

References

Textbooks

- Alexander R. Klett, Mathias Sonntag, Stephan Wilske*, Intellectual Property Law in Germany- Protection, Enforcement and Dispute Resolution,(Verlag C.H. Beck München 2008)
- Alison Jones & Brenda Sufrin*, EC Competition Law Text, Cases, and Materials, (3rd ed. Oxford University Press 2008)
- David Wilson*, International Patent Litigation: Developing an Effective Strategy, (Globe Business Publishing 2009)
- Erik Stasik*, *Patent or Perish*, A Guide for Gaining and Maintaining Competitive Advantage in the Knowledge Economy, (Althos Publishing 2003)
- Federico Etro*, Competition, Innovation, and Antitrust, A Theory of Market Leaders and Its Policy Implications, (Pringer-Verlag Berlin Heidelberg 2007)
- Frank L. Fine*, The EC Competition Law on Technology Licensing (London: Sweet Maxwell Ltd. 2006)
- Ilkka Rahmasto*, How to Leverage Intellectual Property Rights, (Faculty of Law University of Helsinki 2001)
- Ilkka Rahmasto*, Intellectual Property Rights, External Effects, and Antitrust Law, (Oxford University Press 2003)
- Editors: Wolrad Prinz zu Waldeck und Pyrmont, Martin J. Adelman, Robert Brauneis, Josef Drexl, Ralph Nack*, Patents and Technological Process in a Globalized World, Liber Amicorum Joseph Straus, (Springer-Verlag Berlin Heidelberg 2009)
- Larry M. Goldstein & Brian N. Kearsy*, Technology Patent Licensing: An International Reference on 21st Century Patent Licensing, Patent Pools and Patent Platforms, (Aspatore Inc. 2004)
- Marcus Glader*, Innovation Markets and Competition Analysis, (Edward Elgar Publishing, Inc. 2006)
- Niklas Bruun*, Intellectual Property Beyond Rights (WSOY 2005)
- Rober O'Donoghue and Jorge Padilla*, The Law and Economics of Article 82EC, (Hart Publishing 2006)
- Steven D. Anderman & John Kallaugher*, Technology Transfer and the New EU Competition Rules, Intellectual Property Licensing after Modernisation (Oxford University Press 2006)

Articles

- Carl Shapiro*, “Injunctions, Hold-Up, and Patent Royalties”, Working paper, Draft 17 April 2006, available at <http://faculty.berkeley.edu/shapiro/royalties>.
- Damien Geradin and Miguel Rato*: “Can Standard-setting Lead to Exploitative Abuse?”, *European Competition Journal* Vol.3 Nr.1 June 2007.
- Damien Geradin and Nicolas Petit*, “Price Discrimination Under EC Competition Law: Another Antitrust Doctrine in Search of Limiting Principles?”, 2(3) *Journal of Competition Law and Economics* 479 (2006).
- Damien Geradin*, “Abusive Pricing in an IP Licensing Context: An EC Competition Law Analysis”, Published in *European Competition Law Annual 2007: A Reformed Approach to Article 82 EC*, (Hart Publishing, Oxford).
- Daniel Swanson and William Baumol*, “Reasonable and Non-discriminatory (RAND) Royalties, Standard Selection. And Control of Market Power”, 73 *Antitrust Journal* 1 (2005).
- David Salant*, “Formulas for Fair, Reasonable and Non- Discriminatory Royalty Determination”, MPRA Working Paper 8569 2007.
- DIE JUVE-NACHRICHTENDATENBANK: “Patentstreit: Frohwitters IP.com darf doch nicht vollstrecken“. available at: <http://www.juve.de/cgi-bin/voll.pl?ID=13726>.
- Fances Murphy*, “Abuse of Regulatory Procedures- The AstraZeneca Case: Part III”, *European Competition Law Review* Vol.30 Issue 7, 2009.
- Fances Murphy*, “Abuse of Regulatory Procedures- The AstraZeneca Case: Part II”, *European Competition Law Review* Vol.29 Issue 7, 2009.
- Herbert Hovenkamp*, “Standards Ownership and Competition Policy”.
- Intellectual Assets Valuation*, Harvard Business School, Case Study N9-801-192.
- J Millers*, “Standard Setting, Patents, and Access Lock-in: RAND Licensing and Theory of the Firm“, *Indiana Law Review* 40 2006.
- James Surowiecki*, “Turn of the Century”, *Wired Magazine*, January 2002.
- Josef Drexel*, “Deceptive Conduct in the Patent World- A Case for US Antitrust and EU Competition Law?” *Patents and Technological Process in a Globalized World*, (Springer-Verlag Berlin Heidelberg 2009)
- Joseph Farrell*, John Hayes, Carl Shapiro, Theresa Shapiro, “Standard Setting, Patents and Hold-Up”, *Antitrust Journal* No.3 2007, (American Bar Association).
- Karoline Schöler*, “Patents and Standards: The Antitrust Objection as Defence to Patent Infringement Proceedings”, *Patents and Technological Process in a Globalized World*, (Springer-Verlag Berlin Heidelberg 2009)
- Mark Lemley and Carl Shapiro*, “Patent Hold Up and Royalty Stacking In High Tech Industries: Separating Myth from Reality”, (Stanford Law and Economics Olin Work Paper No.324, July 2006).

