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Judicial Pronouncements Relating to the Interface between IPR and Competition Law in India and Foreign Jurisdictions

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Abstract: ***The current research article examines the legal theories that have been established in earlier instances and attempts to define the connection between the two bodies of law in India as well as in other jurisdictions, particularly the US and EU. Global harmonization of the interaction between competition policy and IPR is difficult soon due to the variety of national competition standards. While there is no perfect concurrence of perspectives regarding each IP licensing arrangement or practice, there is a fundamental concurrence regarding the interaction of IP and Competition law and the requirement for parity between the pro- and anti-competitive impacts of licensing practices. The IPR Authority has remained mum on the disputed subject of the refusal of license and compulsory licensing, where, despite the difference in opinions about its usefulness as antitrust principles, there is still a broad consensus that such principles should in any case only be used in exceptional circumstances ensuing a case-by-case analysis.***

Keywords: IPR, Competition law, Patent Rights, Copyrights, Anti-Competitive, Licensing practices

1. Introduction

Patent rights and competition law's conflict is not a recent problem. The distinction between the legal use of IPRs and an antitrust violation has been debated by courts and competition authorities on several occasions. As has been seen in developed jurisdictions like the U.S, it seems that the particular situations arising at the interface between these two regimes could be better-taken care of by promulgating guidelines for the harmonization of these two branches of laws. European law on refusal to deal differs from US law. The existence of dominance is the key factor in the examination of refusal to deal in both EU and Indian competition law. In recent rise in the patent application number from other jurisdictions will surely result in the rise in the number of cases relating to the conflict between competition law and IPR. Cases like *FICCI Multiplex*, *Amir Khan*, and *Micromax* are starting points in Indian Jurisprudence.

1.1 Cases Dealing with Interface Issues in India

1.1.1 MRTP Regime

Before the Monopolies and Restrictive Trade Practices Commission (MRTP Commission, predecessor to the Competition Commission), the conflict between IPRs and Competition law arose in ***Vallal Peruman v Godfrey Phillips India Limited*** [1], the Commission noticed: "Trademark owner has the right to use the trademark reasonably. This right is subject to terms and conditions imposed at the time of grant of the trademark. But it does not allow using the mark in any unreasonable way. In case, trademark owners abuse the trademark by manipulation, distortion, contrivances, etc., it will attract the action of unfair trade practices." Similarly in ***Manju Bhardwaj vs Zee Telefilms Ltd.*** [2] The Commission said that anybody who uses a trademark improperly by distortion, manipulation, embellishments, or contrivances to deceive customers will be subject to legal action.

In ***Union of India vs Cyanamide India Ltd***. [3], It was recognized that the cost of life-saving drugs does not go out of price management. A significant issue is the pricing of branded and patented generics that is beyond the purview of price regulation. Potential monopoly price abuse is a major worry in industries like life-saving medications, particularly when there are no comparable items accessible in underdeveloped nations. It is the responsibility of the Commission to keep track of the issue.

1.1.2 Competition Law Regime

The **FICCI multiplex case** [4] was a landmark judgment on the application of Section 3(5). In such a case the distributors and producers of cinematographic films in India agreed, to not screen films in multiplexes until and unless certain obligations required by them are born by multiplex owners. The MAI applied with the CCI. The arguments before the commission by members of UPDV contained one of the contentions that since the cinematographic film is essentially likea bundle of rights called copyright, they have complete freedom to exercise their rights. They said that their agreement falls under exemption section 3(5) and therefore their agreement cannot be held void under section 3. The Commission in its judgment said. [5]

> *"In the present case, neither any question of infringement of rights of producers/distributors conferred under the Copyright Act, 1957 arises nor does the question of imposing reasonable conditions to protect such right arise. In the light of the facts of the case and the evidence gathered during the course of the investigation, it is clear that the producers/distributors acted in concert to determine revenue sharing ratio with multiplex owners and to this end, they also limited/ controlled supply of films to multiplex owners. Such a conduct on their part squarely falls within the mischief of section 3(3) (a) and (b) of the Act plea based on copyright is wholly misplaced and has to be rejected."*

Interpreting section 3(5) the Commission further said: [6]

> *"It may be mentioned that the intellectual property laws do not have any absolute overriding effect on the competition law. The extent of the non-obstante clause in section 3(5) of the Act is not absolute as is clear from the language used therein and it exempts the right holder from the rigors of Competition law only to protect his rights from infringement. It further enables the right holder to impose reasonable conditions, as may be necessary for protecting such rights."*

CCI rightly noted that intellectual property has no superseding influence over competition legislation. The scope of the non-obstante provision in Sec. 3(5) of the Act is unclear, and it exempts the owner of an IPR from the requirements of competition law solely to prevent infringement by applying reasonable restrictions.

