

Examining The Primacy Of The Patents Act Over The Competition Act: An Upcoming Supreme Court Scrutiny

written by King Stubb & Kasiva | March 23, 2024



Introduction

In a landmark judgment^[1], the Delhi High Court stirred a significant legal debate by ruling on the interplay between the Patents Act and the Competition Act in India. The judgment raised pivotal questions regarding the authority of the Competition Commission of India (CCI) to investigate patent-related matters under the broader purview of the Competition Act. However, this ruling has now set the stage for the Supreme Court to weigh in on this contentious issue, prompting a deeper examination into whether the Patents Act should indeed prevail over the Competition Act concerning the exercise of patent rights.^[2] This article explores the intricacies of the case, dissecting the arguments presented and anticipating the potential implications of the forthcoming Supreme Court deliberation.

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Background

Four appeals and a writ petition brought forth a crucial legal query: When a patent is granted in India, and the patentee asserts their rights, does the CCI possess the jurisdiction to scrutinize the actions of the patentee under the Competition Act of 2002? The Division Bench of the Delhi High Court, comprising Justices Najmi Waziri and Vikas Mahajan, rendered a significant decision, quashing proceedings initiated by the CCI and asserting the primacy of the Patents Act over the Competition Act.^[3] This judgment highlights the fundamental question of whether a specialized legislation, such as the Patents Act, should supersede a general statute like the Competition Act in matters pertaining to patent rights.

Contentions Of The Parties

Argument of Counsel for Patentees

Central to the argument put forth by counsel for the patentees was the assertion that the Patents Act constitutes a specialized legal framework exclusively addressing patents. They contended that Chapter XVI of the Patents Act^[4] delineates provisions for addressing anti-competitive agreements and abuse of dominant positions, explicitly covering the imposition of conditions for licensing patents. Therefore, according to this line of reasoning, there exists no justification for the Competition Act, which deals with anti-competitive practices generally, to supersede the Patents Act, a specialized legislation tailored specifically for patents.

Counter Argument by Counsel for CCI

In contrast, counsel representing the CCI posited that the Competition Act serves as a specialized legislation exclusively targeting anti-competitive agreements and the abuse of dominant positions. They contended that certain provisions within the Patents Act, although related to patents, cannot override the Competition Act, which was enacted subsequently and is specifically designed to address anti-competitive practices across various sectors.

The Hon'ble Court's Observation:

Legislative Intent

The Delhi High Court examined the legislative intent underlying both statutes to discern the appropriate hierarchy between the Patents Act and the Competition Act. It observed that while the Patents Act is meticulously tailored to regulate matters concerning patents, including anti-competitive agreements and abuse of dominant positions by patentees, the Competition Act casts a broader net, encompassing anti-competitive practices across diverse industries. The court highlighted the significance of an amendment introduced in the Patents Act, specifically Section 84(6)(iv), subsequent to the enactment of the Competition Act. This amendment serves as a manifestation to the legislative intent to strengthen the Patents Act's authority in matters concerning anti-competitive agreements within the realm of patents.

Reconciling the Two Statutes

A pivotal aspect of the court's deliberation was the necessity to reconcile the provisions of both the Patents Act and the Competition Act. While both statutes address anti-competitive agreements and abuse of dominant positions, the focal point of this reconciliation lies in scrutinizing the actions of patentees exercising their rights under the Patents Act. The court emphasized that the Patents Act, being a specialized legislation tailored for patents, should take precedence over the Competition Act concerning the exercise of patent rights.

Maxims of Interpretation

The court invoked legal maxims such as *generalia specialibus non derogant* and *lex posterior derogat priori* to buttress its ruling. These maxims dictate that when specific provisions exist within specialized legislation, they should prevail over general provisions outlined in subsequent statutes. By invoking these maxims, the court emphasized the supremacy of the Patents Act over the Competition Act in matters pertaining to the exercise of patent rights.

Delving Into The Intricacies

Exploring the provisions of Section 84 of the Patents Act sheds light on the intricacies surrounding Compulsory Licenses. The Controller, tasked with granting such licenses, operates within the framework outlined in Section 83, which delineates the objectives of patent exploitation. Section 83 emphasizes the prevention of monopolies in patented articles, discouraging practices that stifle trade and ensuring accessibility of patented inventions at reasonable prices. These guiding principles serve as a compass for the Controller, particularly in adjudicating applications under Section 84, where anti-competitive practices come under scrutiny. Additionally, Section 84(7) accentuates the Controller's responsibility in addressing the public's reasonable requirements, with specific attention given to curbing anti-competitive behaviour.

Section 90(1)(ix) injects further nuance by mandating conditions in compulsory licenses that facilitate the exportation of patented products, especially in cases aiming to rectify anti-competitive practices. While critics argue against the Controller's explicit empowerment to assess anti-competitive conduct, a deeper analysis reveals the Controller's active involvement in such evaluations. The language of Section 90(1) emphasizes the Controller's pivotal role in addressing anti-competitive behaviour while granting compulsory licenses.