- Philippe Chappatte*, “FRAND Commitments- The Case of Antitrust Intervention“ Vol.5 Nr.2 August 2009, European Competition Journal (Hart Publishing).
- Pierre-Anre Dupois*, “Technology sector- standardization, FRAND terms and patent misuse- recent developments, The European Antitrust Review 2007, (Kirkland Ellis International LLP).
- Rudi Bekkers and Joel West*, “Standards, Patents and Mobile Phones: Lesson from ETSI’s Handling of UMTS”, International Journal of IT Standards and Standardization Research, Vol.7 Issue 1 2009.
- Rudi Bekkers, Geert Duysters, Bart Verspagen*, “Intellectual Property Rights, Strategic Technology Agreements and Market Structure, The Case of GSM”, Research Policy 31 (2002), 1141-1161.
- SüddeutscheZeitung* Article:”Warum die Finnen zwölf Milliarden Euro zahlen sollen”, Januar 31, 2007, available at: <http://www.sueddeutsche.de/wirtschaft/872/431623/text/>.
- Timo Ruikka*, “FRAND” Undertakings in Standardization- A Business Perspective, N.Y. Fordham IP Conference, March 28, 2008.
- Wofgang von Meibom and Ralph Nack* “ Patents without Injunctions?- Trolls, Hold-ups, and Other Patent Warfare”, Patents and Technological Process in a Globalized World, (Springer-Verlag Berlin Heidelberg 2009)

Table of Cases

- Case C-418/01, IMS Health, [2004] ECR I-5039.
- Case C-201/04, Microsoft v Commission, [2004] II-1491.
- Case 85/76, Hoffmann- La Roche & Co. AG v Commission [1979] ECR 461.
- Cases C-189/02 P, 202/02 P, 208/02 P and 213/02 P, Dansk Rorindustri A/S and others v Commission [2005] ECR I-5425, [2005] 5 CMLR 796.
- Case COMP/A.37.507.F3, Generic/AstraZeneca, 15th June 2005, IP/05/737, on appeal Case T-321/05, judgment pending.
- Case Hilton v Commission [1994] ECR I-667.
- Joined Cases C-241/91P and C-242/91P, Radio Telefis Eireann and others v Commission, [1995] ECR I-743.
- Case T-219/99 British Airways v Commission [2003] ECR II-5917.
- Case C-250/92 Gottrup Klim v KLG [1994] ECR I-5641.
- Case T-125/ Case T-111/96, ITT Promedia v Commission [1998] ECR II-2937.
- Case BBI/Boosey&Hawkes [1987] OJ L286/36, [1988] 4 CMLR 67.97.
- Case Coca-Cola v Commission [2000] ECR II-1733, [2000] 5 CMLR 467
- Case United Brands v Commission [1978] ECR 207.
- Case T-23/01, Michelin v Commission.2005, I.A.3.
- Case British Leyland v Commission [1986] ECR 3263.
- Joined Cases T-24/93, T-25/93, T-26/93 and T-28/93 Copmagnie Maritime Belge and others v Commission.
- Case C-539/03, Roche/Primus and Case C-4/03 GAT v Luk.
- Bundesgerichtshof (BGH), July 13, 2004, Case KZR 40/02, GRUR 2004, 966 – Standard-Spundfass.
- Landgericht (LG) Düsseldorf, November 13, 2006, Case 4b O 508/05, 7 InstGE 70- Video-signal- Codierung I.
- Bundesgerichtshof (BGH), May 6, 2009, Case KZR 40/02, GRUR Int 2009, 747 – Orange-Book Standard.
- Landegericht (LG) Mannheim, docket no. 7 O 287/02, (not yet published)
- LG Mannheim, February 27, 2009, Case 7 O 94/08, GRUR-RR 2009, 222, (FRAND-Erklärung).
- Landgericht (LG) Düsseldorf, February 13 2007, Case 4a O 124/05-GPRS, BeckRS 2008, 07732.
- EBay Inc. et al. v MerxExchange, L.L.C., 126 U.S. 1837, 2006.