In ***Amir Khan Productions Private Limited vs Union of India,*** [7] the court determined for the first time that the Indian Competition Commission had the authority to handle issues involving intellectual property rights in such cases fall in the category of anti-competitive practices of Competition law. In the CCI, issues that may be considered before the copyright board may also be addressed. The Competition Act of 2002, according to the Court, takes precedence over all other laws that are now in existence. [8]

In ***Kingfisher vs Competition Commission of India*** [9], the Court reaffirmed that the CCI is authorized to address all matters brought before the Copyright Board. Similarly, the Delhi High Court in ***Telefonaktiebolaget LM Ericsson versus Competition Commission of India.*** [10] clear that jurisdiction of patents Act, 1970 does not exclude the remedies available under Competition law. In this case, the court had to decide whether the Patent Act's provisions exhausted all possible remedies for abusive behaviour by a patentee or if exploitation of a patentee's dominant status might be the matter of actions and orders under this Act [11]. The High Court determined that the resolutions applicable under Sections 84 of the Patent Act and Section 27 of the Competition Act are significantly different from those granted for abuse of position. In terms of offering a solution, the resolutions under the two Acts are not mutually exclusive, and the granting of one does not interfere with the other. Furthermore, the Competition Act alone has the authority to decide whether there has been any abuse of dominance; therefore neither a civil court nor an order under Sec. 27 of the Competition Act may decide whether a company has misused its dominant position. In the end, the Court concluded that the CCI's authority to hear complaints against abuse of power about patent rights could not be restricted in the absence of any diametrically opposed contradiction between the two statutes. [12]

In ***Entertainment Network (India) Ltd vs Super Cassette Industries Ltd,*** [13] the Supreme Court inquired about the intersection between IPR and competition law and its impact on the market. The Court determined that any transaction with unfair conditions would constitute refusal once the copyright owner releases a monopoly over it. The copyright holder has full independence to relish the results of his hard work by issuing a license and imputing royalties, but the exercise of this right is not unqualified and any transaction that is unreasonably impaired or restricting competition would amount to refusal.

In ***Singhania & Partners LLP vs Microsoft Corporation (I) Pvt. Ltd.*** [14], when selling Windows and Office 2007 software, the CCI took anti-competitive conduct and misuse of a dominant position into consideration. In this instance, the Indian Competition Commission was unable to identify any violations of the competition laws. The Commission noted that it is acceptable and widespread in the market to charge various rates for the same product under several licensing types. The Commission claims that no competitors have been driven out of the market as a consequence of Microsoft's dominance. Therefore, Microsoft has not violated any laws governing competition.

It is important to remember that Microsoft is being accused of engaging in several instances of abusing dominant status, tying agreements, and other anti-competitive practices in both the US and the EU. Microsoft received significant fines in both countries for its anti-competitive behavior. But the Indian competition authorities couldn't find any violation of competition provisions. [15]

In ***Sri Shamsher Kataria vs Honda Seil Cars India Ltd. and Others***, [16] case, the CCI found the refusal to deal. But this was possible because the car manufacturers were in a dominant position and they refused to supply spare parts and other diagnostic tools to independent manufacturers.

In ***Consim Info Pvt. Ltd vs Google India Pvt. Ltd,*** [17] Consim Info Pvt. Ltd. alleged that Google had used ad words and ad texts in the keyword suggestion tool which were identical or deceptively similar to Consim's registered trademarks.

An appeal [18] was filed against the previous single-judge ruling to obtain a permanent injunction prohibiting Google from using the appellant's trademarks and variants that are very similar to them to misrepresent their services and to prevent Google from using those trademarks in the Ad Word Program and Key Word Suggestion Tool to violate the appellant's trademarks. The appellant is entitled to an injunction, the court remarked. The court said that this agreement does not need to be disturbed at this time, even though the respondents had assured that they won't utilize the trademark of the appellant in the three-year-old marketing campaign at issue here.

