381 (India).
[34] The Competition Act, 2002, No. 12, Acts of Parliament, 2003, § 21 (India)
[35] The Patents Act, 1970, No. 39, Acts of Parliament, 1970, § 82 (India)
[36] The Competition (Amendment) Act, 2023 (India).
[37] U.S. Department of Justice & Federal Trade Commission, Antitrust Guidelines for the Licensing of Intellectual Property (2017).

Markets Act[38]. India's framework. Should be reviewed at regular intervals as highlighted in the commitments in the National Intellectual Property Rights Policy, 2016[39] to ensure domestic jurisprudence does not lag behind comparable economies.

VI. Conclusion

The discussion above shows a spiral of anti-trust laws intervening with intellectual property laws when intellectual property is misused for monopolistic purposes.[40] The relationship between patents and antitrust laws has always been complex. The law respects patent rights but also scrutinizes and restricts them if used in ways that limit competition or harm consumers. Both regimes, though imperfect, must work in tandem to address market challenges in an innovation-driven economy

In India, as has been established by this article, competition law is still evolving, drawing conclusions, analysing laws and forming an interpretation of its own. This convergence highlights the pressing need for balance. The scope of CCI's jurisdiction vis-à-vis IPR disputes is still ambiguous. The interpretation of Section 3[41] of the Competition Act which deals with anti-competitive agreements as well as Section 4[42] which is open to curtail the abuse of a dominant position. When it comes to statutes and their interpretation as well as jurisdiction there is an imperative need for clarity. Compared to the US, which leans towards privileging intellectual property, and the EU which adopts an interventionist stance, India follows a situational approach without any rigid preference for either regime.

The key question is whether India can sustain a framework that fosters creativity and technologically while preventing misuse of IP for anti-competitive conduct. The answer lies in operational safeguards, clarity on jurisdiction and strengthening the role of CCI in addressing IP-related competition concerns. Thus, the need of the hour is to look at these laws through a lens of instrumentality for market dynamics that drives innovation while propagating healthy market competition. The National Intellectual Property Rights Policy, 2016[43] issued by the

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[38] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act) [2022] OJ L265/1.
[39] National Intellectual Property Rights Policy, 2016, Ministry of Commerce and Industry (n 23
[40] Amitesh Mishra, 'Anti-Trust and Intellectual Property Rights: Analysing the Legal Interface, 4 Integral L. Rev. 133 (2024-2025)
[41] The Competition Act 2002, S. 3
[42] The Competition Act 2003, S. 4
[43] India IP policy, 2016, Ministry of Commerce and Industry.

Ministry of Commerce and Industry, acknowledges the need for coherence between IP and competition law. Though considering India to be lagging behind in the development of the interface between IPR and antitrust would be no less than a misstatement, it is true India has yet to fully incorporate international trends into its domestic jurisprudence.[44]

Thus, it is essential to treat these laws as complementary instruments that drive market dynamics, encouraging innovation while ensuring fairing. India is gradually paving a path toward harmony between competition and IP law, a process that calls for adaptability, patience and trust.

[44] Amitesh Mishra, 'Anti-Trust and Intellectual Property Rights: Analysing the Legal Interface' 4 Integral L. Rev. 133 (2024-2025)