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Competition Law and Intellectual Property Rights

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ABSTRACT

Competition law in India is designed to prevent anti-competitive practices, ensure fair competition, and protect the interests of consumers and market participants. The Indian Competition Act of 2002 is the cornerstone of the country's competition policy, administered by the Competition Commission of India. This framework addresses issues such as anticompetitive agreements, abuse of dominant position, and merger regulations. Despite having robust laws on paper, the enforcement of these regulations has faced challenges, including overburdened courts and allegations of corruption. The Indian market is characterized by a high level of ownership concentration, often dominated by family-run business groups. This has raised concerns about practices such as pyramiding and tunneling, which may gravely affect minority shareholders. Nevertheless, significant reforms, particularly since 1991, have been making strides in enhancing transparency and market fairness, attracting institutional and foreign investment. This essay examines the evolution of competition law in India, its impacts on market practices, and the intersection of corporate governance with competition policy. It discusses the role of regulators such as the Securities and Exchange Board of India and the National Stock Exchange in aligning with global transparency standards and fostering a more competitive economic environment.

Trademark is nothing but any term, the name, symbol, or other marking that is used to identify and set one product or service apart from another. Even if the consumer is unaware of the source, trademarks serve as additional indicators of the items' origin. Unlike before the start of the Industrial Revolution, when there were few manufacturers and every consumer knew the producer personally, consumers nowadays typically do not know the manufacturer of the items directly.

Keywords: *competition law, Trademark Act, trademark, Intellectual Property Rights.*

I. INTRODUCTION

The Parliament of India passed the Competition Act,2002 and on January 13, 2003, repealed the Monopolies and Restrictive Trade Practices Act, 1969.

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The primary goal of the act is to control anti-competitive behaviour of a firm or company that has a negative impact on competition in India's market.

The key instruments of the Competition Act are:

1. The Anti-Competitive Agreements:
    - Horizontal Agreements- it is between two or more enterprises operating at the same level of business.
    - Vertical Agreements- Agreements between different levels of production and distribution chain are called vertical agreements.
2. The Abuse of Dominance:

    It refers to a situation where a firm or a group of firms that face a dominant role in the market intend to eliminate a competitor or a competing firm or dissuade a new firm from entering the market. It is prohibited under Section 4 of the Competition Act.

3. The Mergers or Combination:

Acquisition of one or more enterprises by one or more persons or merger or amalgamation of enterprises and persons or enterprises.

4. The Competition Advocacy:

It is one of the main objectives of Competition law which deals with creating a competitive environment in the market.

IPR stands for Intellectual Property Rights which specifically deals with creativity. A creation of a particular asset which only belongs to that particular individual. Such assets like an invention, logos, artworks, songs, web shows, etc all belong to three main category that is, Patent, Trademarks and Copyright. In IPR the main dealing law is Trademark, basically, it deals with the distinct symbol, logos, or multiple words those are legally registered or established through their use as representing a company or product brand. These trademarks IP rights are protected by the law. Its primary purpose is to provide brand recognition to consumers.

There are two symbols of trademarks firstly (TM) that is, the trademark symbol and secondly (R) which is registered trademark symbol. Usually the (TM) is more in practice but both the symbols has legal protection.

II. COMPETITION LAW THEORY

The idea of laissez-faire holds that antitrust laws are unnecessary since enterprises compete with one another for market supremacy over a lengthy period of time. In some markets, a company

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may succeed in dominating, but this is only possible with superior talent or creative thinking. Laissez-faire theorists contend that when an industry attempts to raise prices in order to profit from its dominant position, it actually creates profitable possibilities for rivals to compete.

Anti- Competitive practices include predatory pricing, which involves monopoly or oligopoly charging an exorbitant price for something that the consumer's options are limited and they have to buy. Examples of behaviour that could amount to an abuse by a business of its dominant position include: imposing unfair trading terms, such as exclusivity; excessive, predatory or discriminatory pricing, etc.

In addition to limiting consumer choice and denying competitors access to markets, tying the sale of one product to that of another can be viewed as abusive. This was the alleged case in **Microsoft corporation v. Commission of the European communities**[3] leading to an eventual fine of Euros 497 million for including its Windows Media Player with the Microsoft Windows platform. A refusal to supply a facility which is essential for all businesses attempting to compete to use can constitute an abuse. One example was in case involving a medical company named Commercial Solvents. When forced to keep selling the drug's raw materials to a business called Zoja, Solvents. Since Zoja was the sole market rival, there would have been no competition if the court hadn't mandated supply.