In March 2012, Consim also filed another complaint against Google before the CCI [19] for 'engaging in discriminatory and retaliatory actions relating to ad words. The Commission concludes that, as a result of the internet's exponential expansion, online marketplaces today include a wider range of commercial activity. We are also seeing the emergence of huge web platforms that have a significant influence on all market players. They may be able to prevent innovation or reduce consumer welfare since they have access to the whole internet and vast amounts of personal data. Market dominance or strength is not, however, an antitrust issue in and of itself; rather, it is the behaviour of such actors that calls for thorough competition examination. A competition authority should only step in when the evidence demonstrates that the dominant business is abusing its position to impede innovation and/or competition or abuse its position to the disadvantage of its customers. Therefore, we are hesitant to utilize this law's tools to change views at the cost of consumers, who in our opinion make up the law's target audience. Because of this, we do not determine that Google has breached Sec. 4 of the Act. [20]

In ***Policy bazaar Insurance Web Aggregator & Anr. Vs Acko General Insurance Ltd. &Ors.*** [21] A Single Judge Bench [Sanjeev Narula, J.] determined that trademark violation of Plaintiff under Section 29 of the Trademark Act resulted in a temporary ex-parte ad-interim injunction on the defendant's use of POLICY BAZAAR as keywords. However, the Delhi High Court (by the judgment of May 28, 2019) removed the ad-interim injunction for other reasons.

In the recent past, Delhi High Court faced many cases relating to Special Essential Patents (SEP). On July 12, 2018, the Delhi High Court became the torch bearer for the intellectual property when it presented India's first post-trial decision in a Standards Essential Patent (SEP) lawsuit in a two-joined (identical) dispute, ***Koninklijke Philips Electronics N.V. versus Rajesh Bansal*** **and** ***Koninklijke Philips v. Bhagirathi Electronics*** [22], Philips, the plaintiff, sued both of them for patent infringement on the grounds that they had imported DVD player parts made with its copyrighted technology and put them together in India without acquiring licenses. The High Court of Delhi decided in Philips' favour. Accepting the essentiality certifications for the company's US and European patents, it concluded that the plaintiff's invention was necessary for the DVD standard. Regarding the infringement, the court decided that the defendants had not shown that the parts were imported from legitimate licensees of Philips. Furthermore, the court decided that even while the defendants' goods conformed with the standard, the lack of the defendants to get a license from Philips to utilize its SEP was *prima facie* evidence of infringement. The defendants were unable to demonstrate that the appropriate licensing fee Philips levied was not on FRAND terms. As a result, the court set the requested royalties charged by Philips.

Interdigital Technology Corporation vs. Xiaomi Corporation &Ors. [23]
As a result of Xiaomi's unauthorized use of its technology, US tech firm Interdigital filed a lawsuit against the Chinese consumer electronics company. Interdigital alleged that Xiaomi had violated its 3G and 4G patents. The US Company was looking for royalties or a permanent injection as a remedy. Interdigital had previously granted other companies licenses to use its SEPs, and Xiaomi had been encouraged to do the same. The rate suggested by Xiaomi was rejected by Interdigital because it was seen to violate the FRAND requirements. Interdigital said that secret information could not be revealed to a rival company like Xiaomi, thus it did not also offer access to equivalent licensing agreements to maintain confidential business information. On June 3, 2020, Xiaomi filed a case on Interdigital in the Wuhan Intermediate People's Court demanding that Interdigital determine royalty rates for its 3G and 4G SEPs that are compliant with FRAND requirements. The Wuhan Court issued an anti-suit injunction on 23rd September. As a "tit-for-tat" reaction, Interdigital likewise filed an anti-suit injunction motion to the Delhi High Court on September 29, 2020. The Delhi High Court issued its first anti-suit injunction on May 3rd by upholding its judgment from October 9th, 2020, in which it had awarded Xiaomi an ad interim anti-suit injunction and ordered it not to seek or execute the injunction it had obtained from the Wuhan Court. The Delhi High Court ruled that where a foreign forum possesses the necessary jurisdiction to hear the issue, a court from one state (in this instance, the Wuhan Court) cannot prevent the parties from continuing their dispute there. Xiaomi was mandated by the court to compensate Interdigital for the fines levied by the Wuhan court. [24]

1.2 Cases Dealing with Interface Issues in U.S. & EU Jurisdictions

The case analysis of the other jurisdictions like the European Union (EU) and United States (U.S.) will help to understand the anti-competitive effect and the misuse of the dominant position in the case of IPR.

