



An Empirical Study On Interplay Between Competition Law And Ipr In Its Regulation Of Market

Author Name : Sudha B

Designation : Assistant professor of Law

Department : Law

Institute Name : Veltech School of Law, Avadi, Chennai.

ABSTRACT

Market are managed by entirely unexpected regulative component. one among the vital goals of the component is to strike a reasonable harmony between the clashing interests among the shifted partners. Free market works mechanically because of unregulated offer and request of essential wants while not plenteous intercession of the administration Thus, amid this component, the business visionaries summon the market. The nonattendance of impartial regulative measures at last damages the clients. Managed advertise system is a considerable measure of practical instrument than the past, since the most objective amid this component is to affirm that every one the fundamental wants of the benefactor are met and along these lines the business person's interests are accomplished. The enactments are one among the main components of regulative system that in its included territories attempts to adjust between the free play of imposing business model rights and interests of the general public. Protected innovation Rights (IPR) comprises of a heap of lawful rights exhibited upon the proprietor of elusive property to store up the imposing business model to use financially his scholarly manifestations. Rivalry Law manages rivalry so there's no antagonistic outcome available. This paper centers that the targets of laws on IPR and Competition law are closer to each option in to this point as draping a harmony between the interests of the right holders and accordingly the clients and along these lines the general public. Products and the costs of the product are largely motivated by way of the forces controlling deliver and demand together

with the monopolistic behaviour of the producers. within the given state of affairs, the manufacturers comes to a decision the quantity of their merchandise, investment for innovation and invention of latest products in addition to determines the pricing mechanism.

KEYWORD : Competition, IPR Policy, Compulsory licensing, Regulation of market, Patent

INTRODUCTION:

Markets are generally led by method for various component or device. For straightforwardness this paper focuses on systems, they're free commercial center task and directed market activity. In a nation with detached commercial center task the expenses(Frese n.d.) of products are set uninhibitedly through assent amongst purchasers and merchants and are loosened from any intercession from the administration or some other administrative measures. In a managed commercial center monetary framework, as from the call it can be reasoned that it is controlled by method for stand-out administrative bodies. The law are one of the main added substances of administrative system which in its included regions endeavors to adjust among the detached play of restraining infrastructure rights and interests of the general public.

The association between resistance law and highbrow possessions Rights (IPR) is one of the greatest said points in current years. restriction law has been respected in light of the fact that the most proficient instrument in countering against forceful assertions, forbidding misuse of prevailing capacity, controlling mergers and mixes and scary(Nathani and Akman 2017) effective allotment of assets to over the long haul advantage the customers, offering them with more extensive determinations, better lovely stock at a sensible cost. Protected innovation Rights vouches for putting solidness among the exceptional appropriate of the proprietor and the social leisure activity. It guarantees that the proprietor of the impalpable property gets a phenomenal legitimate that enables you to misuse monetarily his scholarly creation picking up the restraining infrastructure rights thereof. IPR incorporates bundle of rights which offers the proprietor legitimate to reject others from getting to the item, issue to a constrained time span. It could be gathered from over that a scrimmage is certain to get up amongst IPR and rivalry direction. IPR looks to concede imposing business model vitality to which rivalry scope contradictions to offer, on one hand it's far basic to energize development and on the inverse legitimate aggressiveness in commercial center ought to moreover be found. Thus is anything but a fighting which exists between the two legitimate rules anyway they're also corresponding in nature in specific zones. IPR offers motivating forces to financial advertisers for mechanical advancement, as an approach to make additional stock and achieve dynamic blast of the item, which is one of the objectives of the opposition strategy.

The paper analysis at the truth that in order to influence certain correct intensity inside the monetary framework we to require an administrative market economy, anyway not overwhelmed with direction, as an approach to make the economy stagnant.(Siragusa and Caronna n.d.) This paper momentarily examines that legitimate co-ways of life of both rivalry control and highbrow resources Rights is

required all together strike a soundness in the economy and how the enactment of a progressed money related framework, a developing economy and the adventures understanding tries to strike this solidness Aim of the study To think about the instruments that are by accessible for the free and controlled commercial center activity and to break down the opposition between the organizations and the part of IPR in it and to learn about free market and managed showcase task to think about goals of competition law and IPR and to know the similar investigation on competition law and IPR.

HYPOTHESIS:

HO: There is no association between income tax payee and rights of intellectual property owners

LIMITATIONS OF THE STUDY:

1. The study is subject to intelligence on part of the respondents.
2. The respondents showed reluctance in filling up the questionnaire.
3. The study is also limited due to time and resources constraints.