Competition law is a crucial body of legislation that upholds consumer interests and encourages fair competition in the market. The CCI, which is in charge of upholding India's competition laws, was established by the Competition Act of 2002.

(A) Evolution Of Competition Law

As Fox Eleanor M. puts it "Even within a particular national system, the goals of competition law may evolve and transmogrify, often depending upon the state of industrialisation of the economy, the strength of the political democracy, the power of the judiciary and the bureaucrats, and the exposure of the domestic firms to global competition."[4]

The nature of competition is such that it always tend to compete with another. At the time of World War II few countries where in focus those where were USA, France, Germany, Japan, etc therefore USA brought some legislation or regulation in competition law. In Japan few business houses controlled many industries so, it they regulated it with help of USA's legislation on completion law. After World War II many countries introduced the USA's legislation.

[3] Microsoft corporation v. Commission of the European communities [European Court Reports 2007 II-03601]
[4] Fox Eleanor M., "Anti Trust Law on Global Scale: Race up, down and sideways", Public Law and Legal Theory Working Paper Series, Working Paper 3, New York University School of Law, December 15, 1999.

Through direct government action, increasing the economy and industry became a top focus. Targeted industries included the coal industry, railroads, steel, electricity, water, healthcare, and many more because of their unique characteristics as natural monopolies. In contrast, Commonwealth nations took their time passing statutory measures for competition law. Restrictive Practices Act was first passed in the UK in 1956. In 1974, Australia passed the present Trade Practices Act.

India adopted first time competition law in 1965 in the form of Monopolies and Restrictive Trade Practices Act (MRTP). The Directive Principles of State Policy found in the Indian Constitution served as the foundation for the implementation of the MRTP Act, 1969. A number of changes to the MRTP Act of 1969 were made in 1974, 1980, 1982, 1984, 1986, 1988, and 1991. The Sachar Committee, which the Indian government established in 1977 and whose chairman was Justice Rajinder Sachar, made recommendations that served as the foundation for the revisions that were introduced in 1982 and 1984.

After few years there was need to change in the market flow of monopoly and the need for new competition law with economic developments, policies and world market was increased. The Raghavan Committee was established by the Indian government in October 1999 to advise on a modern competition law for the nation in line with international developments and to suggest a legislative framework, which may include a new law or suitable amendments to the MRTP Act, 1969. In May 2000, the Raghavan Committee delivered their report to the government. In an environment of healthy competition, competitors have an equal chance to compete for business based on the value of their outputs, and resource allocation follows market success in satisfying customer demand at the least expensive price. As per the recommendations of Raghavan Committee new draft for competition law was made and therefore presented in front of then government and competition bill was introduced in the parliament, which was witnessed by all standing committee. After all discussion and recommendation the parliament passed the Competition Act, 2002 in December 2002.

(B) Powers Of Competition Commission of India:

1. A case pertaining to the issue may be brought by any party or using information from the state and federal governments. In Section 26, the CCI's investigation procedure is described. If the Commission finds a prima facie case, the matter is then sent to the Director General for inquiry, according to it. The commission then takes the issue further and makes a determination after working with the complainant to prepare a report.
2. It may also issue a temporary injunction in accordance with Section 33 to prevent the party

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from carrying out the act.

III. CASE ANALYSIS

(A) Shri Surendra Prasad v. Competition Commission Of India And Others[5].

Facts:

In violation of Section 19(1)(a) of the Competition Act of 2002, the petitioner submitted an information. According to Section 26(2) of the Act, the case was closed by the Competition Commission of India (the Commission) after it declined to oversee an investigation into the claims.

The Supreme Court ruled that the High Court's determination of eligibility was not supported by the law and that the private respondents had organized into a cartel and acquired the contract following the High Court's ruling. Despite considering the non-petitioners' justification, the Supreme Court was not convinced.

The alleged violators calculated the amount of coal transported incorrectly and misunderstood the court's decision. They failed to interpret the Court's instructions correctly when they read them. Due to poor outcomes, the contract with the accused contravenors was cancelled on September 12, 2009. Respondent No. 2 published four advertising for the award of contracts between September 2009 and 2013, but each time the invitation to bid was cancelled and Respondents Nos. 3 to 5 were permitted to do the work on an as-needed basis. The majority of the Commission closed the matter in accordance with Section 26(2) of the Act without taking into account the documents submitted by the petitioner or the judgment of the Supreme Court. The informant's claims of bid manipulation against Respondents Nos. 2 to 4 were not supported by evidence.