1.2.1 The United States

In ***Standard Oil Co. of New Jersey versus the United States,*** [25] the Supreme Court determined that Standard Oil Co. was responsible to monopolize the petroleum sector through some unfair and anti-competitive practices. The Sherman Antitrust Act, however, expressly states that only unfair trade barriers are prohibited under Section 1. The Supreme Court of the US ruled as follows in this case:

> "*The Anti-trust Act of 1890 was enacted in the light of the then existing practical conception of the law against restraint of trade, and the intent of Congress was not to restrain the right to make and enforce contracts, whether resulting [ruin combination or otherwise, which do not unduly restrain inter-state or foreign commerce, but to protect that commerce From contracts or combinations by methods, whether old or new, which would constitute an interference with or an undue restraint upon it*."

In the ***United States vs New Wrinkle, Inc***. [26] case, the defendants are accused by the US government of conspiring to eliminate competition in the country's wrinkle business through patent licensing agreements and fixing a standard price in infringement of Sec. 1 of the Sherman Act. The Court ruled that the aim and the result of the agreement amongst patent holders to pool their patents and regulate prices on goods for their licensees and themselves were obviously in infringement of the Sherman Act.

In the ***United States vs Masonite Corporation,*** [27] Masonite Corporation appointed its competitor as *del credere* agents and fixed the prices at which they may sell the products, for which it claimed patent protection. The price-fixing agreement was charged as being in Sherman Act violation. The Court held that the patentee, in this case, had exhausted its restricted privilege when it disposed of the product to del credere agent.

In the ***United States vs Terminal Railroad Association,*** [28] the United States Supreme Court established the essential facilities concept. A joint venture of railroad firms in this instance prohibited non-members from using the terminals. The Supreme Court ruled that this infringed the Sherman Act and imposed a requirement that the new railroad is granted access to the bridge on conditions that were comparable to those between the original railroads. The conclusion that non-members can't compete successfully without accessing these "essential facilities" served as the basis for the ruling.

In ***Aspen Skiing Co. vs Aspen Highlands Skiing Corp***., [29] the Supreme Court also gave the "intent to monopolize" test and determined that monopoly organizations are usually not required to participate in co-operative marketing initiatives with rivals. However, this rule can be changed if the monopolist's rejection to permit the rival to contribute to a co-operative venture "makes an important change in a pattern of distribution" of products. [30]

In ***United States v. United Shoe Machinery Company,*** [31] it was decided that prohibiting others from using an invention, either completely or subject to conditions, is a right under patent law, and that exercising a such right does not violate the legislation against unfair competition.

In **U.S. vs Grinnel Corp**. [32] the Supreme Court ruled that restrictions and conditions in a license would violate the law on competition if a firm has monopoly authority and there is deliberate acquisition or maintenance of such authority, as opposed to development or growth as a result of superior products, historic accident, or business acumen.

In ***Eastman Kodak Company vs Image Technical Services***. [33] the US Court has considered that "the court has held many times that power gained through some natural and legal advantage such as a patent, copyright, or business acumen can give rise to liability if a seller exploits his dominant position in one market to expand his empire into next." The standards laid down in Grinnell corp. the case was reiterated in Eastman Kodak.

In ***Chicago Board of Trade versus the United States***, [34] a decision by the US Supreme Court mandated the use of reason and that every trade organization and board of trade must impose restrictions on members' behaviour as "the true test of legality is whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition."

In ***Motion Pictures Patents Co. vs Universal Film Manufacturing Co.,*** [35] the US Supreme Court reversed the decision in Henry v A. B. Dick on tying arrangements. Tying agreements now fall within the purview of the Sherman Act as a result of this ruling. The Supreme Court has made it plain that patent holders will no longer be able to avoid anti-trust liability by simply having a valid patent.

In ***Automatic Radio Manufacturing Co., Inc***. v ***Hhazeline Research Inc***. [36] According to the facts, the US Supreme Court found that the royalty provision did not result in the creation of a new monopoly and did not restrict competition beyond the legal grant of the patent, that there was no evidence of a conspiracy to impose restrictions on unpatented goods or any goods to create a monopoly, and that the royalties under an agreed-upon proportion of the licensee's transactions is reasonable.