MATERIALS AND METHODS

The paper used both primary and secondary information which are collected from general public through simple random sampling method. The research paper is in the non-doctrinal method. The question related to the awareness of general public about the arbitration and the procedure involved was considered.

SAMPLE SIZES

The survey was limited to 1500 samples because of the time constraint. The primary sources of information are taken from the books and statutes and the secondary sources of information are taken from the articles of journals, working papers and thesis and presenting papers. In Survey, of the data analysis it has been proved the sampling collected in total 53 datas to find out the end conclusion to arrive the research

REVIEW OF LITERATURE

1. ARTICLE: interplay between competition law and IPR

AUTHOR: Shubhodp chakraborty

CONTENT: Market are generally governed by different mechanism or system. In a country with are prices of goods are set freely by constant between buyers and sellers and are from from any intervention from the government or any other regulatory measures.

2. ARTICLE: Clash between intellectual property law and competition law : a critical analysis

AUTHOR: Ruchiverma and shanya

CONTENT: Competition law and intellectual property rights IPR seem to operate in different domains having distinct objectives and applications. Thus understanding the smooth operation of

IPR law to competition law is the most challenging task, which needs immediate attention.

3.CASE: US Microsoft Year: 1998

CONTENT: This is one of the landmark case in relation to this issue of competition and IPR policy during TRIPS regime where microsoft was alleged of abusing its monopoly power by trying its operating system and web browser and selling. This restricted the market for other web browser competitors since windows operating system users already had a copy of internet explorer.

4.JOURNAL: International journal of legal research and studies, UGC approval online journal: 48489

CONTENT: The interface of intellectual property rights and competition law has grown massively, owing to the expansion and strengthening of intellectual property at a large scale. One prevalent view now a day is that competition law by protecting competition and intellectual law by rewarding innovation, create incentive to introduce new product.

5.BOOK: Research handbook of intellectual property and competition law

AUTHOR: Josef Dnaxl

CONTENT: The policy of compulsory licensing is a statutory measures to discourage concentration of IPR in the hand of right holder bobbing up out of his refusal to part with proper without ostensible purpose or parting with proper in commercial.

FREE MARKET AND REGULATED MARKET OPERATION:

Looking into the two operations of market, it's far to be deduced which form of monetary operation a rustic need to adopt for the higher running of a rustic's marketplace. In a loose marketplace system merchandise are produced (Gerber 2001) with very little or no involvement of the authorities. Products and the costs of the product are largely motivated by way of the forces controlling deliver and demand together with the monopolistic behaviour of the producers. within the given state of affairs, the manufacturers comes to a decision the quantity of their merchandise, investment for innovation and invention of latest products in addition to determines the pricing mechanism. on account that in the unfastened market financial system, the governmental manipulate over the supply and pricing does no longer intervene considerably, the producers are rendered with free hand in controlling the chain of deliver and call for. In other phrases, the producers create the client marketplace and there remains somewhat direct relation between the customers and manufacturers or manufacturers or carrier vendors. This phenomenon may be sectarian with spill over consequences on different inter-related other sectors. Those

entrepreneurs therefore can effortlessly take unfair gain over the clients for income and the fierce competing hobbies frequently can motive haywire within the United States of America's marketplace or financial system. The apt example on this regard would be the actual estate market crash of 2008.(Anon 2011)

A regulated marketplace shape is wherein buying and promoting is controlled by the nation through unique market regulatory bodies. unlike free market operation, assessments and balances framed with the aid of the government through law video display units distinct forces operating inside the marketplace giving less scope for obtaining monopoly over the deliver and manufacture of the various merchandise that are vital for livelihood of popular loads and the development of countrywide financial system.(Lorenz 2016) Therefore unfair practices through the producers, providers are curtailed however no longer abolished. Costs are also stored in test in order that each the suppliers and the buyers advantage from there. But on the other hand, too much regulation is adverse to the economy since it will make the economic system a stagnant one and there can be lesser flexibility in operation, where there might be lesser innovation, customers might not get what they in reality want .and so on.

it could be concluded that some shape of loose market operation is required as properly in a regulated marketplace machine, considering each have their execs and cons and in step with the operation of IP and competition regulation innovation is needed, expenses must be balanced so that each the suppliers in addition to the consumers meet their requirement, the economic system have to now not be stagnant but open but with regulation to keep it below manipulate.

