

INTERNATIONAL COMPETITION LAW SERIES

The Interface between Competition Law, Patents and Technical Standards

David Telyas



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The Interface Between Competition Law Patents And Technical Standards International Competition Law

Valerio Torti



The Interface Between Competition Law Patents And Technical Standards International Competition Law:

The Interplay Between Competition Law and Intellectual Property Gabriella Muscolo, Marina Tavassi, 2019 The Interplay Between Competition Law and Intellectual Property provides for a comparative perspective on an international basis on the approaches of different systems between competition law and Intellectual Property IP Although competition law and IP are often interwoven until this book there has been little guidance on how they work together in practice As the intersection between the two fields continues to grow worldwide both in case law and in regulation the book s market based approach focusing on sectors such as pharmaceuticals IT telecoms energy and agriculture in eleven of the world s most active jurisdictions provides a much needed in depth understanding of how this interplay reveals itself among the different legal systems What s in this book With thirty two contributions written by a wide range of authors including European and worldwide experts judges regulators academics economists and practitioners in the field of IP and competition law this book provides an international comparative perspective as well as a detailed analysis of specific cases policies and proposals for change Among the issues and topics covered are the following standard essential patents online platforms and antitrust legal assessment of excessive prices automatic injunction in patent cases IP rights between technological development and consumer protection geo blocking and free movement of goods and the protection of IP rights Attention is paid throughout to the increasing dialogue between competition authorities around the world including clashes of jurisprudence in enforcers decisions How this will help you A matchless remedy for the lack of uniformity of approach heretofore the book s investigation of the nexus between competition law and IP in different sectors and in various countries takes a giant step towards a more balanced approach and more levelled regulation and practices Providing information about recent law and case law dealing with the intersection between IP and Competition in various systems this book will be warmly appreciated by practitioners regulators policymakers and academics in both competition law and IP

The Interface Between Competition Law, Patents and Technical Standards David Telyas, 2014 This book is the outcome of a three year industrial PhD project carried out in cooperation with Aarhus University Denmark and the Danish law firm Gorrisen

Federspiel Page xiii **Patent Remedies and Complex Products** C. Bradford Biddle, Jorge L. Contreras, Brian J. Love, Norman V. Siebrasse, 2019-06-27 Through a collaboration among twenty legal scholars from North America Europe and Asia this book presents an international consensus on the use of patent remedies for complex products such as smartphones computer networks and the Internet of Things This title is also available as Open Access on Cambridge Core *The Interplay Between Competition Law and Intellectual Property* Gabriella Muscolo, Marina Tavassi, 2019-01-17 Although competition law and intellectual property are often interwoven until this book there has been little guidance on how they work together in practice As the intersection between the two fields continues to grow worldwide both in case law and in regulation the book s markets based approach focusing on sectors such as pharmaceuticals IT telecoms energy and

agriculture in eleven of the world's most active jurisdictions provides a much needed in depth understanding of how this interplay reveals itself among the different legal systems Written by a range of authors including judges regulators academics economists and practitioners in both fields the book provides an international comparative perspective as well as detailed analysis of specific cases policies and proposals for change Among the issues and topics covered are the following free movement of goods and the protection of intellectual property rights standard essential patents intellectual property rights between technological development and consumer protection geo blocking online platforms and antitrust excessive prices In this context special attention is paid throughout to the increasing dialogue among Competition Authorities and between Judges and Competition Authorities around the world As matchless remedy for the lack of uniformity heretofore the book's investigation of the nexus between competition law and intellectual property in different sectors and in various countries takes a giant step towards a more balanced approach and more levelled regulation and practices It will be warmly appreciated by policy makers decision makers regulators practitioners and academics in both competition law and intellectual property fields

