

Intellectual Property and Competition Law

EDITED BY
PETER CHROCZIEL, MORITZ LORENZ &
WOLRAD PRINZ ZU WALDECK UND PYRMONT



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Moritz Lorenz

Wolrad Prinz zu Waldeck und Pyrmont



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Preface

‘[T]he Court must strike a balance between maintaining free competition — in respect of which primary law and, in particular, Article 102 TFEU prohibit abuses of a dominant position — and the requirement to safeguard that proprietor’s intellectual-property rights and its right to effective judicial protection, guaranteed by Article 17(2) and Article 47 of the Charter, respectively.’

Court of Justice of the European Union, Decision of 16 July 2015, C-170/13 – *Huawei Technologies Co.*, para. 42

Foreword

This book serves two basic purposes.

One is to examine the basics of intellectual property rights (IP rights or IPR) and European competition law. Therefore, the first few sections are devoted to explaining the basic rules of IP rights and the basic structures of competition law. Furthermore, the historical background and political influence concerning these two areas will be shortly illustrated.

However, there is no shortage of literature examining IP rights or European competition law in great detail. That is why this book will focus on the intersection of the two areas.

So, the main purpose of this book is to examine where IP rights and European competition law intersect and what consequences, especially for IP rights owners, arise out of this intersection. In order to clarify each problem that may arise during the ownership of an IP right in context with competition law, the timeline of the 'life' of an IP right serves as an outline of the discussion.

That is to say, the life of IP rights will be examined and explained from birth to death. Starting with the prosecution to the transfer or sale of the IP right. Continuing with licensing, where especially the problem of a refusal to grant a license will have to be thoroughly examined. Finally, the enforcement and waiver of IP rights will be studied.

During each stage of this 'biography' of IP rights the possible entanglement with European competition law shall be the focus.

Finally, the authors will give an outlook to where we might be heading with IP rights and European competition law.

Chapters on important national legal systems, covering Germany, US, China, The Netherlands and the UK round up the overview. As an annex, the major European antitrust regulations dealing with IP rights will be included.

*Peter Chrocziel,
Moritz Lorenz &
Wolrad Prinz zu Waldeck und Pyrmont*

Summary of Contents

| | |
|---|-----|
| Editors | v |
| Contributors | vii |
| Preface | xix |
| Foreword | xxi |
| CHAPTER 1 | |
| Introduction | |
| <i>Peter Chrocziel & Wolrad Prinz zu Waldeck und Pyrmont</i> | 1 |
| CHAPTER 2 | |
| European Union Law | |
| <i>Peter Chrocziel, Moritz Lorenz & Wolrad Prinz zu Waldeck und Pyrmont</i> | 33 |
| CHAPTER 3 | |
| Germany | |
| <i>Moritz Lorenz</i> | 101 |
| CHAPTER 4 | |
| United Kingdom | |
| <i>Marc Dominic Mimler</i> | 125 |
| CHAPTER 5 | |
| The Netherlands | |
| <i>Jelle Drok & Elske Raedts</i> | 145 |
| CHAPTER 6 | |
| United States | |
| <i>Linda H. Martin & Elizabeth M. Zito</i> | 157 |

Summary of Contents

CHAPTER 7

China

Richard Bird, Ninette Dodoo & Timothy Lamb 185

Appendices

Major Antitrust Regulations dealing with IP Rights 205

APPENDIX I

Treaty on the Functioning of the European Union (Excerpts) 207

APPENDIX II

Commission Notice on agreements of minor importance which do not appreciably restrict competition under Article 101 (1) TFEU (De Minimis Notice) 213

APPENDIX III

Commission notice on the definition of relevant market for the purposes of Community competition law 219

APPENDIX IV

Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101 (3) TFEU to categories of vertical agreements und concerted practices 233

APPENDIX V

Commission Regulation No 1218/2010 of 14 December 2010 on the application of Article 101 (3) TFEU to categories of specialisation agreements 245