Judgement:

The appeal was granted. The Commission's majority decision is overturned. The Director General is now required to look into the claims made in the information that was submitted by the appellant in accordance with section 19(1)(a) and to report back to the Commission within three months. However, it is made plain that the Director General may not begin his or her investigation by assuming that Respondent No. 2 was a member of the cartel.

(B) Duties of Competition Commission Of India:

The fundamental objective of competition law is to promote economic efficiency by assisting

[5] Shri Surendra Prasad v. Competition Commission Of India And Others (2015 SCC ONLINE COMP AT 789)

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in the development of markets that are responsive to customer preferences by using competition as one of its main tools.

The Competition Act aims to address the issues with the nation's economic system that directly imperil the interests of the general public and consumers. The Act seeks to improve consumer welfare, which is one of its declared objectives, by reducing market distortions brought about by business practices and agreements that work against consumers' interests and competition.

According to the Act's Preamble, Section 18 of the Act requires the CCI to "remove" anti-competitive practices and enhance consumer, free-trade, and competitive interests. Other Act requirements must be adhered to in order to employ the power granted by Section 18. The Commission's objective is to create a system of honest competition that is conducive to the promotion of consumer interests.

(C) National Competition Policy:

National Competition Policy is formulated by the Government of India with a view to achieve highest sustainable levels of economic growth, entrepreneurship, employment, higher standards of living for citizens, protect economic rights, equitable, inclusive and sustainable economic and social development, promote economic democracy.

It's objectives are :-

1. To guarantee Consumer Welfare by encouraging optimal distribution of resources.

2. To remove anti-competition outcome of existing acts, harmonize laws and policies of Centre and State and proactively promote competition principles.

3. Establish a level playing field by providing competitive neutrality.

(D) IPR (Trademark) Theory:

Trademark is governed by The Trademarks Act, 1999 in India. This gives owner the right to use and access to its fullest. A trademark is an essential prerequisite for any manufacturer of goods or provider of services. It enables any person, company, or other legal entity to identify the origin of its goods or services from those offered by other businesses. Therefore, it is essential to acquire a trademark and have it registered in order to apply more severe laws, such as infringement, in the event of any unlawful or dishonest use by anyone. For accessing to the fullest one must register the same.

The process of registration takes five simple steps:

- Application.

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- Examination.
- Publication.
- Opposition.
- Registration.

Ones the trademark is registered the claim over its right is proved and it also stops others its use wrongfully or unlawful. The Trademark Act offers trademark protection against other parties who make unlicensed uses of it. Due to their territorial nature, trademarks are only protected in the nations or areas in which they have been registered.

Unregistered trademarks, however, are not as legally protected as registered trademarks.

(E) How Competition Law Protects The Rights:

It attempts to safeguard competition for consumer welfare and the health of the overall economy. Competition law's aim is to prevent the misuse of dominance by regulating the circumstances necessary to maintain competition in the market. Unless the IP[6] holder abuses their dominant position and harms the welfare of the consumers, IP rights are well protected in India. The impact of antitrust laws on IPR[7] is highlighted in the section above. The legal system of CCI[8] is just capable of handling antitrust laws, and it takes into account the "right to protect IPR" rather than deciding whether or not the alleged infringement falls under IPR.

During its first session, competition concentrated on "Promoting competition, protecting human rights." An effective system of human rights, most notably the rights to property, to contract, and to due process of law, is necessary for the implementation of competition laws. Policies that encourage competition between service providers can also be beneficial in advancing human rights more generally, for instance by putting restraints on corporate power and assisting in the fight against corruption in government. However, sometimes it is claimed that economic competition itself undermines social ideals and human rights, for instance through "social dumping" or environmental destruction. Additionally, certain regulations designed to protect human rights rely on agreements between providers, which may violate competition law or at the very least raise the possibility that they do. Professionals from the fields of competition law and human rights law discussed various points of view and looked into possible solutions for any apparent contradictions between their goals.

[6] IP- Intellectual Property
[7] IPR- Intellectual Property Rights
[8] CCI- Competition Commission of India

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IV. CASE ANALYSIS

(A) Mohit Manglani v. M/s Flipkart India Pvt. Ltd.and others[9]

Facts:

The Informant Mr. Mohit Manglani filed a complaint under Section 19(1) (a) of the Competition Act, 2002 against various e-commerce/portal companies (Opposite Parties) for their alleged contravention of the provisions of Section 4 of the Competition Act, 2002.

