



Competition Law, Technology Transfer and the TRIPS Agreement

Implications for
Developing Countries

Tu Thanh Nguyen

Competition Law Technology Transfer And The Trips Agreement Implications For Developing Countries

Thomas K. Cheng



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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 glocalized 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 *Competition Law, Technology Transfer and the TRIPS Agreement* Dr. Tú Thanh Nguyễn, 2010 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 USA 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 glocalized appropriately for the needs of local contexts while intellectual property rights IPRs 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 Competition Law in Technology Transfer Under the TRIPS Agreement Tu T. Nguyen, 2014 The TRIPS Agreement allows WTO Members to enact and apply appropriate domestic competition law to address IPR related anti competitive practices However these flexibilities in the TRIPS Agreement do not provide any specific guidance for WTO Members The application of domestic competition law to IPR abuses in technology transfer varies a great deal between developed and developing countries and even among the developed countries themselves The application requires the establishment of a sophisticated legal infrastructure This is not a simple matter for developing countries Intellectual property law allows for the creation of a market which welcomes innovation the commercialization of such innovation and technology transfer Competition law then regulates this market A strong intellectual property regime needs to be accompanied by strong competition rules Developing countries generally under enforce their competition legislation in this area even though they are net importers of technology They have to comply with high standards of intellectual property protection under the TRIPS Agreement or even the TRIPS plus standards But they appear not to make use of the competition flexibilities in the TRIPS Agreement to promote access to technology and control anti competitive conduct in inward technology transfer Analyses of technology transfer related competition law in developing countries in general and Vietnam in particular together with the experience of the US and the EU provide useful insights In principle domestic competition law should be used to promote access to technology Developing countries can reasonably apply and adapt relevant decisions and judgments from developed country jurisdictions to their own circumstances While IPRs are globalized technology transfer related competition law should be globalized suitably for the needs of local contexts In this respect developing countries should evaluate the obstacles both internal and external in order to select appropriate strategies It must however be remembered that competition law is antitrust It is neither anti IPR nor anti trade Developing countries with limited competition law resources should set realistic priorities for the control of technology transfer related anti competitive practices The focus should be on the areas of refusal to license excessive pricing of technology embodied products tying and use restrictions At the international level issues relating to technology transfer related competition law and competition law in general should be on the agenda of a post Doha negotiation round in the WTO **Competition Law in Technology Transfer Under the TRIPS Agreement** Tu Thanh Nguyen, 2009 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 *Competition Law in Developing Countries* Thomas K. Cheng, 2020 This book explores the contribution of competition to economic growth by way of both theoretical analysis of established growth models and empirical evidence **The TRIPS Agreement, Sustainable Development and**

the Public Interest Simon Walker, 2001 This work addresses the environmental and developmental impacts of patent protection by focusing on the global agreement on Trade Related Aspects of Intellectual Property Rights TRIPS While the TRIPS agreement serves as an important step in harmonizing international intellectual property systems the author contends that it currently fails to properly balance public and private interests especially in the gap between rich and poor

Intellectual Property and International Trade: The TRIPS Agreement Carlos M. Correa, Abdulqawi A. Yusuf, 2016-06-27 The Agreement on Trade Related Aspects of Intellectual Property Rights TRIPS is the most far reaching and comprehensive legal regime ever concluded at the multilateral level in the area of intellectual property rights IPR Compared to prior IPR conventions TRIPS constitutes a major qualitative leap which radically modifies not only the context in which IPR are considered internationally but also their substantive content and the methods for their enforcement and dispute settlement This much welcomed treatise now in its third edition thoroughly updates its comprehensive analysis of the substantive provisions of the Agreement and their actual interpretation and application in different jurisdictions with new material on the burgeoning case law and on major changes in plant variety protection As in previous editions the book may be relied upon for in depth clarification of such matters as the following standards established under the agreement enforcement measures social and legal issues legal and policy possibilities offered legislative latitude allowed to WTO Member States incorporation of TRIPS into domestic law protection of integrated circuit design protection of innovation and R challenges raised by ongoing technological changes access to medicines protection of confidential undisclosed information and interface between competition law and intellectual property protection With fifteen chapters contributed by a distinguished panel of experts representing diverse parties international organisations legal practice government policy and academia the third edition offers an incomparable framework for understanding the background principles and complex provisions of the TRIPS Agreement Thoroughly revised and updated the third edition will be of great value to all professionals and business people concerned with international trade It stimulates further discussion and analysis in this area of growing importance to international law and international economic relations particularly regarding the possibilities offered by the Agreement and the loose ends that may need consideration in the future at the national or international level