A market without any regulatory frame will ultimately pass haywire and once it spins out of control it's miles very difficult to revert lower back.(Caggiano et al. 2012)

OBJECTIVES OF COMPETITION LAW & IPR:

The regulation on highbrow belongings seeks to strike a balance among the distinctive right of the proprietor and the social hobby. Bainbridge sums up "in the place of intellectual belongings the law strives to reach stability between conflicting interests to attain a justifiable compromise. Justifiable at the ground of defensive private hobby and promoting funding and imparting advantages and offering advantages for society at huge in phrases of expanded wealth, knowledge and employment". Intellectual assets Rights consist of a package deal of felony rights in favour of stakeholders of the intellectual belongings to exploit them commercially. The ones rights are acquired no longer through delegation however through statutory reputation. at the same time as granting the rights the nation confers them for specific period to prevent first of all, perpetual monopoly of the rights and secondly, (Mehta 2006)to maintain stability harmony among the conflicting interest of the stakeholders and the public. The curtailed monopoly led some jurists to finish that the IPR in truth can't be bracketed within monopoly in strict sense. But it cannot be denied that the goal of curtailed(Nathani & Akman 2017) monopoly is to foster innovations of newer products of the product. The conferment of intellectual property Rights in addition strives to praise the innovator or

creator in commercially viable manner. The similarities and dissimilarities of idea of 'competition' between highbrow property Rights and opposition regulation.(Cottier & Mavroidis 2003)

The denotation of 'competition' in the IPR and competition law is contextually one of a kind. The primary objectives of granting IPR encourages fierce opposition some of the intending innovators and concurrently restrict the competition in some of methods and at the quit of the unique duration the rights go to the public domain ending the completion. The objective of opposition law is to prevent abusive practices in the market, promote and preserve competition in markets and make certain that the clients get the right products at a reasonable fee and better great. Presence of horizontal agreements, this is agreements in between organizations who're engaged in trading with (Mehta 2006)comparable or identical goods are stated to have a considerable damaging effect on opposition. An agreement is said to have a considerable unfavourable effect on competition if the agreement has a pressure of proscribing or controlling product or services at any stage and which directly or in a roundabout way outcomes in bid rigging or collusive bidding. Anti-consider law additionally prohibits vertical agreements which may result in having an appreciable adverse effect on competition. Vertical agreements are the agreements among enterprises at exceptional stage of production, distribution, etc. competition regulation also prohibits abuse of dominant role of an corporation. Dominance over a particular region of market can be earned by way of any organization thru monopoly power; this is not consistent with se violation of anti-consider law but abuse of this position is unlawful and has a adverse effect available on the market. An employer generally tend to come to be dominant if the applicable marketplace is narrowly described and it ceases to be so if it's miles defined extensively.(Ramappa 2014) The regulation additionally regulates mergers and acquisitions. Opposition regulation also regulates monopolies and there role of dominance. (Ramappa 2014)The focus of competition regulation is ordinarily on three areas, agreements amongst establishments, abuse of dominant position and mergers or aggregate among firms. In a nutshell, prevention of unfair competition.

Article 10 (2) of the Paris convention defines unfair competition as "any act of opposition contrary to the honest practices in commercial and competition matters".(Schovsbo 2012) There may be little wish of equity in competition being finished completely by way of the free play of market assets. Therefore, a few amount of law is required for stopping such unfair opposition. Paris convention recognizes such acts as unfair opposition, causing confusion, misleading, discrediting competition, disclosure of secret data, taking gain of another's achievements(unfastened riding) and comparative advertising. it's far to be mentioned that this listing of unfair competition isn't exhaustive, it maintains to volume as new instances are dealt in special nations.

IPR competition is permitted as praise based. However in competition law the opposition is regulated for the cause of getting rid of unfair benefits with the aid of the monopoly holders. In competition law(Gouri 2016) there's no concept of right, however in IPR the competition is permitted for exploiting the rights in constrained manner, but in restricted way. But inside the domains of regulation the primary concept of competition is a prime using force of respective regulation.

From the façade it seems the objectives of each the laws are poles apart however somewhere down the line the closing objective is the identical, i.e. to attain customer welfare. Each IP and competition proportion the commonplace objective even though the means to gain it are distinctive

COMPETITION AND PATENTS:

Patent laws specially goal to save you bootlegging, making and selling patented products and as a consequence it is able to be said that Patent right also supplement with competition policy in that it make contributions to a honest market behaviour, that is the prime reason of competition policy. Patent additionally fosters innovation of the product, which is also one of the purposes of competition regulation.(Gouri 2016; Nathani & Akman 2017) Opposition concerns most effective arises if patent owners use patents in methods that subvert the targets of patent rights and are inconsistent with their critical function. Mere granting of Patent proper does not quantity to anti-consider violation, however abuse of that proper quantities to violation of anti-accept as true with policies. Similar to other IP rights Patent proper is also durational otherwise there could be abuse of that monopoly energy and it's going to choke the opposition by using stifling innovation of me(Gouri 2016)merchandise.(Mehta 2006) Consequently, right protection mechanism is framed which will permit patent handiest for the ones innovations which are of public advantage. A state of affairs would possibly crop up wherein a unique license definitely excludes different firms from coming into inside the market, this wherein opposition law wishes to come into pressure and prevent such undesired market behaviour. Competition and Patents are not inherently in struggle. Patent and anti-agree with “are without a doubt complementary as each are encouraging innovation, enterprise and competition