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

Complications and Quandaries in the ICT Sector Ashish Bharadwaj, Vishwas H. Devaiah, Indranath Gupta, 2017-10-27 This book is open access under a CC BY 4.0 license With technology standards becoming increasingly common particularly in the information and communications technology ICT sector the complexities and contradictions at the interface of intellectual property law and competition law have emerged strongly This book talks about how the regulatory agencies and courts in the United States European Union and India are dealing with the rising allegations of anti competitive behaviour by standard essential patent SEP holders It also discusses the role of standards setting organizations standards developing organizations SSO SDO and the various players involved in implementing the standards that influence practices and internal dynamics in the ICT sector This book includes discussions on fair reasonable and non discriminatory FRAND licensing terms and the complexities that arise when both licensors and licensees of SEPs differ on what they mean by fair

reasonable and non discriminatory terms It also addresses topics such as the appropriate royalty base calculation of FRAND rates and concerns related to FRAND commitments and the role of Federal Trade Commission FTC in collaborative standard setting process This book provides a wide range of valuable information and is a useful tool for graduate students academics and researchers *Intellectual Property Rights and Competition in Standard Setting* Valerio Torti,2015-10-05 Competition and intellectual property rights IPRs are both necessary for a market to work efficiently and to promote consumer welfare Properly applied intellectual property rules define a legal framework which allows undertakings to profit from their inventions This in turn encourages competition among firms and enhances dynamic efficiency to the benefit of consumer welfare Standard setting represents one of the fields where the interaction between competition law and IPRs clearly comes to light The collaborative goal of standard setting organizations SSOs is to adopt and promote standards that either do not conflict with anyone s right or if they do are developed under condition that patents are licensed under defined terms This book examines the tension between IPRs and competition in the standard setting field which can arise when innovators over exploit the rights they have been granted and hold up an entire industry The book compares EU and U S jurisdictions with a particular focus on the IT and telecommunication sectors It scrutinizes those practices which could harm standard setting and its goals looking at misleading conducts by SSOs members which may lead to breach the EU and U S antitrust provisions on abuse of market power Recent developments in EU and U S standard setting are analysed highlighting the differences in enforcement approaches The book considers how the optimal balance between IPRs and industry standards can be struck suggesting a policy model which takes into account both innovators interests and SSOs goals *Blocking Patents in European Competition Law* Angelika S. Murer,2021-12-03 In practice and jurisprudence in European competition law it is especially difficult to define the boundaries of patent abuse as an offence In this thoroughly researched book the author answers the question of when and how an application for a blocking patent can amount to an abuse of a dominant position under Article 102 TFEU Drawing on legal literature and European Union EU case law the presentation analyses a constellation of blocking patenting strategies and proposes potential remedies where abuse is involved With detailed descriptions of the characteristics of potentially abusive and non abusive behaviour regarding applications for blocking patents the book provides the following and more a comprehensive analysis of the case law of the EU courts on the abuse of a dominant position in cases which involve intellectual property rights insights on how patenting strategies affect competition with a particular focus on the application of blocking patents an overview of the developments in doctrine and practice which led to the current understanding of the seemingly conflictual goals of competition and intellectual property law and insights on the difficulties of defining relevant markets and establishing whether an undertaking holds a dominant position The book illustrates the mechanisms of blocking patenting strategies with examples from the pharmaceutical industry because blocking strategies have particular relevance in applying for patents in that context A test scheme for

analysing the application of a blocking patent under Article 102 TFEU is included. Additionally, the book provides an outlook on the topic of patents and shortages of supply in light of the COVID pandemic. Practitioners and policymakers requiring an understanding of the conceptual framework of the abuse concept within EU competition law and how it relates to patent strategies will welcome this invaluable book. They will not only be able to set the conduct of applying for blocking patents into the Article 102 TFEU context but also have decisive tools to approach questions on the intersection of patent law and competition law in the EU.

