

Refusals To License Intellectual Property Testing The Limits Of Law And Economics

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Refusals To License Intellectual Property

Courts and enforcement agencies faced with a unilateral refusal to license have instead tended to retreat into sketchily articulated black letter rules and presumptions which then have to be fenced off from the rest of competition law by economically irrelevant qualifications and distinctions based on private law categorisations of, and rationales for, individual intellectual property rights.

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competition law to refusals to license IPRs? 11. There are two possible ways in which an IPR owner can refuse to license his/her right. One way is simply saying 'no' to a third party who seeks to engage in a voluntary licensing agreement. A slightly different (but essentially the same) modality consists of the IPR owner

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) REFUSALS ...

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Refusals to License Intellectual Property: Eagles ...

The antitrust laws generally provide that a firm has no duty to deal with or to aid its competitors. 1 This long-established principle applies equally to intellectual property, which the courts treat the same when applying the antitrust laws. 2 A unilateral refusal to deal occurs in the IP context when a patent owner independently decides not to license its patent to another firm - often called a unilateral refusal to license. 3 Although one circuit has ruled to the contrary, the majority ...

Antitrust Liability and Unilateral Refusals to License ...

Abstract. Refusals to license intellectual property (IP) present one of the thorniest issues in antitrust law. Such activity is privileged under the IP regime, the foundation of which is the right to exclude. But it may be punished under antitrust law, which focuses on competition. The courts have promulgated a number of inconsistent tests in determining whether IP refusals to license constitute monopolization.

Refusals to License Intellectual Property after Trinko by ...

complementary interaction between intellectual property law and competition law be introduced to address the refusal to license IPRs problems in terms of industry standards, especially the over-

Refusal to License Intellectual Property Rights under ...

Refusal to license intellectual property under antitrust regime ... Although the legal framework for assessing refusals to license may seem relatively straightforward at first, additional issues ...

Refusal to license intellectual property under antitrust ...

The Chambers also address concerns about aggressive regulation of refusals to license patents, particularly those that are not encumbered by a F/RAND obligation (eg., Article 24, SAIC draft). An important development on refusals to license in China has been noted by Benjamin Bai in a recent blog on a non-SEP refusal to license case now pending ...

Refusal to License | China IPR - Intellectual Property ...

The intellectual property laws in the United States provide the owners of intellectual property with discretion to license the right to use that property or to make or sell products that embody the intellectual property. However, the antitrust laws constrain the use of property, including intellectual property, by a firm with market power and may place limitations on the licensing of intellectual property.

An economic analysis of unilateral refusals to license ...

Eastman Kodak Co.15, argued that the general rule of legality is inapplicable when an intellectual property owner's refusal to license permits it to obtain or maintain a monopoly in a market other than the market for the patented product.

Antitrust Liability for Unilateral Refusals to License ...

Two panelists argued that apparent refusals to license intellectual property may really be attempts to license it at high prices and to engage in price discrimination. (65) They observed that price discrimination can be good for consumers, allowing markets or consumers to be served that otherwise would not have been.

Chapter 1 : The Strategic Use Of Licensing : Unilateral ...

Refusal to license intellectual property rights (IPRs) are an ongoing topic within the enforcement of Article 102 TFEU (ex Article 82 EC). Nevertheless, so far an economic founded instrument to analyse these cases is missing. To close this gap, the Innovation Effects and Appropriability Test will be developed throughout this book.

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Unilateral refusals to license intellectual property rights are virtually never antitrust violations, as is true of most unilateral refusals to deal. [1] The Patent Act provides that a unilateral refusal to license cannot constitute patent "misuse," [2] which is a defense to an infringement suit based on the patentee's anticompetitive acts, restraints on innovation, or improper sequestering of the public domain. [3]

Concerted Refusals to License Intellectual Property Rights

A refusal to deal in intellectual property (also called a refusal to license) occurs when a firm with a statutorily-granted intellectual property right refuses another firm access to that intellectual property right, or imposes such unsatisfactory conditions on an IP licence as to

Refusals to License Intellectual Property

3 Furthermore, refusal to license intellectual property rights, as an abuse of a dominant position, is an exclusionary non-pricing practice because a dominant company has an intent to foreclose competitors from expanding their current market share or block the entry in the relevant downstream market to potential competitors by invoking the exclusivity of intellectual property rights.

Unilateral refusal to license intellectual property rights ...

Courts and enforcement agencies faced with a unilateral refusal to license have instead tended to retreat into sketchily articulated black letter rules and presumptions which then have to be fenced off from the rest of competition law by economically irrelevant qualifications and distinctions based on private law categorisations of, and rationales for, individual intellectual property rights.

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Courts and enforcement agencies faced with a unilateral refusal to license have instead tended to retreat into sketchily articulated black letter rules and presumptions which then have to be fenced off from the rest of competition law by economically irrelevant qualifications and distinctions based on private law categorisations of, and rationales for, individual intellectual property rights.

Refusals to License Intellectual Property: Testing the ...

UNILATERAL REFUSALS TO SELL OR LICENSE INTELLECTUAL PROPERTY AND THE ANTITRUST DUTY TO DEAL Marina Lao t INTRODUCTION Much has changed in the last twenty years in the antitrust approach to intellectual property.' Prior to the 1980s, the predominant view of the antitrust and intellectual property laws was that they conflict because the

Unilateral Refusals to Sell or License Intellectual ...

However, proponents argue that all NPEs, including patent trolls, offer an incentive for companies to invest in intellectual property as they provide a market where intellectual property can be sold in the future. Moreover, the value of a patent may be questionable for reasons other than its validity.

Don't Feed The Patent Trolls - Intellectual Property ...

40 Under 40: Maya Yamazaki helps companies license intellectual property. By Jon Silver - Managing Editor, Puget Sound Business Journal . Oct 23, 2020, 8:33pm PDT. Maya Yamazaki's work as a ...

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