

COMPETITION POLICY AND PATENT LAW UNDER UNCERTAINTY REGULATING INNOVATION



EDITED BY
Geoffrey A. Manne • Joshua D. Wright

CAMBRIDGE

Competition Policy And Patent Law Under Uncertainty Regulating Innovation

**United States. Congress. Senate.
Committee on Finance**



Competition Policy And Patent Law Under Uncertainty Regulating Innovation:

Competition Policy and Patent Law under Uncertainty Geoffrey A. Manne, Joshua D. Wright, 2011-06-13 Any legal regime must attempt to assess the trade offs associated with rules that will affect incentives to innovate allocative efficiency competition and freedom of economic actors to commercialize the fruits of their innovative labors The essays in this book approach this critical set of problems from an economic perspective *Regulating Innovation* Geoffrey A. Manne, Joshua D. Wright, 2013 This essay is the introduction to a forthcoming volume entitled *Regulating Innovation Competition Policy and Patent Law Under Uncertainty* Cambridge U Press 2009 forthcoming In addition to introducing all of the papers in the volume this essay introduces the organizing themes of the volume Innovation is critical to economic growth While it is well understood that legal institutions play an important role in fostering an environment conducive to innovation and its commercialization much less is known about the optimal design of specific institutions Regulatory design decisions and in particular competition policy and intellectual property regimes can have profoundly positive or negative consequences for economic growth and welfare However the ratio of what is known to unknown with respect to the relationship between innovation competition and regulatory policy is staggeringly low In addition to this uncertainty concerning the relationships between regulation innovation and economic growth the process of innovation itself is not well understood The regulation of innovation and the optimal design of legal institutions in this environment of uncertainty are two of the most important policy challenges of the 21st century Any legal regime must attempt to assess the tradeoffs associated with rules that will affect incentives to innovate allocative efficiency competition and freedom of economic actors to commercialize the fruits of their innovative labors and foster economic growth Unfortunately as this essay describes our tools for assessing these tradeoffs are limited Any coherent regulatory framework must take account of the low level of empirical knowledge surrounding the complex relationship between regulation both through competition policy and patent law and innovation and the corresponding uncertainty caused by this absence of knowledge The relationship between regulation and innovation has posed a significant challenge to antitrust economists at least since Schumpeter's suggestion that dynamic competition would result in creative destruction leading to a competitive process where one monopolist would replace another sequentially as new entrants developed a superior product Interfering in this dynamic process for the sake of static efficiency gains is perilous but of course not impossible But regulators and policy makers must take more seriously the condition of fundamental uncertainty in which they act and the significant costs of their inevitable errors before justifying interventions on grounds of promoting competition or facilitating innovation This essay and the chapters in this book approach this critical set of problems from an economic perspective relying on the tools of microeconomics quantitative analysis and comparative institutional analysis to explore and begin to provide answers to the myriad challenges facing policymakers The strength of this analysis often described as the New Institutional Economic approach is in its recognition that understanding economic

performance requires not only economic modeling of narrow behavior but also an understanding of that behavior in its legal economic social and political institutional context The essay includes a table of contents for the book Comparative Law Relating to Patents and Abuse of Dominance in Global Telecommunication Industry Amrit Subhadarsi,2018-12-15 The intersection between Competition law and intellectual property has always been a subject matter of controversy because of the very nature of the two subject areas On the one hand competition law seeks to protect the interest of traders and consumers by way of abuse of monopoly power on the part of an enterprise or an individual and on the other hand the grant of an intellectual property right to a person automatically excludes other persons from making use of the property on which the right has been vested **The Roles of Innovation in Competition Law Analysis** Paul Nihoul,Pieter Van Cleynebreugel, Rapid technological innovations have challenged the conventional application of antitrust and competition law across the globe Acknowledging these challenges this original work analyses the roles of innovation in competition law analysis and reflects on how competition and antitrust law can be refined and tailored to innovation **Competition Law's Innovation Factor** Viktoria H S E Robertson,2020-02-06 In recent years market definition has come under attack as an analytical tool of competition law Scholars have increasingly questioned its usefulness and feasibility That criticism comes into sharper relief in dynamic innovation driven markets which do not correspond to the static markets on which the concept of the relevant market was modelled This book explores that controversy from a comparative legal perspective taking into account both EU competition and US antitrust law It examines the manifold ways in which courts and competition authorities in the EU and US have factored innovation related considerations into market delineation covering innovative product markets product differentiation future markets issues going beyond market definition proper such as innovation competition innovation markets and potential competition intellectual property rights innovative aftermarkets and multi sided platforms This book finds that going forward the role of market definition in dynamic contexts needs to focus on its function of market characterisation rather than on the assessment of market power How Will the Proposed Merger Between AT & T and T-Mobile Affect Wireless Telecommunications Competition? United States. Congress. House. Committee on the Judiciary. Subcommittee on Intellectual Property, Competition, and the Internet,2011 Intellectual Property, Antitrust and Cumulative Innovation in the EU and the US Thorsten Käseberg,2012-06-08 For decades the debate about the tension between IP and antitrust law has revolved around the question to what extent antitrust should accept that IP laws may bar competition in order to stimulate innovation The rise of IP rights in recent years has highlighted the problem that IP may also impede innovation if research for new technologies or the marketing of new products requires access to protected prior innovation How this cumulative innovation is actually accounted for under IP and antitrust laws in the EU and the US and how it could alternatively be dealt with are the central questions addressed in this unique study by lawyer and economist Thorsten K seberg Taking an integrated view of both IP and antitrust rules in particular on refusals to deal based on IP the