Other Sources

- Commission Guidelines on the application of Article 81 of the EC Treaty to technology transfer agreements, O.J. 2004, C 101/2.
- Council Regulation 44/2001/EC of December 22, 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.
- Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 157, 30.4.2004).
- The Commission Guidelines on the assessment of significant market power under the regulatory framework for electronic communications networks and services [2002] OJ C165/15.
- XXIVth Report on Competition, Commission 1994, available at:
http://ec.europa.eu/competition/publications/annual_report/index.html.
- Competition Commission's press release from December 2005 on their review of IPR rules at ETSI, available at:
<http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/15/1565%&type=HTML&aged=0%&language=EN&guiLanguage=en>.
- European Commission 2007, "Antitrust: Commission Initiates Formal Proceedings Against Qualcomm", MEMO/07/389, 1 October 2007, available at:
<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/389&format=HTML&aged=0&language=EN&guiLanguage=en>
- "Mobile Phone Operators Signal 3G Discontent in Qualcomm Probe", 26 January 2006, available at: <http://mlex.com/Content.aspx?ID=29479>.
- European Press Release of 23 August 2007, "Antitrust Commission confirms sending a Statement of Objections to Rambus", MEMO /07/330, available at:
<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/330&form>
- Press Release IP/04/382, European Commission, "Commission concludes on Microsoft investigation, imposes conduct remedies and a fine", March 24, 2004, available at:
<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/04/382&guiLanguage=en>
- Microsoft Statement Regarding Licensing Flexibility, 7th June 2005, available at:
download.microsoft.com/.../f/9/.../EU_Licensing_Flexibility.pdf
- The European Commissioner for Competition Neelie Kroes, "Being Open About the Standards", Speech/08/317, 10 June 2008, available at:
http://ec.europa.eu/enterprise/ict/policy/standards/ws08ipr/contributions/20081118IPI_en.pdf
- "Nokia Files Formal Complaint against IPRCom in Telecom Patents Dispute", available at:
<http://www.bloomberg.com/apps/news?pid=conewsstory&tkr=BING:GR&sid=awEh2XO1QK1U>.

ETSI Guide on Intellectual Property Rights (IPRs), adopted by Board #70 on 27 November 2008, available at http://www.etsi.org/WebSite/document/Legal/ETSI_Guide_on_IPRs.pdf.

ETSI Guidelines for Antitrust Compliance, adopted on 27 November 2008, available at: http://www.etsi.org/WebSite/document/Legal/ETSI_Guidelines_for_Antitrust_Compliance.PDF

ETSI IPR Policy, adopted on 26 November 2008, available at http://www.etsi.org/WebSite/document/Legal/ETSI_IPR-Policy.pdf.

ETSI World Class Standards, “Mobile technologies GSM,” available at: <http://www.etsi.org/WebSite/Technologies/gsm.aspx>

Letter from Angel Tradacete, DG Competition, to Karl Heinz Rosenbrock, ETSI Director General. Of 26 April 2005, referred to in ETSI Directives, Version 20, July 2006, available at: <http://etsi.org>.

Press Release, “Nokia and Qualcomm Enter into a New Agreement“, June 24th 2008, available at: <http://nokia.com/A4136002newsid=1238093>.

Qualcomm’s Press Release, October 1st 2007, available at: http://www.qualcomm.de/news/releases/2007/071001_ec_initiate_proceedings.html.

Interview: Timo Ruikka, Nokia Corporation, Strategy Advisor of IPR Legal Department, personal interview, 28 March 2009.

Interview: Prof. Petri Kuoppamäki, Nokia Corporation, Vice President, Regulatory Legal Corporate Functions. Personal interview. 20 March 2009.

Interview: Judge Andreas Voß, District Court Mannheim, phone interview, 8 September 2009.

Philip Lowe speech delivered at the Fordham Antitrust Conference in Washington D.C., 23 October 2003, available at http://ec.europa.eu/comm/competition/index_en.html.

Magdalena Brenning speech delivered at the ABA Anti-trust Spring Meeting in Washington D.C., 3 July 2002, available at: http://www.abanet.org/antitrust/committees/intell_property/july3.html.

Conference of Patent Exhaustion, jointly organized by EPO, Japan Intellectual Property Association, MIPLC and GRUR held in Munich on May 15, 2009. Panel discussion: FRAND/Antitrust Objection as Defence to Patent Infringement.