In ***A& M Records Inc. v Napstar, Inc***. [37] the ability to prevent the growth of the derivative market by rejecting a copyright license, according to the Court, is one of the key benefits of copyright. According to the common opinion, the desire to exclude is a presumptively legitimate economic goal, notwithstanding the likelihood that a unilateral rejection of a copyright license might result in abuse of claim. [38]

In ***United States v Paramount Pictures, Inc***. [39]

The Court ruled in such circumstances that the licensee's capacity to license one or more pieces of IP was illegally tied to the need that the licensee acquires other pieces of intellectual property, services, or products. The Court also ruled that a copyright cannot be utilized in conjunction with a patent to limit competitors' ability to compete in the use of their licenses. [40] The principles set in this case are the following:

- It is prohibited to utilize copyright to stop competitors from using their licenses in competition with one another.
- The defendants' ownership of the copyrights to their films and the exhibitors' only permitted use of them did not give them the power to band together and set standardized admission pricing;
- Additionally, it did not justify the agreement between each distributor defendant and its licensees to set standard minimum entry rates that had the intention of suppressing price competition among exhibitors;

In ***Illinois Tool Works, Inc. vs Independent Ink, Inc*** [41]., the US Supreme Court has decided that it would discard its established rule that market power is assumed in cases where the patented product is tied with the buying of non-patented products in a tying arrangement that will be governed by the Clayton and Sherman Antitrust Act.

The same point is made by the EU and US legal systems that competition law applies to the exercise of IP rights. Dealing with the license rejection cases in both jurisdictions does not provide IPR unrestricted permission to break the antitrust rules. Furthermore, the US Supreme Court ruled in the ***United States vs Microsoft*** [42] that all general laws apply equally to IP laws and exclusive right holders and that IP laws are not exempt from anti-trust legislation.

1.2.2 European Union

Magill Case

The ECJ examined the issue in the Magill case of whether the owner of a copyright-protected TV program listing might eliminate opponents from the derivative market for Weekly TV Guide. [43] According to the court, there are very few instances in which the refusal of a license would constitute abuse due to the lack of real and genuine substitutes, the obstruction to product innovation (in violation of Article 82), the unethical use of leverage in a secondary market, and the lack of a compelling argument. The Court also noted that, in "exceptional circumstances," where a refusal to negotiate was opposed by intellectual property right holders (specifically, three holders of the copyright for TV programs), it might be sacrificed to prevent competitors from offering new goods or services on a downstream market. [44] Furthermore, the ECJ ruled that compulsory licensing was a suitable remedy and that just owning intellectual property do not entitle one to such a dominating position. The theory of necessary facilities was introduced into intellectual property-related competition issues by the ECJ for the first time. The use of "compulsory licensing" under Article 82 to IPRs that were the product of significant risk and investment has precedence in this instance. [45]

Volvo Case

In the Volvo case [46], the European Court of Justice looked at whether it was possible to conclude that a license refusal was abusive. According to the ECJ, "the basic subject matter" of the exclusive right is the owner's ability to prohibit others from using the protected design in items they manufacture, sell, or import without their permission. [47]

It was decided by the ECJ that it was unlawful for a patent owner to issue a license to a third-party, even in the marketing of items that use the design, which would deprive him of his exclusive right to the material. [48] Even while it is not abused in and of itself, the ECJ concluded that in certain situations, the refusal to provide a license might be abused.

IMS Health Case

In *IMS Health Care GmbH & Co. KG v NDC Health GmbH & Co. KG*. [49] The Court ruled:

> *"It is clear from the case law that, in order for the refusal by an undertaking which owns a copyright to give access to a product or service indispensable for carrying on a particular business to be treated as abusive, it is sufficient that three cumulative conditions be satisfied, namely, that that refusal is preventing the emergence of a new product for which there is a potential consumer demand, that it is unjustified and such as to exclude any competition in the secondary market".* [50]

The Court noted that denying a license can't, by itself, be considered misuse of a dominant status and outlined the conditions in which a license denial may be breaching of Art. 102 of the EC Treaty. The need for two markets to classify a license denial as abusive was another topic covered in this case. [51] The Court also noted that markets may be identified even in hypothetical situations. As a result of this decision, the Court has defined a secondary market. Instead, it is sufficient if two distinct, related phases of production can be shown where the upstream product was a crucial component for a downstream product that the rival meant to develop and sell. [52]

Microsoft Case

The *Microsoft case* [53], which was determined in 2007 in the EU, is a landmark example of how intellectual property and competition law interacted under the TRIP regime. [54] After receiving a complaint from Sun Microsystems, a US business, accusing Microsoft of withholding interface details essential for Sun to create products compatible with Windows PCs, the European Commission initiated an inquiry into the corporation. Because Microsoft had linked the WMP to the Windows 2000 PC OS, the European Commission decided to look into the matter. By purchasing the Window Client PC OS (tying good) contingent on the purchase of the WMP, the EC charged Microsoft with violating (former) Article 82(d) of the EC Treaty (tied good). [55]