It was alleged by the Informant that these e-commerce websites were indulged in anti-competitive practices in the nature of "exclusive agreements" with seller of goods/services. The Informant stated that by indulging in such type of practices, the consumer was left with no option in terms of purchase and price of the goods and services and was bound to either purchase the product as per the terms of the website or opt not to purchase the product in totality.

The informant stated that sections 3 and 4 of the act are fairly applied on exclusive agreements and restrictive unfair practice of these e-portals by slowly destroying players in physical markets and creating product specific monopoly leading to manipulation of price control of production and supply imposing terms and conditions detrimental to interests of consumer such agreements distort fair completion in the marketplace.

Judgement:

The Commission analysed the materials available on record and heard the parties, as observed the commission the informant was primarily aggrieved by the exclusive distribution arrangements, as per the informant leave the consumer with no option but to accept the onerous terms/prices as imposed by exclusive online seller, further the commission observed that the online distribution channel by the online sellers i.e. OPs provide an opportunity to the consumers to compare the price as well as the pros and cons of the price or observed that every product of online sellers cannot be considered as relevant in itself therefore it was stated in the order that e-portals acts as a separate relevant product market or as a sub-segment of the market for distribution, the commission opined that no case of contravention of provision of section 3 and section 4 of the act is made against the online sellers, therefore the case was closed under section 26(2) of the Competition Act 2002.

(B) M/S Voltas Limited, Bombay v. Union Of India & Ors[10]

Facts: In the case of M/S Voltas ltd V Union of India, the appeal was filed under Section 55

[9] Mohit Manglani v. M/s Flipkart India Pvt. Ltd.and others - 2015 SCC ONLINE CCI 61
[10] M/S Voltas Limited, Bombay v. Union Of India & Ors - 1995 AIR 1881

of the Monopolies and Restrictive Trade Practises Act, 1969 (further referred to as the Act) against the judgment passed by Monopolies and Restrictive Trade Practices Commission. The appellants had entered into the agreement with the respondents which are different companies regarding the distribution of different types of machinery and equipment within different parts of the territory of India. The respondents which are different companies are engaged with manufacturing machinery and equipments, which under the specific terms and conditions of the agreements are to be distributed by the appellant as the Marketing Company. The appellant had been appointed as the sole importer of the machinery and equipment manufactured by the respondents. The appellants were intimated through the issuance of a notice that some of the clauses of the agreement entered into by the appellants and the respondents contain conditions that amount to restrictive trade practices under clauses (a) and (c) of Section 33(1) of the Act.

Judgement:

The Supreme Court after scrutinizing the voluminous records and pleadings pertaining to the enquires, evidence produced by the parties, oral arguments and written submissions, and cases that are referred to by the parties are of the opinion that no case of the gateway as pleaded by the appellant (Voltas) under Section 38(1) has been made out. Further, the court stated that it is of the opinion that the respondents have indulged in 'restrictive trade practices' has been alleged in the Notice of Enquiry and those practices are clearly prejudicial to the public interest.

(C) How Trademark Protects The Rights:

When a person infringes other person's right or damages the reputation by another entity then this act provides protection under the said act. In such certain situations, the trademark owner may pursue legal action and sue the individual using the trademark without permission. In India, a trademark registration offers the following advantages that an unregistered trademark does not have access to:

- It offers initial proof of authenticity and ownership.
- It gives legislative protection.
- It aids in preventing an unauthorized use of the trademark by third parties.
- It permits bringing legal action for infringement.

Above all the Unregistered Trademark are also protected. In India, the ownership of trademark id based upon first to use basis. If a trademark is not registered of X company and that X company is using it for 10 years and Y company claims that this is our trademark and we are using it for 5 years now. In this case, the common law will apply and hence, it will safeguard in

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use unregistered trademarks from going off. The Y company may be subject to a passing-off lawsuit from the X company for exploiting its trademark.

As small business owners are overly eager to become famous and wealthy in a flash, some of them seek to ride on the previously established goodwill of market players rather than developing their own, which has led to trademark infringement recently becoming the crime equivalent to pocket picking. In their aim to profit more easily, these owners adopt the pre-existing trademarks either identically or by making modifications that make them hard to distinguish from one another. This Act[11] also provides legal protection to all individuals or entity despite of being registered or owners of unregistered trademarks against any individual or organization that:

- Falsifies the trademark.
- Falsely applies the brand to products or services without the owner's consent.
- Offers for sale, leases, rents, or hires items bearing any fraudulent trademarks.