Moreover, the scope of inquiry and the rights enshrined in Section 84(1) suggest a broader consideration beyond individual interests, encompassing market dynamics and public welfare. Section 92 carves out special provisions for compulsory licenses, highlighting the Controller's authority in scenarios of national emergencies or public non-commercial use, thereby emphasizing the regulatory role of compulsory licenses.

The absence of explicit delegation of adjudicatory powers to external bodies within Section 90(1)(ix) reaffirms the Controller's jurisdiction in addressing anti-competitive behaviour, aligning with the legislative intent. Furthermore, Section 140's prohibition of restrictive conditions in contracts related to patented articles underlines the Controller's role in assessing and curbing anti-competitive practices, echoing recommendations from the Justice Ayyangar Committee report.[\[5\]](#)

Section 3(5) of the Competition Act, 2002

Section 3(5) of the Competition Act[\[6\]](#) introduces exceptions to its prohibitions, permitting reasonable conditions for safeguarding intellectual property rights. Court interpretations, alongside reports from the Monopolies Inquiry Commission[\[7\]](#) and the Raghavan Committee,[\[8\]](#) underline the necessity for striking a balance between protecting IP rights and preventing anti-competitive conduct.

Sections 60–62 of the Competition Act, 2002

Section 60 grants the Competition Act overriding effect over conflicting laws, while Section 62 ensures its supplementation rather than supersedence of other laws, preserving the applicability of the Patents Act. The exclusion of civil courts' jurisdiction under Section 61 does not automatically diminish the Controller's authority.[\[9\]](#) Both the Controller and the Competition Commission can concurrently address anti-competitive practices, ensuring a comprehensive resolution of disputes.[\[10\]](#)

In dissecting these statutory provisions, the intricate interplay between the Patents Act and the Competition Act becomes apparent, highlighting the multifaceted nature of legal scrutiny in patent-related matters.

Implications Of The Supreme Court Scrutiny

A three-judge bench headed by Chief Justice of India (CJI) DY Chandrachud issued a notice, soliciting responses from all parties involved in the case.[\[11\]](#) Monsanto and Ericsson were under investigation by CCI after

complaints were filed alleging abuse of dominant position due to their patent holdings. Monsanto possessed a patent for genetically modified cotton seed technology, while Ericsson held Standard Essential Patents related to telecom technologies like 2G and 3G. Ericsson sued mobile manufacturer Micromax for patent violation, seeking royalties. Microsoft also lodged a complaint against Ericsson for unfair royalty claims.

The impending scrutiny by the Supreme Court holds far-reaching implications for the legal landscape governing patent rights and competition in India. A ruling affirming the primacy of the Patents Act over the Competition Act would reaffirm the specialized nature of patent legislation and provide clarity regarding the jurisdiction of regulatory bodies in patent-related matters. Conversely, a ruling diverging from the Delhi High Court's decision could introduce ambiguity and potentially undermine the efficacy of patent regulation in the country.

Conclusion

The judgment rendered by the Delhi High Court and the subsequent scrutiny by the Supreme Court highlight the intricate interplay between the Patents Act and the Competition Act in India. While the Delhi High Court has unequivocally asserted the supremacy of the Patents Act in matters concerning patent rights, the forthcoming Supreme Court deliberation holds the key to settling this contentious legal issue definitively. Regardless of the outcome, this legal discourse marks a significant milestone in shaping the regulatory framework governing patents and competition in India, paving the way for greater clarity and coherence in this critical area of law.

[\[1\]](#) LPA 247/2016 and connected matters

[\[2\]](#) Competition Commission of India v. Monsanto Holdings Private Limited and Others

[\[3\]](#) Telefonaktiebolaget LM Ericson v. Competition Commission of India, 2023 SCC OnLine Del 4078, decided on 13-07-2023

[\[4\]](#) [4] The Patents Act of 1970 [Act 39 of 1970], Chapter XVI

[\[5\]](#) Justice N. Rajagopala Ayyangar's Report of 1959 on the Revision of Patents law

[\[6\]](#) The Competition Act, 2002 [Act 12 of 2003], Section 3(5)

[\[7\]](#) *Report of the Monopolies Inquiry Commission*, 1965, headed by Justice KC Das Gupta

[\[8\]](#) *High Level Committee on Competition Policy and Law*, headed by Shri SVS Raghavan

[\[9\]](#) The Competition Act, 2002 [Act 12 of 2003], Section 61

[\[10\]](#) *Competition Commission of India v. M/s Fast Way Transmission Pvt. Ltd. and Others* [2018 4 SCC 316]

[\[11\]](#) *Competition Commission of India v. Monsanto Holdings Private Limited and Others*

[King Stubb & Kasiva,](#)
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