APPENDIX VI

Commission Regulation No 1217/2010 of 14 December 2010 on the application of Article 101 (3) TFEU to categories of research and development agreements 255

APPENDIX VII

Commission Regulation (EC) No 316/2014 of 21 March 2014 on the application of Article 101 (3) TFEU to categories of technology transfer agreements 269

APPENDIX VIII

Guidelines on the application of Article 101 TFEU to technology transfer agreements 283

Index 365

Table of Contents

| | |
|--|-----|
| Editors | v |
| Contributors | vii |
| Preface | xix |
| Foreword | xxi |
| CHAPTER 1 | |
| Introduction | |
| <i>Peter Chrocziel & Wolrad Prinz zu Waldeck und Pyrmont</i> | 1 |
| §1.01 Key Principles of Intellectual Property Law | 1 |
| [A] Characteristics of Intellectual Property Rights | 2 |
| [B] Purpose and Theoretical Justifications | 3 |
| [1] Natural Rights Theory | 4 |
| [2] Reward Theory | 4 |
| [3] Utilitarian Based Incentive Theories | 5 |
| [4] Disclosure Theory | 6 |
| [C] Importance of Intellectual Property Rights | 6 |
| [D] Balancing within the IP System | 8 |
| [E] European Policy Objectives and Activities | 10 |
| [1] Harmonising Legislation | 10 |
| [2] General Political Agenda towards IP | 11 |
| [F] Public Perception and Acceptance of IP | 12 |
| §1.02 The Lifecycle of Intellectual Property Rights in Brief | 13 |
| [A] Obtaining Intellectual Property Rights | 13 |
| [B] Maintaining Intellectual Property Rights | 14 |
| [C] Exploiting Intellectual Property Rights | 15 |
| §1.03 Key Principles of European Competition Law | 16 |
| [A] Purpose | 16 |

Table of Contents

| | | |
|-------|--|----|
| [B] | Background: The Relevant European Treaties | 17 |
| [1] | European Coal and Steel Community (ECSC) | 17 |
| [2] | European Economic Community (EEC) | 18 |
| [3] | The European Union (EU) | 19 |
| [4] | The Lisbon Treaty | 19 |
| [C] | Key Provisions of European Competition Law | 19 |
| [1] | Article 101 TFEU: Cartels | 20 |
| [2] | Block Exemption Regulations | 21 |
| [3] | Article 102 TFEU: Abuse of a Dominant Position | 22 |
| [4] | Articles 34–36 TFEU: Free Movement of Goods | 23 |
| [5] | Merger Control | 24 |
| §1.04 | The Commission's Approach to Competition Law | 24 |
| [A] | The Development in the Early Years | 25 |
| [B] | The Adoption of Regulation (EEC) No. 17/62 | 25 |
| [C] | The Adoption of Block Exemption Regulations | 27 |
| [D] | Tetra Pak as a Shock to the Profession | 28 |
| [E] | The Commission's More Economic Approach | 29 |
| [F] | Regulation (EC) No. 1/2003: The Paradigm Shift | 29 |
| [G] | From <i>Volvo v. Veng</i> to <i>Motorola</i> | 30 |
| [1] | <i>Volvo v. Veng</i> | 30 |
| [2] | IMS Health | 31 |
| [3] | AstraZeneca | 32 |
| [4] | Motorola Mobility | 32 |