The Interplay between European and National Competition Law after Regulation 1/2003 Lúcio Tomé Feteira, 2015-12-08. If we can speak of the European Community's economic constitution, we can assert that competition rules together with free movement rules form its core. Notably, implementation of the competition rules enshrined in Articles 81 and 82 EC changed radically with the enactment of Regulation 1/2003, which in effect dispensed with mandatory prior notifications and allowed national authorities to apply Article 101(3) TFEU directly. Given that national legislations perceive certain types of unilateral conduct, even if adopted by a non-dominant undertaking, as a potential source of anticompetitive effects, an important question concerns the leeway enjoyed by national authorities under the exception to the convergence rule in Article 3(2) of Regulation 1/2003 and the consequent effect on both legal practice and policy issues. In this lucidly argued book focusing on national competition provisions in Germany, France, Italy, and the United Kingdom that deal with such conduct, the author provides a detailed examination of how such considerations are affected by Regulation 1/2003 prohibition of abuse of economic dependence or superior bargaining power, the particular susceptibility of long-term contracts, prohibition of resale at a loss or below cost, prohibition of boycott, unlawful pressures, threats, and other coercive tactics adopted by undertakings, and the role of unfair competition law. The analysis follows a functional method of comparative legal analysis, reviewing the most relevant norms in the selected jurisdictions, particularly in what concerns their goals and function in the context of their respective legal systems. Special attention is paid to two specific sectors: the motor vehicle and the retailing industries, which have most often triggered relevant legislation and case law in the jurisdictions covered. Legal scholarship in the field is also drawn upon. In its clarification of the meaning of Regulation 1/2003, this book allows practitioners to fully grasp its scope. The author's thorough, masterful analysis of the statutory framework of Article 3 of the regulation also reveals the variety of reasons why different Member States have different competition policies on the scope of the exception to the rule of convergence and, in this way, provides lawyers, policymakers, and academics with welcome insights on how major EU jurisdictions apply European competition law.

Research Handbook on EU Competition Law and the Energy Transition Leigh Hancher, Ignacio Herrera Anchustegui, 2024-10-03. The *Research Handbook on EU Competition Law and the Energy Transition* comprehensively analyses key topics in the field, covering both traditional and emerging antitrust, state aid, and policy issues related to energy transformation, increased sustainability goals, and the functioning of European energy markets.

Competition Law in the ASEAN Countries Ploykaew Porananond, 2018-06-22.

Amongst other regional organisations the Association of Southeast Asian Nations ASEAN stands out for the diversity of its ten Member States stemming from their respective economic and political heritage governance systems legal institutions stages of economic development and exposure to or reliance on foreign trade and investments As of 2017 however the regional bloc has formalised its focus on economic integration and development of a regional competition law Challenging this vision are the States very different national competition law systems ongoing problems with governmental intervention in the economy and lack of effective and efficient corruption free regulatory and juridical infrastructure This book the first detailed analysis of competition law in the ASEAN countries looks at the prospects of implementation for the regional law and compares the existing systems in each Member State Opening with a thorough description of the composition and organisation of the ASEAN the analysis proceeds to an in depth evaluation of such aspects as the following persistence of the ASEAN s traditional mode of dispute resolution often referred to as the ASEAN Way economic challenges posed by intra regional growth and globalisation the strong relationship between the business and government sectors and governmental interventions as cultural practices There is detailed reference throughout to case law legislation institutional announcements relevant treaties and literature on both the ASEAN and competition law As an important critical analysis of this major new regional competition law regime this book will be welcomed by competition law practitioners multinational corporation counsel and jurists officials and academics in a variety of legal fields Although the subject is specifically the ASEAN the analysis contributes to a better understanding of competition law regimes in developing economies and to the more general literature on global competition law

Competition Law, Technology Transfer and the TRIPS Agreement Tu Thanh Nguyen, 2010-01-01 The book deals with a difficult subject with an assured touch and will be a valuable text for postgraduate students policy makers and practitioners European Intellectual Property Review This is the first ever book that addresses the important issue of the competition law intellectual property and trade interface in a developing world context The book s unique contribution is a set of comparative case studies on this complex interface D Daniel Sokol University of Florida Levin College of Law US The book investigates competition law and international technology transfer in the light of the TRIPS Agreement and the experience of both developed and developing countries On that basis it draws relevant implications for developing countries Tu Thanh Nguyen argues that technology transfer related competition law should be globalized appropriately for the needs of local contexts while intellectual property rights IPR are globalized The book reveals that developing countries according to the TRIPS Agreement have the right to use domestic competition law to promote access to technology in order to protect national interests and consumer welfare However competition law is antitrust It is neither anti IPR nor anti trade The author finds that developing countries with limited competition law resources should set realistic priorities for the control of technology transfer related anti competitive practices They can reasonably apply and adapt relevant regulations decisions and judgments from developed country jurisdictions to their own circumstances Competition

