



Overview

Though intellectual property and competition laws pursue parallel goals of encouraging innovation and accelerating economic growth, they strive very differently to achieve the same – the intellectual property regime being predicated primarily on exclusion while competition laws aim to control and curb monopolistic tendencies.

Competition authorities are known to take exception to unreasonable exercises of intellectual property protection, but competition trip ups can even be inadvertent. Over-enthusiastic communication about “dominating the market” can ring regulators’ alarm bells; a poor choice of words rendering suspect what is otherwise perfectly legal behaviour. Business practices followed for years are increasingly coming under regulatory scrutiny and fines can be punishing, forcing companies to reconsider their corporate structures and strategies and the impact on their intellectual property rights.

Though reasonable conditions imposing restrictions are generally not impermissible, competition authorities and courts may take into account several factors when assessing if an entity is indulging in anti-competitive activity, not least its position and market share and agreements with others. Given that intellectual property protection in patents, frequently the subject matter of competition law disputes, is limited in duration, certain ‘fair use’ is permitted and availability of compulsory licensing should go some way in assuaging concerns.

The Firm has advised national and international telecommunications firms, engineering companies,



e-commerce domains, construction equipment and automobile manufacturers, beverage companies and media associations under the scanner of competition laws.

Our competition practice offers a broad range of services, including due diligence, drafting contracts and advising on non-compete clauses, representing clients before competition forums and courts and filing leniency applications. We also advise on competition concerns at mergers and acquisitions, and for licensing and franchising agreements.



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