CHAPTER 2

European Union Law

| | | |
|-------|---|----|
| | <i>Peter Chrocziel, Moritz Lorenz & Wolrad Prinz zu Waldeck und Pyrmont</i> | 33 |
| §2.01 | Phase 1: Prosecution of IPR | 33 |
| [A] | Uncontrolled Prosecution | 33 |
| [B] | Pharmaceutical Sector Inquiry | 34 |
| [1] | Aims | 34 |
| [2] | Legal Basis | 35 |
| [3] | Final Report | 35 |
| [a] | Market Structure | 36 |
| [b] | Product Life Cycle Management | 36 |
| [c] | Competition between Originator Companies and Generic Companies | 37 |
| [i] | Patent Clusters | 37 |
| [ii] | Divisional Patent Applications | 37 |
| [iii] | Effect of these Instruments | 38 |
| [d] | Competition between Originator Companies | 38 |
| [i] | 'Smoke Screen Patenting' | 39 |
| [ii] | 'Defensive Patenting' | 39 |
| [iii] | Effects of these Instruments | 39 |
| [e] | Conclusion of the European Commission | 40 |

| | | |
|-------|--|----|
| | [f] Comment and Annual Reports (Especially on Reverse Payments): Patent Settlements | 41 |
| | [C] Boehringer Ingelheim Procedure COMP/39246 – Boehringer/Almirall | 45 |
| | [1] Starting Point | 45 |
| | [2] Comment | 46 |
| | [D] AstraZeneca Case | 47 |
| | [1] Judgment of the Court of Justice of the EU | 47 |
| | [2] Comment | 49 |
| | [E] Résumé | 49 |
| §2.02 | Phase 2: Transfer of IPR | 51 |
| | [A] Types of Transfer | 51 |
| | [1] Assignment | 51 |
| | [a] Characteristics | 51 |
| | [b] Relevance | 52 |
| | [i] Patent Pools | 52 |
| | [ii] M&A Deals | 54 |
| | [2] Licensing | 55 |
| | [a] Characteristics | 55 |
| | [b] Types | 56 |
| | [i] Exclusive | 56 |
| | [ii] Sole | 57 |
| | [iii] Non-exclusive | 57 |
| | [c] Competition Law Issues | 57 |
| | [3] Sales Agreement versus Actual Transfer | 57 |
| | [B] Applicability of Merger Control | 57 |
| | [C] Applicable Provisions | 59 |
| | [1] Article 101 TFEU | 60 |
| | [a] Undertaking | 60 |
| | [b] Infringing Conduct | 60 |
| | [c] Examples | 61 |
| | [d] Exemption | 61 |
| | [2] Technology Transfer Block Exemption Regulation | 62 |
| | [a] Overview | 62 |
| | [b] Applicability | 63 |
| | [c] Market Share Thresholds | 64 |
| | [d] Hardcore Restrictions | 64 |
| | [e] TTBER as Safe Haven? | 66 |
| | [3] Relation with the Block Exemption Regulation on Specialisation and R&D Agreement | 66 |
| | [D] Conclusions | 67 |
| §2.03 | Refusal to License | 68 |
| | [A] Overview | 68 |
| | [1] What Does Article 102 TFEU Provide? | 68 |

Table of Contents

| | | |
|-------|---|----|
| | [a] Dominant Position | 69 |
| | [i] Definition | 69 |
| | [ii] Relevant Market | 69 |
| | [b] Abuse | 70 |
| | [2] Obligation to License | 71 |
| [B] | Case Law | 72 |
| | [1] Volvo | 72 |
| | [a] Background | 72 |
| | [b] Summary | 73 |
| | [c] Facts | 73 |
| | [d] Issues | 74 |
| | [e] Decision | 74 |
| | [f] Evaluation | 75 |
| | [2] Magill | 76 |
| | [a] Background | 76 |
| | [b] Summary | 76 |
| | [c] Facts | 77 |
| | [d] Issues | 78 |
| | [e] Decision | 78 |
| | [3] Bronner | 80 |
| | [4] IMS Health | 80 |
| | [5] Microsoft | 84 |
| | [6] Recent Confirmations of the Conditions for Access to IPRs | 85 |
| [C] | Licensing of SEPs | 85 |
| | [1] Motorola and Samsung | 86 |
| | [a] Common Background | 86 |
| | [b] The German 'Orange Book Standard' | 87 |
| | [c] Motorola | 88 |
| | [i] Facts | 88 |
| | [ii] Summary | 88 |
| | [iii] Decision | 88 |
| | [d] Samsung | 90 |
| | [i] Facts | 90 |
| | [ii] Summary | 91 |
| | [iii] Decision | 91 |
| | [e] Common Evaluation | 92 |
| | [2] Huawei v. ZTE | 93 |
| | [a] Facts | 93 |
| | [b] Issues | 93 |
| | [c] Summary | 95 |
| | [d] Decision | 95 |
| | [e] Evaluation | 96 |
| | [D] Summary | 98 |
| §2.04 | Summary and Outlook: What Are the Ground Rules? | 98 |