The following are the wrongs or offenses for which the court also guarantees punishment:

- A minimum of six months in jail, with a maximum sentence of three years.
- A fine that is at least Rs 50,000 but not more than Rs. 2 lakhs.

This Act[12] stipulates that making a trademark or a trademark that is confusingly similar without the approval of the trademark owner constitutes the crime of fabricating a trademark.

V. CASE ANALYSIS:

(A) Coca Cola V. Bisleri International Pvt. Ltd. & Ors[13]

Facts:

The Coca Cola Company was the largest brand in soft drinks. It largely operated by selecting bottlers and offering them permission to use its trademarks to sell beverages. Additionally, it hired outside parties to create beverage bases for sale to bottlers. The No. 1 Defendant was a company in the Parle Group of Industries and held the trademarks for several soft drinks, including Thums Up, Limca, Gold Spot, and Maaza. The owners, Ramesh and Prakash Chauhan, sold the plaintiffs all of the trademarks, formulation rights, and other intellectual property rights on September 18th, 1993. After the defendant sold its rights to the mark

[11] This Act- The Trademarks Act 1999 in India.
[12] This Act- The Trademarks Act,1999 in India.
[13] Coca Cola V. Bisleri International Pvt. Ltd. & Ors 2009 SCC OnLine Del 3275

MAAZA, this case was brought about due to allegedly improper use of the mark. The trademark and license agreement were given by the defendants to their affiliate Bisleri Sales, which produced the beverage base for MAAZA, on November 12th, 1993. The defendants kept using the trademark in relation to nations other than India, where it was already registered. The plaintiff filed for the impugned mark's registration in Turkey in March 2008, and this information was made known to the defendant. Insisting on a breach of their contract, the defendant quickly sent a legal notification.

Judgement:

The Delhi High Court held that, the circumstances of the case should enforce permanent injunction and also make sure that the plaintiff does not suffer damages and the court also impleaded R.D Verma, the third party. Hence the decision was made in favour of the plaintiff.

(B) Coexistence Between IP And Competition Laws:

Competition law is the body of legislation to prevent market distortion which are caused by anti-competitive practices whereas trademark is a sign which deals with the company's identity.

Intellectual Property Rights governs a company's or an individual's rights to an organization's intangible assets, such as trade secrets, innovations, and trademarks. Contrarily, competition law controls mergers and acquisitions and protects the business environment from anti-competitive behaviour.

Duplication and copying of the same may occur if the elements that contribute to a company's distinctiveness are not protected by IP regulations. Inadequate competition between businesses will emerge from the imitation and repetition of the different distinguishing elements associated with a business, which is obviously against the rules of competition law. Therefore, it can be concluded that in order to uphold both of its tenets, IP and competition legislation need to be balanced because these two laws jointly exists. Competition law and intellectual property rights works parallely however one ensures the right to exist in the market whereas other ensures product's sustainability.

For instance, let's assume **SUNSHINE** is a shampoo brand who wants to enter in the market but it has competition of similar shampoo brand named **SUNSILK**. Now **SUNSHINE** can enter the market with different ingredients, or difference in colour or it may be in different shape of bottle as **SUNSILK** etc. Now consumer has the edge to choose the best fit for them.

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VI. Case Analysis

(A) Gloucester Grammar School Case[14]

Facts:

The defendant was a teacher in Gloucester grammar school whose fee was 40 pence. He decided to quit the job as a teacher and opened a new school adjacent to his previous school and also reduced the fee to 12 pence. It so happened that, the students of Gloucester grammar school went to the defendant's school This resulted in pecuniary losses to the previous school (Gloucester Grammar School).The petitioner that is, the owner of the Gloucester Grammar School decided to bring a suit for recovery of damages against the defendant alleging that the above-mentioned act of opening up a new school in the vicinity of his existing school caused him financial losses and that he should be compensated for the damages caused.

Judgement:

The court held that no legal right has been violated. The damages has been suffered by the petition but not legal one. This is merely a case of a competition or business of school where two schools are set in same vicinity. Only the difference is one school has higher fee structure and other school with lesser fee structure. Hence, it is not an actionable wrong. The defendant merely setting up a new school in competition had done no wrong to the plaintiff.

(B) Moghul Steamship Competition Vs. Mcgregor Gow & Competition[15]

Facts:

Defendant McGregor, Gow & Co. (McGregor) was the attorney for a group of ship merchants involved in the Chinese tea trade. Another ship merchant involved in the tea trade was Mogul Steamship (Mogul), the plaintiff. To drive away all other rivals, especially Mogul, all the McGregor ships came to an agreement to collectively significantly reduce the price of tea. All local shippers and agents who agreed to do business exclusively with the McGregor group were also given a rebate of 5%. With regard to unfair competition, Mogul sued McGregor. Mogul filed an appeal after the lower court ruled in favour of McGregor.