Law Technology Transfer and the TRIPs Agreement is a timely resource for postgraduate students practitioners and scholars in international competition law IPR and technology transfer Policymakers in the field of technology transfer related competition law policy especially in developing countries will also find this book invaluable

Licensing Standard Essential Patents Igor Nikolic, 2021-11-18 What is the licensing framework of standard essential patents SEPs for connectivity standards such as 5G and Wi Fi How will the framework change with the Internet of Things IoT This book provides comprehensive answers to these questions For over two decades connectivity standards have been the subject of litigation and controversy around the globe Now with the introduction of 5G and the emergence of the world of connected objects or the IoT the licensing framework for SEPs is becoming even more contentious In order to bring clarity to the debate this book analyses and explains key components of a fair reasonable and non discriminatory FRAND licence for SEPs clarifies the economic policy and market background of SEP disputes examines the interrelated application of contract patent and competition laws and describes the approaches by courts and regulators in the EU US and the UK Importantly the book also assesses how the experience from the smartphone and ICT industries can be applied in a new environment of the IoT and considers what needs to be changed in the future SEP licensing landscape The book provides a holistic coverage of SEP licensing issues in an attempt to reduce uncertainty within this highly complex and technical area and will be useful to practitioners policy makers SMEs and large technology companies in the IoT as well as academics interested in the field

Global Competition Enforcement Paulo Burnier da Silveira, William Evan Kovacic, 2019-10-17 Global Competition Enforcement New Players New Challenges Edited by Paulo Burnier da Silveira the digital economy s challenges to competition authorities convergent aims and rules among different competition authorities regional organizations with competition mandates competition neutrality and state owned enterprises and leniency programmes Although necessarily there is considerable information on major antitrust regimes like those of the United States and the European Union chapters by local experts highlight lessons to be learned from the work of competition authorities in five continents including Argentina Australia Brazil China Colombia India Japan Mauritius Mexico Peru and South Africa The contributors include competition enforcers regulators academics practitioners and leading commentators from a range of jurisdictions Adding up to an authoritative analysis from the enforcer s perspective the studies presented in the book clarify the approaches and priorities of competition enforcement authorities including those of major emerging economies and provide expert guidance on dealing with transnational investigations Antitrust lawyers corporate counsel and interested academics as well as policymakers will benefit immeasurably from this book s wealth of informative detail

Judicial Review of Competition

Law Enforcement in the EU Member States and the UK Maciej Bernatt, Francisco Marcos, Annalies Outhuijse, 2024-09-17 International Competition Law Series 91 Enforcement of competition law often calls for a complex economic and legal assessment and the review of those enforcement decisions usually falls to national courts In this

connection however European competition law and legal scholarship have offered scant guidance on how judicial review should and does function This book the first comprehensive systematic and comparative empirical study of judicial review of competition law public enforcement in the EU and the UK provides a thorough understanding of the practical operation of the role of judicial review in competition enforcement A country by country analysis along with a detailed introduction and an incisive comparative summary covers all publicly available judicial review judgments 5 707 in all of final public enforcement actions in relation to Articles 101 and 102 TFEU and relevant national provisions in the twenty seven EU Member States and the UK rendered between 1 May 2004 and 30 April 2021 The data presented draws on a rich database built for the purpose of this study by twenty eight national teams of competition law academics and practitioners For each jurisdiction the analysis focuses on such aspects as the following structure of the national enforcement system number of judgments rendered success rate types of appellants competition rules subject to review grounds of review use of preliminary references appeals involving leniency and or settlements and role of third parties Numerous graphs figures and tables support the presentation In the light it sheds on trends in judicial review of competition law enforcement on a comparative basis and in its data driven assessment of how the decentralised judicial review of EU competition law meets EU integration aims this important study will be of inestimable value to competition lawyers policymakers and academics in developing a confident understanding of precisely how judicial review in this area operates in each of the EU Member States and the UK In addition the book provides a significant contribution not only with respect to EU and national competition laws but also more broadly to comparative administrative law scholarship in Europe *Leniency in EU Competition Law* Ingrid Margrethe Halvorsen