CHAPTER 3

Germany

Moritz Lorenz

| | | |
|-------|--|-----|
| §3.01 | Introduction | 101 |
| | [A] German IP Law | 102 |
| | [1] Patent Law | 102 |
| | [2] Copyright Law | 103 |
| | [3] Trademark Law | 103 |
| | [B] German Competition Law | 104 |
| §3.02 | Transfer of IP Rights | 105 |
| | [A] Agreements regarding the Sale or Licensing of Patents | 105 |
| | [1] Developments until 2005 | 105 |
| | [2] Assessment under Current German Competition Law | 107 |
| | [B] Agreements regarding the Transfer of Trademarks and Copyrights | 107 |
| | [C] Transfer of IP Rights and Merger Control | 108 |
| | [D] The Refusal to License | 108 |
| | [1] Compulsory Licences under German Competition Law | 109 |
| | [2] The Compulsory Licence Defence | 111 |
| | [a] Background | 111 |
| | [b] The Orange Book Standard Decision by the FCJ | 112 |
| | [c] The Aftermath of Orange Book Standard | 114 |
| | [d] Recent Developments | 115 |
| | [E] Refusal to Obtain a License: The German Google Case | 117 |
| §3.03 | Settlement Agreements and Delimitation Agreements | 118 |
| | [A] Settlement of IP Rights Disputes | 118 |
| | [B] Trademark Delimitation Agreements | 121 |
| | [C] Obtaining a Licence for a Patent Later Revoked | 123 |

CHAPTER 4

United Kingdom

Marc Dominic Mimler

| | | |
|-------|---|-----|
| §4.01 | Introduction | 125 |
| | [A] Intellectual Property Law in the United Kingdom | 126 |
| | [1] Patent Law | 127 |
| | [2] Copyright Law | 127 |
| | [3] Trade Mark Law | 128 |
| | [B] Competition Law in the United Kingdom | 128 |
| §4.02 | Transfer of IP Rights | 130 |
| | [A] Agreements regarding the Sale or Licensing of Patents | 131 |
| | [B] Agreements regarding the Transfer of Trade Marks and Copyrights | 132 |
| | [C] Transfer of IP Rights and Merger Control | 133 |
| | [D] Refusal to License Intellectual Property Rights | 134 |