book assesses policy levers under European and US patent copyright and trade secrecy laws such as the bar for and scope of protection as well as research exemptions compulsory licensing regimes and misuse doctrines It analyses what the allocation of tasks is and should be between these IP levers and antitrust rules in particular the law on abuse of dominance Article 102 TFEU and monopolisation Section 2 Sherman Act while particular attention is paid to the essential facilities doctrine including pricing methodologies for access to IP Many recent decisions and judgments are put into a coherent analytical framework such as IMS Health AstraZeneca GlaxoSmithKline in the EU Apple France Orange Book Standard Germany Trinko Rambus NYMEX eBay US Microsoft and IBM T3 both EU and US Further topics covered include IP protection for software interoperability information and databases industry specific tailoring of IP antitrust innovation market analysis and the WTO law on the IP antitrust interface

European Yearbook of International Economic Law 2013 Christoph Herrmann, Markus Krajewski, Jörg Philipp Terhechte, 2013-04-02 Part one of Volume 4 2013 of the European Yearbook of International Economic Law offers a special focus on recent developments in international competition policy and law International competition law has only begun to emerge as a distinct subfield of international economic law in recent years even though international agreements on competition co operation date back to the 1970s Competition law became a prominent subject of political and academic debates in the late 1990s when competition and trade were discussed as one of the Singapore issues in the WTO Today international competition law is a complex and multi layered system of rules and principles encompassing not only the external application of domestic competition law and traditional bilateral co operation agreements but also competition provisions in regional trade agreements and non binding guidelines and standards Furthermore the relevance of competition law for developing countries and the relationship between competition law and public services are the subject of heated debates The contributions to this volume reflect the growing diversity of the issues and elements of international competition law Part two presents analytical reports on the developments of the regional integration processes in North America Central Africa and Southeast Asia as well as on the treaty practice of the European Union Part three covers the legal and political developments in major international organizations that deal with international economic law namely the IMF WCO WTO WIPO ICSID and UNCTAD Lastly part four offers book reviews of recent works in the field of international economic law

The Oxford Handbook of Intellectual Property Law Rochelle C. Dreyfuss, Justine Pila, 2018-04-12 We live in an age in which expressive informational and technological subject matter are becoming increasingly important Intellectual property is the primary means by which the law seeks to regulate such subject matter It aims to promote innovation and creativity and in doing so to support solutions to global environmental and health problems as well as freedom of expression and democracy It also seeks to stimulate economic growth and competition accounting for its centrality to EU Internal Market and international trade and development policies Additionally it is of enormous and increasing importance to business As a result there is a substantial and ever growing interest in intellectual

property law across all spheres of industry and social policy including an interest in its legal principles its social and normative foundations and its place and operation in the political economy This handbook written by leading academics and practitioners from the field of intellectual property law and suitable for both a specialist legal readership and an intelligent but non specialist legal and non legal readership provides a comprehensive account of the following areas The foundations of IP law including its emergence and development in different jurisdictions and regions The substantive rules and principles of IP and Important issues arising from the existence and operation of IP in the political economy Creation without Restraint Christina Bohannan, Herbert Hovenkamp, 2012-01-13 Creation without Restraint Promoting Liberty and Rivalry in Innovation analyzes the current state of competition antitrust and intellectual property laws and proposes realistic reforms that will encourage innovation As with antitrust and a reform process that aligned injury requirements in lawsuits with the incentive to compete this book proposes similar reforms for patent and copyright law and considers both the uses and limitations of antitrust as a vehicle for intellectual property law reform Patent Intensity and Economic Growth Daniel Benoliel, 2017-12-14 A theoretical critique of the patent and innovation policy funnelled by intellectual property instruments towards developing countries **Demand Letters and Consumer Protection** United States. Congress. Senate. Committee on Commerce, Science, and Transportation. Subcommittee on Consumer Protection, Product Safety, and Insurance, 2014

Trade, Investment, Innovation and their Impact on Access to Medicines Locknie Hsu, 2016-02-12 The last two decades have seen great economic change in Asia and this has impacted upon the vexed question of access to affordable healthcare and medicines in many Asian states In this book Locknie Hsu examines the issue of access to medicines in Asia from a fresh perspective which embraces trade and investment law innovation intellectual property law competition policy and public health issues Hsu explores the key evolving legal issues in these areas including ASEAN integration free trade agreement negotiations such as those for the TPP bilateral investment agreements and significant court decisions The book goes on to present proposals for steps to be taken in addressing access to medicines in Asia and will be useful to academic researchers regulators law makers and global organizations involved in the issues surrounding access to affordable healthcare and medicines Economic Efficiency Ben Van Rompuy, 2012-08-01 Over the past decade we have witnessed an apparent convergence of views among competition agency officials in the European Union and the United States on the appropriate goals of competition law enforcement Antitrust policy it is now suggested should focus on enhancing economic efficiency which we are to believe will promote consumer welfare Recent EU Commission Guidelines on the application of Article 101 TFEU appear to banish considerations that cannot be construed as having an economic efficiency value such as the environment cultural policy employment public health and consumer protection from the application of Article 101 TFEU Arguing that the professed adoption of an exclusive efficiency approach to Article 101 TFEU does not preclude but rather obfuscates the role of non efficiency considerations the author of this timely contribution accomplishes the following