Article 82 (now Art. 102) of the EC Treaty, which forbids businesses with a dominating hold on a specific market from operating themselves, expresses the interfaces between IPR and competition in a manner that is attributable to the abuse of their market power, where aimed behavior is not capable of objective justification. [56]

The Court determined that by linking the WMP to the PC OS, Microsoft had exploited its dominant place in the PC OS industry. The choice was made using the following five steps:

1) Microsoft dominated the market for PC operating systems.
2) Windows PC OS served as the tying good, while WMP served as the tied good.
3) Customers were not given the option to purchase Windows OS without WMP by Microsoft.
4) The tie between Microsoft and the streaming media player industry prevented competition.
5) Microsoft's justifications for tying were disproved.

All four requirements, as per the European Commission, were met in the Microsoft tying case, establishing misuse of power by Microsoft. Additionally, the commission said that Microsoft's misconduct retarded innovation in the market for streaming media players, harming both the competitive environment and customers who would eventually have fewer options. [57] In this case, a penalty of 899 million Euros was imposed for not providing interoperability information to competitors working groups which were mandatory for their products to operate with windows. [58]

Intel Case

In *Intel Corporation v Via Technologies Inc*., [59] the court was deciding whether or whether it would be exploitation of a dominant status for Intel to refuse to award Via a license on any conditions, even those that are legal or reasonable. The Court held that if the agreement violates Articles 81 and 82 of the Treaty, it shall be automatically void.

In ***Intel vs Commission,*** [60] the Commission determined that Intel had breached Article 82 (now Section 102) of the EC Treaty by providing conditional discounts to adopt a plan intended to eliminate rivals from the market for x86 CPUs (Central Processing Units). [61] On May 13, 2009, the European Commission issued a judgment concluding that by exploiting its dominant status in the x86 CPU market, Intel Corporation violated Art. 82 of the EC Treaty. [62]

Qualcomm Case

In the Qualcomm case [63], in 2007, the Commission agreed to begin official antitrust trials against American chipset maker Qualcomm Incorporated for alleged infringement of EC Treaty regulations on exploitation of a dominant market status (Article 82). By refusing to reveal the license conditions for mobile technologies and not giving its intellectual property at competitive prices, Qualcomm is accused of violating EU competition regulations. Additionally, it is alleged in the complaints that Qualcomm's license conditions are not FRAND (fair, not fair, and non-discriminatory), which may be against EC Competition regulations. [64] However, the commission was unable to find appropriate evidence against Qualcomm after an investigation conducted by it in 2009 and determined to relinquish the proceedings. [65]

Recently in another ***Qualcomm v Commission*** [66] case, European Commission imposed a fine of 997,449.000 Euros. This is because Qualcomm infringed Article 102 TEFU and Article 54 EEA between 25 February 2011 and 16 September 2016.

2. Concluding Remark

Patent owners are not exempt from the rules of competition law, and in certain situations, competition law restricts the patent owner's ability to use its patent right, according to EU competition law as well as US antitrust law. The ECJ often adopted the position that the presence of monopolistic power under IPR does not violate Articles 81 and 82 of the treaty, but an exercise of such monopoly power in an abusive way may come under the prohibitions of Articles 81 and 82. [67] These cases have already been discussed above in this chapter. The landmark *Microsoft case* (supra) has been atthe Centre stage in the US as well as EU jurisdiction to decide if antitrust laws aim to encourage or impede long-term economic innovation in high-tech markets. In India also we have analysed certain cases relating to the interface between competition law and IPRs and found that there is still a need for strong competition law to deal with such cases. The cases like *FICCI Multiplex* [68], *Amir Khan* [69], and *Micromax* [70] are seminal and starting points in Indian Jurisprudence. The US and EU jurisprudence may be torch bearers and may guide the CCI and Indian Courts.

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[65] Case T- 371/17 "http://europa.eu/rapid/pressReleaseAction.do?reference=MEMO/09/516&format=HTML&aged=1&language= EN&guiLanguage=en (visited on July 22, 2021)".
[66] Case T-235/18.
[67] *Cadital v Cine Vog* (Cadital II), Case 262/81, 1982 ECR 3381.
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