International Economic Law and the Digital Divide Rohan Kariyawasam, 2008-01-01 In this well researched book the author explains the digital divide and its repercussions for developed and developing nations In his view the overzealous disciplining at the WTO level of instruments affecting trade notwithstanding developing countries still have important tools in their hands intellectual property protection competition policies tax regimes that can help them attract foreign direct investment a crucial ingredient in reducing the current divide Borrowing from the institutions that we have seen developed in international economic relations is highly recommended as well In short whether the divide will continue to persist or conversely whether it will gradually become a historical feature of international relations critically depends on the political

will on both sides of the divide The author makes a persuasive argument to support his thesis empirically researched and with strong foundations in theory Petros C Mavroidis Columbia Law School US and University of Neuchâtel Switzerland This path breaking book focuses on the WTO e commerce and information communications technologies It sheds light on how international economic law can be used as a tool in the application of technological processes to facilitate development in developing countries Rohan Kariyawasam begins by looking predominantly at the rise of international digital networks He offers an introduction to the networks used in the delivery of electronic products and network based transactions and the application of WTO law to the sector He then suggests how developing countries can use economic law and technology to tap digital markets in the developed world The book also argues that the advance of basic living standards in some developing countries can be achieved through technological processes but that this cannot happen without such states paying greater attention to the enforcement of economic social and cultural rights at home Picking up the property rights debate including through bilateral trade the author argues that ensuring beneficial technology transfer will require balancing foreign investor rights to protect intellectual property It will also involve restrictions imposed by competition law and WTO surveillance to check the possible misuse of market power by multinational companies The proposed mixture of measures should he argues provide incentives for Foreign Direct Investment Providing a thorough review of the application of WTO law to the telecommunications sector and the regulation of international digital networks this book will be of great interest to postgraduate students in international economic law and international development law as well as those interested in human rights law and technology It will also appeal to government regulators NGOs and technologists interested in ICTs and development

Patents and Global Administrative Law David Tilt, 2025-07-18 The book applies values and concepts from Global Administrative Law GAL to international patent law demonstrating how limiting technocratic and overly economic language can be Highlighting the administrative foundations of patent law the book argues that in its international form it can be analysed using the same principles of participation transparency and accountability found in national administrative law At the heart of the book is a simple question What does international patent law look like when we approach it through the lens of these values What is being left out when patent law is described predominantly in terms of its technical legal provisions or economic impact The book presents three interrelated contexts EU patent law bilateral trade agreements and the multilateral space Modern patent law is increasingly discussed in terms of national competitiveness or economic potential which reveals only a narrow understanding of how patent law evolves and functions The vocabulary of administrative law provides a fresh way of recasting reframing and re describing the dynamics of international patent law in a way that is more accessible to those outside of a traditional patent scholarship audience A fundamental objective of the book is to challenge the tendency towards technocratic isolation in patent law The book uses accessible vocabulary and represents a new way of conceptualising and understanding how patent law develops on a global scale The book will be of

interest to researchers in the field of patent law international law and administrative law *National Developments in the Intersection of IPR and Competition Law* Hans Henrik Lidgard, 2011-05-13 This is the third volume in the series Swedish Studies in European Law produced by the Swedish Network for European Legal Studies a national network comprised of Swedish universities focusing on recent legal developments within European Union law In this volume Swedish researchers with specific interests in European Market law intellectual property rights competition and marketing law have joined forces to review recent Swedish legislation and case law of particular European interest in national Swedish Courts or the Court of Justice of the European Union CJEU The volume also includes comments on general EU developments from a Swedish perspective The essays focus upon a number of significant recent developments including amongst others an essay on a proposed reform to the Swedish Copyright Act a report of the recent Swedish decision concerning the Mini Mag two different analyses of the future for illicit file sharing following the recent Pirate Bay litigation and essays on refusal to supply and the new Unfair Commercial Practices Directive and its implementation in Sweden

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