Competition Law and IPR - An interplay or a friction

Sugandha Chaudhary, Department of Law,
Galgotias University, Yamuna Expressway
Greater Noida, Uttar Pradesh
Email ID: sugandha.rmlnlu@gmail.com

ABSTRACT: ***The Competition Act 2002 offers safeguards for intellectual property rights and, where applicable, exempt relationships between firms from the test of anti-competitiveness. The primary purpose of intellectual property rights (IPR) regulation is to promote the intellectual activity and the investment made by the proprietor to deal with the subject matter or to use it exclusively. Such security of an individual conflicts completely with the goals of competition law, which aims to control and promote innovation on the market. Thus, because of the competing intentions and priorities, there is a controversy between IPR laws as well as competition law. Competition law, on the one side, limits exclusivity whilst the Intellectual Property Law, on the other, allows for it. This paper titled "Competition Law and IPR - An interplay or a friction?" will through a light on competition law and IPR covering the topics Competition Law and Patents, Trademark and Copyright.***

KEYWORDS: Competition Law, Copyright, IPR, Patents, Trademarks.

INTRODUCTION

The interface between intellectual property rights (IPR) and competition law, which comprises two competing views, is a complicated problem which implies a never-ending dialog between the devil and the deep sea.

While on the one side, the laws on intellectual property foster exclusivity and maintain a person's individualistic and personal rights, competition legislation is a means of curbing monopolies and discouraging misuse of domination and enabling them more community-based legislation.

Therefore, because of the long-standing overlap, their ties in each jurisdiction can become a topic of significant interest and controversy.

The corresponding Legislation can, although it may describe the freedom to use a patent, concept, use of the marks or use in such ways (such as in the case of copyright), in effect, the law confers the right to prevent competitive exploitation of the related rights at the cost of trade.[1]

The relation between competition law and Intellectual Property Rights (IPR) has been seen in recent years as a contemporary challenge. Competition law allows for an effective mechanism against anti-competitive agreements, controls fusions and acquisitions, reduces the utilization of the dominant position, etc.

In comparison, IPR seeks to find a balance between exclusive and social interest's privileges. It assists the owner of the immaterial property to get exclusive access to its intellectual development and commercial value.

From the above, a cursor between IPR and Competition Law is shown. As IPR, the competition legislation disagrees with monopoly privilege and monopolies.

[1] Gazala Parveen, The interplay between Competition Law and IPR, Ipleader.

On the other hand, competition on the market can, on the one hand, also be monitored the spirit of the inventor. [2]

In certain fields, however, they are complementary. IPR offers an incentive for technical advancement, which in turn produces more innovations and contributes to competitive demand development perceived to be one of the goals of competition policy.

Business is primarily governed by multiple structures or processes, i.e. free market activity and regulated market operation.

DISCUSSION

1. Incidence of IPR in Competition Law :

The Competition Act, 2002 aims at prohibition of certain agreements, abuse of dominant position and regulation of combinations promoting exclusivity.[3]

It also seeks to foster competition as a way to adapt to the demand and to ensure that the resources are properly distributed and the industry is stimulated to innovate.

The Competition Act 2002 explicitly provides an exemption despite its policy of preventing anti-competitive deals and acknowledges the right of a person, as required to preserve one of its intellectual property rights, to avoid or enforce fair conditions for any infringements thereof.

While policy and competition law in the field of intellectual property rights can appear at the beginning of the process to each other, it may co-exist, as the US Supreme Court has properly noted.

The topic therefore remains quo vadis in terms of striking an equilibrium between security of intellectual property rights and market preservation in the fast-running times in emerging economies, such as India.

2. *Competition Law and Patent Law*:

Competition policy is accompanied by patent law to encourage fair market conduct by prohibiting illegal manufacturing and export of proprietary goods which is the primary aim of competition policy.

Competition issues occur only where the proprietor exploits his invention in a way which is inconsistent with and perverts the intent of patent rights.

Granting a right to the proprietor of the patent would not be a contradiction of the antitrust, but an infringement of the antitrust laws would be a misuse of those rights. For a certain period of time only, that is, twenty years after the filing date, patent rights shall be issued.

If those rights are granted for an indefinite duration, so market control is exploited and competition is obstructed by limiting goods' creativity or creativity. A competition law takes form as the proprietor of the patent is awarded exclusive privilege to exclude competitors from business access. The photo shows an unpleasant business scenario.[4]

3. Competition Law and Trademarks:

The exclusivity of a trade mark and its use by the proprietor are scarcely competitive and affect the power over consumer forces little or no.

This shows that a trademark protects the proprietor's identity and does not essentially prescribe conditions for the production or delivery of goods or services but serves only as an identity device for the owner of

[2] P. NARAYAN, INTELLECTUAL PROPERTY LAW, 4 (3rd ed. Eastern Law House, 2001).
[3] The Competition Act, 2002.
[4] *Supra 1*.

those goods and services and, therefore, leads to differentiation rather than exclusivity within the meaning of anti-customer laws.[5]

4. Competition Law and Copyright:

The most dynamic and complex relationship between copyright law rights in relation to their reasonableness in competition-related ways remains. The adjacent protections, in particular the broadcasters' rights and abortion rights, often cover big issues.

In the landmark judgment of Cricket Association of West Bengal[6], the issues relating to the rights of broadcasters to telecast live cricket matches was dealt with.

This case deliberated thoroughly on the principle of whether the monopoly on broadcasting is acceptable with fair limits as provided for in Article 19 of the Constitution of India, 1950[7] and the monopolistic tendencies of the Cricket Association of Bengal.

The SC also explained and dismissed the hegemony of the Cricket Association on global operation and interpretation of broadcaster's rights, although it did not specifically touch on competition law.

CONCLUSION

It can be inferred, after considering this, that IPR is a right because antitrust legislation governs the body, which regulates the manufacturing, delivery, distribution and storing of products, etc. by the company while working on the market.

It is said that IPR gives any value to the maker of the product or script for a given period of time to exclusively use it. We can help that by working theory that means that a person can benefit from all hard and labor-intensive work.

These two laws seem to refute nature, but it does not seem from the aforementioned analysis that both laws are additional, and one enters the picture when one is misused.

Competitive regulation seeks to give the buyer a wide variety of goods and balances the right of the supplier with the consumer by raising profit at competitive prices with a premium commodity. IPR also encourages the company to be compensated with making the commodity in its entirety, which in essence would support the general public.

The monopoly offered by the IPR mainly does not breach competition policy, but abuse may be a violation of policy.

As government, India must therefore continue to make a stand clear on what will predominate, and to allow a more accurate exercise based on the facts and circumstances of each case and its effect in case of direct dispute between law on competitiveness and intellectual property.

Furthermore, another point can be made about the fact that antitrust regulators in cases include extending more focus to patenting conditions and copyright, while in situations where competition issues on the markets are posed, the criteria for the defense of trade mark rights need little or no judicial interference.

[5] Shambhavi Sinha, The Interplay Between The Intellectual Property Law And Competition Laws, Mondaq (Visited on 21 Jan 2021, at 11:30 pm).
[6] Cricket Association of West Bengal, 1995 SCC (2) 161.
[7] Constitution of India, 1950.