COMPETITION LAW VS IPR: COMPARATIVE ANALYSIS

The relationship between competition regulation and IP rights can also inherently appear conflicting but in fact isn't always; alternatively it promotes investments in dynamic opposition through limiting static opposition. IP rights offer its holders a head-start over the others by using providing them the right to make the most commercially (Tyagi 2013)his product inside a selected length. That is an obvious fact that during this period the IP proper holder will always have the monopoly energy and the position of dominance. Opposition regulation has in no way excluded that monopolistic behaviour must be negated, but abuse of such role will quantity to violation of anti-believe regulation.(Ramappa 2014) Through the years modifications inside the regulation from encounters in exceptional cases, has brought about a complementary and no longer conflicting functioning of those legal guidelines. To apprehend the problems in making use of competition law and IPR it's miles crucial to study the legal guidelines of various international locations and how they have got framed there regulation that allows you to counter these problems

TRIPS IN RELATION TO COMPETITION AND IPR POLICY:

trips (Trade-Related Aspects of Intellectual Property Rights) is an global agreement formed via the WTO (World Trade Organization) that sets down minimum requirements for many forms of IP law as carried out to nationals of different WTO individuals. at some stage in the negotiation of the agreement many nations expressed their situation at the law of unfair competition and abusive power of the IP rights holder.(Tyagi 2013) Article forty states that licensing practices or situations bearing on the IPR's might also have an destructive effect in alternate and may impede the switch of technology. Article 40 lets in the individuals to specify any abuse of IP rights having an damaging effect and adopt measures to counter them. some of the anti-competitive practices are cited in Article 42 of the settlement however it must be cited that this listing isn't always exhaustive.(Tyagi 2013) The provisions regarding anti-competitive agreement practices (mainly Article 40) usually are permissible in preference to prescriptive in nature

COMPULSORY LICENSING:

The policy of compulsory licensing is a statutory measure to discourage concentration of IPR in the hand of right holder bobbing up out of his refusal to part with the proper without ostensible purpose or parting with (Ramappa 2014; Gouri 2018)proper in commercial consideration that's incompatible to current market practice. it is a statutory mechanism in the hand of kingdom for effecting non-voluntary transfer of copyright from its owner to such someone who applies to the country to re-publish such paintings to the public in lieu of paying royalty to the owner(Ian McEwin 2011). Article 31 of the journeys settlement presents for the supply of obligatory licensing under positive conditions which include countrywide emergency or different instances of severe urgency or insufficient exploitation of the patent inside the United States

U.S IN RELATION TO COMPETITION AND IPR POLICY:

US held the foundation completion law or anti-trust law, as it is called. US has an open or free marketplace device with minimum amount of regulation, such type of machine allows the united states to alter its marketplace(Torti 2015) in one of these way that no monopolistic behaviour is abused, and if any enterprise entrepreneur does abuse or engage in unfair aggressive sports stringent legislations will play position in controlling(Muscolo & Pitruzzella 2016) it by means of manner of either charging lump sum amount of repayment or power them out of the market. segment 2 of the Sherman Act by and large discusses (1) the ownership of monopoly (2) the wilful acquisition of energy as prominent from the growth of the energy. This phase additionally affords abuse of dominant(Shiraishi n.d.) position, aiming at prohibition of unfair competition. section 13 prohibits discrimination of expenses even as promoting the same product to distinctive consumers. Clayton Act, 1914 came up with a few additional provisions concerning one of a kind dealing agreements, mergers and combination. US laws on opposition and IPR is a long way greater developed than many different countries

INDIAN COMPETITION ACT IN RELATION TO COMPETITION AND IPR POLICY:

If we take the instance of a developing country like India, segment 3 of the Indian opposition Act, 2002 states: “No company or affiliation of organisations or individual or association of persons shall input into any agreement in recognize of production, supply, distribution, garage, acquisition or control of products or provision of services, which causes or is in all likelihood to motive a considerable negative impact on opposition within India.” segment three(5) of the Act bestows a blanket exception on IPR which shows how the competition law does now not intrude with IPR rules. however, section 4 of the stated Act deals with abuse of dominant position which interferes with IPR rights, when violated. This suggests how opposition regulation supplement with IPR instead of conflicting with it.(Anon n.d.)