Judgement:

It was decided that the defendants' actions were legal because they were done in an effort to safeguard their own profits and business. The plaintiffs had no legal basis for their claim because no illegal actions had occurred to support any violation. A "matter contrary to law"

[14] Gloucester Grammar School Case -(1410) Y.B ii Hen 4, to 47 P121; 36 Digest (Repl) 252
[15] Moghul Steamship Competition Vs. Mcgregor Gow & Competition 23 Q.B.D. 598 (1889), affirmed [1892] A.C.

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would need to be demonstrated in order to establish that a conspiracy that would be an indictable offense took place. It was difficult, in Lord Halsbury's opinion, to imply that there had been any malicious intent to harm rival traders other than in the sense that they wanted their rivals to stop doing business. This led to the conclusion that the defendant's acts were motivated by their own commercial interests. In addition, in order for an act to be considered unlawful, it must also involve some form of aggression, interference, or molestation. Therefore, it is merely a competition and it did nothing wrong to the plaintiff.

VII. OBSERVATION

It is well established that IPR and Competition law co exists together and they are two sides of the same coin. It is pertinent to understand that both are very important to understand the dynamics of the market and also help consumers to protect their desire interests, but there are some practical differences such as Intellectual Property Rights ensures the ownership of the product and owes all rights to the one who has registered it first and gives them ultimate power of enjoyment and it tries to keep monopoly in the market but on the other hand competition law tries to eradicate the monopoly and gives fair chance to each and everyone who enters the market. They both are entirely different yet together.

Competition law's aim is to promote consumer welfare and focused on limiting monopoly whereas, IPR emphasizes innovation by giving owners the sole right to engage in a commercial activity, but this does not give them the power to monopolies the market. The holder of an IPR is given a preventative right, but this right cannot be exclusive enough to give the holder monopoly status.

Trademark infringement has drawn attention from laws pertaining to intellectual property as well as IT laws, media laws, sports laws, marketing laws, etc. The trademark legal framework must include national and international laws, and it must function in accordance with transnational laws. The judgments from other nations that are cited in the Trademark Legal Framework must serve as a model for creating a new legal framework in India.

Intellectual Property Rights rules are given a definite advantage and precedence over the goals pursued by competition legislation. Although it has been noted that there are more differences between IPR and competition law than commonalities, there are currently acts and regulations in existence that help to bridge the two. The words "maybe conferred" and "imposition of reasonable conditions" were used with pure legislative intent, and this is substantial evidence that the Competition Act did not intend for IPR regulations to not be applied. As a result, the Competition Act's Section 3(5) (i) is sufficient to resolve the situation.

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(A) Suggestions:

IPR cannot be dealt with in isolation from Competition Law. The conditions given by competition law might help to resolve the conflict. The following are some of the suggestions to solve the conflict:

- Defining the term market clearly by forming principles, norms and procedures and the way of implementing it.
- The balancing and working of competition law authorities and IPR authorities.
- There should be compulsory licensing (a contract which is involuntary between the buyer and seller).
- Using the flexibilities provided by the TRIPS agreement which grants remedy to anti-competitive practices relating to IPRs.

VIII. CONCLUSION

The relation between competition law and intellectual property rights (IPR) has emerged as an contemporary issue in recent years.

It discusses about the contemporary nature of these two regimes. Although the basic tenets of IPR and Competition law are very different, their goal is the same, hence the two are intertwined. On the one hand, monopolies can be created thanks to IP rights that protect the IP holder, while on the other, anti-competitive business practices and agreements are protected from consumers and the economy by competition law. However, the fact that they both aim to promote consumer welfare connects them, and it is for this reason that they coexist rather than overlap.

Competition law acknowledges the existence of intellectual property rights, but only up to a point where such agreements or behaviour would be considered anti-competitive. It is important to remember that the CCI and the Supreme Court have said in a number of precedents that the abuse of intellectual property rights does not justify breaking the law on competition. The CCI, which oversees and defends economic competition, has duly disposed of its position on the question of the two legal systems' overlap. Therefore, it can be said that the two legal systems do not overlap; rather, the only issue that has been addressed and understood is how the unjustified use of intellectual property (IPR) affects market competition negatively.

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