Barlund,2020-06-18 Leniency has emerged as one of the main enforcement instruments used by competition authorities to combat cartels Offering immunity from punishment is believed to destabilise already existing cartels and deter undertakings from entering into such arrangements This book offers the first in depth analysis of the scope of leniency in European Union EU competition law considering three crucial ramifications ensuring a leniency applicant can self report with confidence retaining the right to compensation of those who have suffered losses due to the cartel and furthering the objective of undistorted competition within the internal market With thorough insight into the interaction between the Commission s Leniency Notice and public and private enforcement the author fully explains such aspects of the subject as the following who is eligible for leniency liability of an immunity recipient the EU fining system disclosure of leniency evidence scope of public authorities reaching out to cartel infringers the immunity recipient and follow on damages claimants the immunity recipient and subsequent leniency applicants effect of the Damages Directive and the European Economic Area dimension The author offers cogent suggestions about how the shortcomings of the Commission s leniency offer can be ameliorated and which regulatory steps should be taken to give the policy greater leverage The author calls for increased harmonisation at national level in the EU and compares leniency practice in US antitrust law As a comprehensive analysis of the practical

application of current policy and procedure in EU cartel enforcement the book clearly shows the ways in which the scope of leniency is manifest in the interaction between public and private enforcement evaluating which interaction is most effective Its practical character will be recognised and welcomed by competition law practitioners and policymakers who will strengthen their grasp of leniency procedure and clearly discern implications for competition infringement cases

Information Exchange Between Competitors in EU Competition Law Martin Gassler, 2021-02-12 Information Exchange Between Competitors in EU Competition Law Martin Gassler Competing firms often exchange information in order to make more informed market decisions which can help to overcome market inefficiencies However an abundance of legal and economic research as well as case law has shown that information exchange may also enable firms to engage in collusion more readily and sustain it longer This book is the first to concentrate on this challenging topic of EU competition law in such depth It focuses on pure information exchanges exchanges that are not ancillary to a wider pro competitive or anticompetitive conduct and thoroughly explains the characteristics of such information exchanges their pro competitive and anticompetitive effects and discusses all the relevant legal aspects for their assessment The author provides a robust analytical framework for assessing information exchanges under Article 101 TFEU focusing on the risk of collusive outcomes and what types of information exchange are particularly harmful With detailed attention to the leading cases on information exchange the analysis examines the most important aspects for assessing information exchange between competitors in particular the concept of a concerted practice the concepts of a restriction by object and effect including their similarities and differences the importance of evidentiary issues the issue of signalling via advance public announcements factors that facilitate collusion efficiencies of information exchange including market transparency the legal challenges of tackling mere parallel conduct facilitative practices in the Commission Guidelines including the Horizontal Cooperation Guidelines and safe harbours for certain types of information exchange The book offers clear guidance on how to identify and thus distinguish information exchange that restricts competition by its object and information exchange that restricts competition only by its effects It offers practical solutions to some of the perceived issues when assessing information exchanges With its wealth of analysis not available from other sources this concise yet comprehensive review of a much debated topic in competition law offers clear guidance for practitioners in assessing the issues surrounding information exchange The book will also be welcomed by competition law academics competition lawyers and competition authority officials throughout Europe