India is still at a developing stage in regard to opposition and IPR regulation. The case of Aamir Khan manufacturing vs The Director popular, 2010 opened a plethora of cases managing IPR and competition problems. Bombay excessive court held that CCI has the jurisdiction to address instances relating to IPR and competition issues. In Kingfisher vs competition fee of India it became additionally held that the CCI has the jurisdiction and strength to deal with cases which rose before the Copyright Board.(Malshe 2018) these leading cases showed the course to this issue regarding competition and IPR guidelines. however having stated that, India remains in its infant stage and requires a good deal deeper perspective on this issue. like the trips, India can adopt guidelines which include obligatory Licensing in case of immoderate pricing of a product, tying agreements ought to be dealt by the CCI, the CCI need to give you more stringent principles and tips primarily based on findings of the united states . The courts have now provide you with the view that the ‘hobby of client are of ideally suited significance’ and can't be sacrificed at the value of the right holder. If India can undertake approaches and seek advice from cases and law of us and eu it may expand to large extent on this issue.

US MICROSOFT CASE:

“It’s far a longstanding subject matter of dialogue in monetary and criminal circles: the way to marry the innovation bride and the competition groom” this is one of the landmark case in terms of this problem of competition and IPR policy throughout the journeys regime.(Pape 1999) The case originated inside the 12 months 1998, wherein Microsoft changed into alleged of abusing its monopoly electricity by means of tying its working system and internet browser and selling. (Schovsbo 2012) The competition stated that IE changed into a distinct and separate entity altogether, due to the fact a separate version is located for different running systems.

Judgement turned into for the reason that Microsoft had altered its dominant position and by this it desired to crush different operating structures and it stated that Microsoft had dedicated monopolization, and tying in violation of phase 1 and 2 of the Sherman Anti-consider Act.

Microsoft had appealed this choice and judgement turned into given that Microsoft might need to be damaged into specific additives, one for the browser and the alternative for the operating system.

ANALYSIS

ARE YOU AWARE OF BASIC LAW WHAT RIGHTS DOES THE INTELLECTUAL PROPERTY OWNERS HAVE?

Crosstab

Count

	12. WHAT RIGHTS DOES THE INTELLECTUAL PROPERTY OWNERS HAVE?			Total
	Exclusive right	limited right	unlimited right	
8. ARE YOU AWARE OF BASIC LAW				
yes	20	10	3	33
no	10	2	1	13
may be	5	1	1	7
Total	35	13	5	53

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	1.823 ^a	4	.768
Likelihood Ratio	1.884	4	.757
Linear-by-Linear Association	.244	1	.621
N of Valid Cases	53		

a. 6 cells (66.7%) have expected count less than 5. The minimum expected count is .66.

- For the purpose of this analysis, only the pearson chi-square statistic is needed.
- The p-value for the chi-square statistic is .000, which is smaller than the alpha level of .05. Therefore, there is enough evidence from the above mentioned table of the chi square test, when its greater than .05 then the null hypothesis proved . Evidence from the sample shows that there is a no significant difference.

DISCUSSION

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RESULT

From the above table such as chi square and cross tab it is clearly understood that null hypothesis is proved and survey was taken from the public.

RECOMMENDATION

From the above research it is likely seems the objectives of each laws are poles aside however someplace down the line the closing objective is the identical, i.e. to attain customer welfare. Each IP and competition should proportion to the commonplace of objective even though the means to gain it are distinctive

CONCLUSION:

The concept of intellectual belongings proper and competition regulation comes all the way down to the reality that IPR is a proper whereas competition regulation is a rules which acts as an synthetic surrender the marketplace operation. IPR is something which the kingdom offers the inventor or it's miles a reward which the nation affords to the author of any product to take advantage of commercially his introduction for a limited time period. plainly those legal guidelines are of conflicting in nature however they are not as we find from the above observe that those laws complement each different through backing up when one is abused. opposition law attempts to provide a wider desire to the purchasers and it seeks to stability the proper of producers and the consumers by imparting income and excellent product and at a reasonable charge, respectively. IPR additionally seeks to offer the producer his praise in being the only writer of the

product, which need to additionally be for the public gain. The dominant role presented through IPR is in step with se no longer violating the competition policies but abuse of that function is. In a nutshell, it is able to be concluded that each these legal guidelines have the commonplace objective but there methods to attain it are one of a kind.

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