Table of Contents

| | | |
|-----------------|---|-----|
| | [1] The Pre-competition Act 1988 Scenario | 134 |
| | [2] The Application of 'Euro-Defences' | 136 |
| | [3] Standard-Essential Patents | 137 |
| | [4] Compulsory Licensing under the UK Patents Act 1977 | 141 |
| §4.03 | Settlement Agreements and Delimitation Agreements | 142 |
| CHAPTER 5 | | |
| The Netherlands | | |
| | <i>Jelle Drok & Elske Raedts</i> | 145 |
| §5.01 | General Overview | 145 |
| | [A] Relevant Law | 146 |
| | [1] Intellectual Property Law | 146 |
| | [a] Sources of Patent law | 146 |
| | [b] Sources of Copyright Law | 147 |
| | [c] Sources of Trademark Law | 147 |
| | [2] Competition Law | 147 |
| | [a] Sources of Competition Law | 147 |
| §5.02 | The General Relationship between Intellectual Property Law and Competition Law in the Netherlands | 149 |
| | [A] The Interplay between Intellectual Property Law and Competition Law | 149 |
| | [1] Agreements regarding the Transfer of IP Rights | 149 |
| | [2] Other Applicable Block Exemptions | 150 |
| §5.03 | The Refusal to License | 150 |
| | [A] Refusal to License and Abuse of Dominance | 150 |
| | [B] <i>Refusal to License in Relation to Patents</i> | 151 |
| | [1] The Duty to License under Competition Law: An Issue of Patent Enforcement | 151 |
| | [a] Philips/SK Kassetten | 152 |
| | [b] <i>Apple v. Samsung</i> - Preliminary injunction proceedings | 153 |
| | [c] <i>Apple v. Samsung</i> - Proceedings on the Merits | 154 |
| | [d] <i>ZTE v. Vringo</i> | 155 |
| | [e] Conclusion | 155 |
| CHAPTER 6 | | |
| United States | | |
| | <i>Linda H. Martin & Elizabeth M. Zito</i> | 157 |
| §6.01 | Introduction | 157 |
| | [A] US IP Law | 158 |
| | [1] Patent Law | 158 |
| | [2] Trademark Law | 160 |
| | [3] Copyright Law | 161 |
| | [B] US Competition Law | 162 |
| | [1] The Sherman Act | 162 |

| | | |
|-----------|--|-----|
| | [2] The Clayton Act | 164 |
| | [3] The FTC Act | 165 |
| §6.02 | Areas of Overlap | 166 |
| | [A] Patent Settlements Involving 'Reverse Payments' | 166 |
| | [1] Judicial Treatment of Reverse Payments before Actavis | 167 |
| | [2] The Actavis Decision | 168 |
| | [3] Post-Actavis Developments | 168 |
| | [B] 'Patent Hopping' | 171 |
| | [C] Standards and SEPs | 175 |
| | [1] Exclusionary Conduct by SSOs, SDOs and Their Members | 175 |
| | [2] SEP Acquisitions | 178 |
| | [3] DOJ Forgoes Challenge to Proposed SSO Policy Revisions | 180 |
| | [D] Patent Trolls | 182 |
| CHAPTER 7 | | |
| China | | |
| | <i>Richard Bird, Ninette Dodoo & Timothy Lamb</i> | 185 |
| §7.01 | Introduction | 185 |
| §7.02 | The Relevant Legal and Regulatory Framework | 186 |
| | [A] Intellectual Property Law | 186 |
| | [1] Sources of Patent Law | 187 |
| | [2] Sources of Copyright Law | 187 |
| | [3] Sources of Trade Mark Law | 187 |
| | [B] Competition Law Framework: The AML and Beyond | 188 |
| | [1] Brief Overview | 188 |
| | [2] The Anti-monopoly Law | 188 |
| | [3] The Antitrust Agencies under the AML and the Evolving Enforcement Priorities | 189 |
| | [4] Specific Competition Rules Dealing with the Exercise of IP Rights | 190 |
| §7.03 | The Interplay between IP Rights and Competition Law in Practice | 192 |
| | [A] Assessing Dominance in China under the AML as Applied to IP Rights | 192 |
| | [1] The Criteria for Establishing Dominance in China and Application to IP Rights | 192 |
| | [2] Relevant Market Definition in Relation to Intellectual Property Rights | 193 |
| | [B] Assessing Abuse in China under the AML as Applied to IP Rights | 195 |
| | [1] Refusal to Supply and Compulsory Licensing | 195 |
| | [2] The Availability of Injunctions in Relation to FRAND-Encumbered SEPs | 198 |
| | [3] Tying and Bundling: The Emerging Practice | 200 |
| | [4] Excessive Pricing and Discriminatory Pricing: The Willingness of the Authorities to Regulate Pricing | 201 |