



IP and Antitrust: Competition Policies of Intellectual Property in Eighty Cases

Nuno Pires de Carvalho

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Consumers can make choices because of the differentiation that is preserved by intellectual property. Competition law informs intellectual property, generally with the intent of ensuring that it achieves this main purpose. However, very often, certain public policies relating to competition interfere with the way intellectual property should normally operate, either with the purpose of reinforcing its differentiating role, or with the objective of submitting it to other public goals -- such as access to essential goods and services, or in recognition of situations where a given invention becomes part of a technical standard or is deemed dangerous to health or the environment.

This book presents eighty cases that interpret the various public policies that mould the interface of intellectual property law with competition law (or antitrust). Although most cases are from the United States -- which has developed an enormously wide wealth of jurisprudence in this area -- there are also cases from the European Union, the United Kingdom, Australia, Canada, South Africa, Brazil, South Korea, India, and Argentina.

The author presents the cases under the following general headings:

- setting the right dosage (i.e., avoiding too much or too little intellectual property);
- setting the standards of differentiation;
- refusing to license intellectual property;
- licensing (and assigning) intellectual property;.
- enforcing intellectual property rights;
- remedies;
- intellectual property in sectors of special public interest; and
- technical standards.

Revealing in extraordinary depth the tensions behind the values of the free market which intellectual property serves and the variety of responses these tensions provoke, this book may be regarded as a watershed resource regarding the principles and policies that, sometimes coherently, sometimes not, preside over the very complex relationship between intellectual property and antitrust. It is sure to be greatly valued by all professionals in both fields, from practitioners to policymakers, as well as by academics.

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