Directory of EU Case Law on Competition, René Barents, 2017-10-30 This well known book prized since 2007 by practitioners in EU competition law for its easy to find extracts sorted by subject is now in its second and hugely expanded edition covering all decisions of the Court of Justice and the General Court of the European Union on competition law through the end of 2016 This new edition comprising of forty seven chapters follows the same easy to use format as the earlier volume and covers all the case law on the substantive and procedural aspects of the EU treaty rules and legislation on

antitrust and mergers To improve the accessibility of the case law this book is structured as follows Hundreds of headings and subheadings present virtually every point from which a researcher is likely to start Each subject heading starts with extracts having a more general meaning followed by extracts relating to specific points or situations Extracts are accompanied by cross references where appropriate Extracts are drawn from all EC competition case law encompassing every judgment and order in the Reports of Cases before the Court of Justice and the General Court Summary of the Judgment until 2017 Although it is primarily of value to barristers solicitors in house lawyers of companies and associations of companies officials of national competition authorities and other active practitioners in EU competition law the book will also be welcomed by scholars and others who need to obtain in a minimum of time an overview of what the European courts have actually stated about a specific point including detailed references in the field **Research Handbook on**

Intellectual Property and Competition Law Josef Drexler, 2010-01-01 The volume offers an outstanding collection of studies on the interaction of IP and competition policy and is highly recommended for academics graduate students and practitioners with an interest in more theoretical studies Ioannis Lianos World Competition Each chapter in the Research Handbook on Intellectual Property and Competition Law is written so lucidly that it will be of great interest to law professors and post graduate students of intellectual property and competition law as well as those interested in innovation and competition theory and legal practices in intellectual property and competition law Madhu Sahni Journal of Intellectual Property Rights This is a book that delivers on its promise With a strong cast of contributors from a variety of countries economies and disciplines it makes the reader wonder how any commercially attractive IP ever gets exploited at all IPKAT Here it comes the book that I have been waiting for This will surely be an inspiring source of knowledge in my Masters Programme in European Intellectual Property Law at Stockholm University While promoting intellectual property protection as an important means for innovations and cultural developments a critical analysis and a flexible approach to the needs for free creative space and effective competition is crucial As this book so well illustrates this delicate balance is no either or Marianne Levin Stockholm University Sweden This comprehensive Handbook brings together contributions from American Canadian European and Japanese writers to better explore the interface between competition and intellectual property law Issues range from the fundamental to the specific each considered from the angle of cartels dominant positions and mergers Topics covered include among others technology licensing the doctrine of exhaustion network industries innovation patents and copyright Appropriate space is devoted to the latest developments in European and American antitrust law such as the more economic approach and the question of anti competitive abuses of intellectual property rights Each original chapter reflects extensive comments by all other contributors an approach which ensures a diversity of perspectives within a systematic framework These cutting edge articles will be of great interest to law professors and postgraduate students of intellectual property and competition law as well as those interested in innovation and competition theory and legal practices in intellectual property

and competition law **Directory of EU Case Law on State Aids** René Barents, 2022-06-06 This new edition of an immensely useful book follows the same proven format as its predecessors updates its analysis of case law with hundreds of new decisions by the courts of the European Union EU and thus remains the quickest source of reference for practitioners working with EU State aid matters Following a highly organized sequence of subject headings it presents extracts from all judgments and orders of both the Court of Justice and the General Court of the EU on the Treaty on the Functioning of the European Union TFEU rules on State aids The book covers the relevant case law of both courts There is a new chapter on legal protection and additional material on the concept of State aid advantages for undertakings selectivity forms of State aid procedures and unlawful aids With this book practitioners will quickly find relevant paragraphs and full citations regarding all issues raised by Articles 107 109 TFEU including the following and much more territorial scope of State aids Article 107 1 EC and WTO Agreements conditions for categorizing a national measure as State aid free movement of goods undertakings private versus public investment justification of selective measures interstate trade and competition tax measures restructuring aids procedural aspects and locus standi of trade associations In many areas the extracts relate to points of the judgments which are not or only partially covered in official summaries For accessibility of this case law this updated edition of the preeminent analysis of EU State aid case law has no peers Practitioners in this key area of EU competition law will find this book indispensable

Embark on a transformative journey with Written by is captivating work, **The Interface Between Competition Law Patents And Technical Standards International Competition Law** . This enlightening ebook, available for download in a convenient PDF format Download in PDF: , invites you to explore a world of boundless knowledge. Unleash your intellectual curiosity and discover the power of words as you dive into this riveting creation. Download now and elevate your reading experience to new heights .

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Introduction

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