objectives traces the genesis of the shift to an efficiency orientation in EU and US antitrust policy and dispels several ingrained misconceptions that underpin it demonstrates the close interrelationship between evolving images of the purpose of antitrust the development of related enforcement norms and enforcement output provides in depth analyses of a number of analytically rich cases in the audiovisual sector and particularly those related to sports rights and explores what the role of non efficiency considerations in the application of Article 101 TFEU could and should be under the modernized enforcement regime Permissionless Innovation: The Continuing Case for Comprehensive Technological Freedom Adam

Thierer,2016-03-15 Will innovators be forced to seek the blessing of public officials before they develop and deploy new devices and services or will they be generally left free to experiment with new technologies and business models In this book Adam Thierer argues that if the former disposition the precautionary principle trumps the latter permissionless innovation the result will be fewer services lower quality goods higher prices diminished economic growth and a decline in the overall standard of living When public policy is shaped by precautionary principle reasoning it poses a serious threat to technological progress economic entrepreneurialism and long run prosperity By contrast permissionless innovation has fueled the success of the Internet and much of the modern tech economy in recent years and it is set to power the next great industrial revolution if we let it *Nominations of Michael B. Thornton, Joseph W. Nega, and F. Scott Kieff* United States. Congress.

Senate. Committee on Finance,2013 *The Need for Humility in Policymaking* Stefanie Haeffele,Anne Hobson,2019-08-22 Regulations impact a wide array of market and social activities that influence our daily lives Regulations are attempts to correct perceived market failures caused by information asymmetries externalities and principal agent problems and to provide public goods which would otherwise be underprovided Government actors are responsible for identifying these issues weighing the costs and benefits of intervention and designing and implementing regulations to improve society Good regulations help mitigate issues in the economy without inciting new problems and without the costs exceeding the benefits of intervention This requires intensive analysis and an awareness of the complexities of social life Our society is complex and dynamic where people face knowledge and incentive problems whether in the market politics or civil society By examining this complex reality we can better understand why regulations arise and persist and the challenges of reform We argue that this approach to policymaking and policy analysis requires humility an acknowledgment of the challenges we face when intervening in our society This volume intends to cultivate an appreciation for the complexity of human decision making and the incentives that drive human behavior By examining specific policy changes it will delve into the effects of and lessons learned from regulations in financial markets computer and internet governance and health care innovation and delivery This volume will be of interest to students scholars and policymakers who seek to understand the complexities of regulation in a dynamic social world Trials and Tribulations in the Implementation of Pre-Commercial Procurement in Europe Ramona

Apostol,2017-02-09 This book aims to advance the understanding of pre commercial procurement PCP as innovation policy

instrument and as means to fulfil public needs To this end it places PCP within its political and legal context and elucidates its origins and its economic rationale Based on this analysis it suggests a clear conceptualization of PCP and a clear delineation from other innovation policy instruments Subsequently the book assesses the value and achievements of the more established type of PCP policy programmes and draws lessons for improvement In this context it raises awareness of the remaining obstacles to its wide and effective implementation and suggests appropriate solutions ranging from policy guidance to law interpretation and legislative reform The text makes use of illustrative practical examples of policy making and project implementation in various public programmes of R D procurement This is a highly relevant book for academics and practitioners in the field of public procurement Ramona Apostol is Senior Procurement Adviser at Corvers Procurement Services B V in the Netherlands She holds a Ph D in Law from Leiden University the Netherlands She has been involved in a wide range of procurement projects related to the implementation of R D and innovation procurement and regularly acts as independent expert for the European Commission on this topic

Understanding the Federal Reserve's Proposed Rule on Interchange Fees United States. Congress. House. Committee on Financial Services. Subcommittee on Financial Institutions and Consumer Credit, 2011

Property Aspects of Intellectual Property Ole-Andreas Rognstad, 2018-07-05 For many years there have been discussions about whether intellectual property IP is really property The property concept particularly when used in transnational and international concepts remains somewhat elusive Here Ole Andreas Rognstad comprehensively discusses the use of the property metaphor in relation to IP in a transnational perspective Rognstad gives an overview of main aspects of the IP property interface notably the justification and the structuring of the rights and intellectual property rights as assets Moreover he highlights the importance of distinguishing between these aspects even though they are closely linked to each other The book takes a transnational approach dealing with recent developments in European human fundamental rights law and international investment law helping readers to understand the practical implications of the IP property interface This will be valuable reading for academics practitioners and policy makers working in the area of IP and lawyers and philosophers interested in the property debate

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