

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

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Refusals To License Intellectual Property

One might expect, therefore, that refusals to license intellectual property would generate the same fruitful symbiosis between law and economics when those refusals surface in competition proceedings. This however, has not been how the law on this subject has developed in most jurisdictions.

Amazon.com: Refusals to License Intellectual Property ...

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 ...

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.

Refusals to License Intellectual Property after Trinko

The Federal Circuit recently issued a patent misuse decision that has implications for both innovation policy and antitrust law. Unilateral refusals to license intellectual property rights are virtually never antitrust violations, as is true of most unilateral refusals to deal. [1]

Concerted Refusals to License Intellectual Property Rights

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 ...

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 ...

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 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 ...

There appears to be relatively broad consensus that unilateral refusals to license intellectual property should generally not trigger antitrust liability. Even FTC Chairman Robert Pitofsky, perhaps the most prominent critic of the Federal Circuit's decision, has said that he has "no quarrel with the fundamental rule that a patent holder has no obligation to license or sell in the first instance."

Antitrust Liability for Unilateral Refusals to License ...

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 ...

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 ...

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. This paper focuses on one aspect of antitrust law, the so-called "essential facilities doctrine," which may impose a duty upon firms controlling an "essential facility" to make that facility available to their rivals.

An economic analysis of unilateral refusals to license ...

One might expect, therefore, that refusals to license intellectual property would generate the same fruitful symbiosis between law and economics when those refusals surface in competition proceedings. This however, has not been how the law on this subject has developed in most jurisdictions.

Refusals to License Intellectual Property: Testing the ...

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 Licence Intellectual Property

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If refusals to license were to be invariably seen as a sufficient ground for the grant of compulsory licenses, Article 28.2 would make no sense, for patent owners would have no "right [...] to conclude licensing contracts" but rather an obligation to conclude those contracts.

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) REFUSALS ...

About Refusals to License Intellectual Property Economic analysis rarely appears on the judicial horizon in intellectual property litigation. In competition cases, by contrast, economists are familiar figures in the courtroom and the language of economics is scattered throughout the judgments of even the highest courts.

Refusals to License Intellectual Property: Testing the ...

The appropriate application of the antitrust laws to unilateral refusals to license patents is the subject of much debate. Differing resolutions of that debate at this particular intersection of antitrust and patent law may explain divergent decisions from the courts of appeals.

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

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