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## IPR & Competition Law:A Structural Analysis

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### Abstract

The research paper delves into the interrelation between intellectual property rights and competition law. It is very interesting to identify the impact of both on one another. While IPR provides an exclusive right of the innovator to encourage new creation but competition law promote a healthy competition by penalizing the anti competitive activities. The main objective of this paper is to analyze the structure of their relationship by navigating the policies, provisions and the concept of the two. The structural analysis reveals a complex and often paradoxical relation between IPR and Competition law. To some extent these two looks like antithetical but so far their function is concerned they are complementary with each other.

Key words: intellectual property rights, Competition law, structure ,paradoxical, complementary,

### Introduction

The complexity of the relationship between the IPR & competition law is subject to widely debated. There are existence of various models in different areas. In recent years, it has been a contemporary issue to focus on the lines between IPR and competition law. While IPR try to strike a balance between the rights of the owner and the interests of society, on the contrary, competition laws deal with efficient methods to counter the anti-competitive agreements and restrict the use of dominant position.

In earlier times, both the concept of intellectual property and competition law were considered as separate branches in society. To strike a balance between the inventor's rights and the interests of society, the facilities are provided by the intellectual property where whereas on the other hand, the competition law is there to regulate the anti-competitive agreements, monopolies in the market, unfair trade practices, etc. But now, in the current situation, both of these two laws are playing the most crucial role in maintaining the marketing mechanism by implementing different modern technologies. So the separation between these two laws in the present society is not at all possible. They both are now maintaining the welfare of the consumer of society at large by applying a dynamic and competitive market policy.

## Intellectual Property Rights -

When a person innovates something like a model, symbol, design or images, the soul rights relating to that innovation are reserved with the innovator himself. What rights vested in him regarding his invention are protected by the intellectual property laws, which are also helpful in motivating others to invent new things by differentiating them from other creations, and ultimately, that also grants the consumers more choices of goods and services. IPR further safeguard the owner's legal rights for their own commerce and trade purposes and gains benefits out of that by facilitating society at large.

The protection which is granted by the IPR is majoring divided into two categories, like Industrial and copyright. Industrial protection includes industrial design, patents, service marks or trademarks, and copyrights include literary and artistic work, which covers the protection of the rights of the owner over his writings, paintings, music, movies, drawings, photographs, sculptures and architectural designs, etc.

## COMPETITION LAW-

The laws that are involved in regulating or managing the marketing mechanism are included under the purview of the competition law. Basically, the objective of the competition law is to regulate or control the monopolies and unauthorised competitive conduct by different companies. It also takes the responsibility to help the consumer to freely choose the goods and products and regulates the marketing policies by ensuring that there should not be any unfair trade practices prevailing in the society by any company or organisation, be it a smaller or larger one. By the involvement of this law, the anti-competitive practices like price fixing, bid-rigging, predatory pricing and dumping are also prohibited from the market for the welfare of the consumer.

## INTERFACE BETWEEN IPR & COMPETITION LAW-

The principles maintained by both laws are not similar; rather, they may overlap. But their ultimate goal in society is the same. Their target is to grow the market or economy by maintaining the people for more inventions. It means in the present arena where the market economy is very vital for the growth of society, so the IPR & competition law must go hand in hand. Further, this relation between these two branches of law and also reflected in some sections of the Indian Competition Act, 2002, like section 3 (4), which prohibits a tying agreement where the buyer has to buy a lesser desirable product along with a desirable product. The intellectual property rights and competition law has a very dynamic and a complementary relationship for the purpose of different innovation and for the welfare of the consumer. Section 3 (5) was again related to IPR as it protects the rights of the IPR holder, and in Section -4, the holder is restricted from abusing his sole right as an owner. It means whenever the dominant position of the intellectual property holder is misused that type the role of competition law is very important to control that.

The apex court held that, in the case of **Valle Peruman & others Vs Godfrey Phillips India Ltd.,2005**. The misuse of a trademark by the owner also amounts to an unfair trade practice. Through all the winds of intellectual property have the potential to infringe the competition, but it is the duty of the holder to use their right over the trademark reasonably and comply with the conditions imposed time to time. In another case, **Amir Khan Production Pvt. Ltd. Vs The Director General,2010**, the Bombay High Court opined that in both IPR and competition law matters, the Competition Commission has the power to influence. It also has its voice in the copyright board. Thus, it can be said that both IPR & competition law are inseparable from each other.

The term IPR covers a bundle of rights like patents, copyright, trademark, etc., from different perspectives and situations. By nature, the intellectual properties are monopolistic. But till the monopoly

is controlled or wishes the prescribed area, then everything i.e. good, but once the monopoly is abused, then that may create conflict between IPR & competition law. So, in other words, the monopoly which is given in IPR should be properly maintained in the competition prevailing in society. There are certain key aspects where we find a intersection between these two ,like:

Complementary goals- The basic objective of these two is to foster new innovation ,economic growth and efficiency

Conflict point: IPR creates monopoly in market but competition law limit monopolies.

The test of existence vs. exercise : The existence of IPR is always respected by competition but it intervenes only when the exercise is anti competitive.

Regulatory balance : For example in India the competition Act 2002 exempts reasonable IPR restrictions and create safe harbor for lawful intellectual property exercise.

## CONCLUSION-

IPR & competition law should go hand-in-hand. As perfectly mentioned in our Indian legal system, that nothing is absolute means every right enjoyed by the individual comes with certain limitations or restrictions. Similarly, when rights are provided by IPR to the owner of the inventor, those are subject to some limitations according to the competition law .The competition law serves as a check against the abuse of IP rights ,ensuring that the protection of intellectual creations does not stifle market competition.

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