

**CONNECTOR - Конкуреннтното право и предизвикателствата на цифровите пазари, интелектуалната собственост и въздушния транспорт**

**Собствеността върху интелектуалната собственост като определящ фактор при правните оценки в областта на конкурентното право**



**Съдебна практика на Съда на ЕС относно конкурентните ограничения и (едностранното) използване на права на интелектуална собственост (Дискусии по материали на Амандин Леонард, Модул 3)**



The **Court of Justice of the European Union** (CJEU) has developed a long line of cases in order to determine when and whether an IPR holder abuses his dominant position under Art 102 TFEU and what “exceptional circumstances” may mean.

For **tying/leveraging** practices, see:

- Judgment of the Court of First Instance (Second Chamber) of 12 December 1991, *Hilti AG v Commission of the European Communities*, Case [T 30/89](#).

For abuses from **collective management society** of IPRs, see:

- Judgment of the Court of 27 March 1974, *Belgische Radio en Televisie and société belge des auteurs, compositeurs et éditeurs v SV SABAM and NV Fonior*, Case [C-127/73](#).
- Judgment of the Court of 13 July 1989, *Ministère public v Jean-Louis Tournier*, Case [C-395/87](#).
- Judgment of the Court of 13 July 1989, *François Lucazeau and others v Société des Auteurs, Compositeurs et Editeurs de Musique (SACEM) and others*, joined cases [110/88](#), [241/88](#) and [242/88](#).
- Judgment of the Court (Fourth Chamber) of 11 December 2008, *Kanal 5 Ltd and TV 4 AB v Föreningen Svenska Tonsättares Internationella Musikbyrå (STIM) upa*, Case [C-52/07](#).
- Judgment of the Court (First Chamber) of 3 March 2011, *AG2R Prévoyance v Beaudout Père et Fils SARL*, Case [C-437/09](#).

For **refusal to license**, see:

- Judgment of the Court of 6 April 1995, *Radio Telefis Eireann (RTE) and Independent Television Publications Ltd (ITP) v Commission of the European Communities*, Case [C-242/91 P](#).
- Judgment of the Court of First Instance (Second Chamber, extended composition) of 12 June 1997, *Tiercé Ladbroke SA v Commission of the European Communities*, Case [T-504/93](#).
- Judgment of the Court (Sixth Chamber) of 26 November 1998, *Oscar Bronner GmbH & Co. KG v Mediaprint Zeitungs- und Zeitschriftenverlag GmbH & Co. KG, Mediaprint Zeitungsvertriebsgesellschaft mbH & Co. KG and Mediaprint Anzeigengesellschaft mbH & Co. KG*, Case [C-7/97](#).



- Judgment of the Court (Fifth Chamber) of 29 April 2004, *IMS Health GmbH & Co. OHG v NDC Health GmbH & Co. KG*, Case [C-418/01](#).
- Judgment of the Court of First Instance (Grand Chamber) of 17 September 2007, *Microsoft Corp. v Commission of the European Communities*, Case [T-201/04](#).

For ***misrepresentation of information before a public agency in order to obtain an IPR***, see:

- Judgment of the Court (First Chamber), 6 December 2012, *AstraZeneca AB and AstraZeneca plc v European Commission*, Case [C-457/10 P](#).

For ***bringing legal proceedings***, see:

- Judgment of the Court of First Instance (Fourth Chamber, extended composition) of 17 July 1998, *ITT Promedia NV v Commission of the European Communities*, Case [T-111/96](#).
- Judgment of the General Court (Seventh Chamber) of 13 September 2012, *Protégé International Ltd v European Commission*, Case [T-119/09](#).

For ***bringing legal proceedings in order to obtain a prohibitory injunction or the recall of infringing products in case of Standard Essential Patents (SEPs) and Promise to license under Fair Reasonable and non-Discriminatory (FRAND) terms***, see:

- Judgment of the Court (Fifth Chamber) of 16 July 2015, *Huawei Technologies Co. Ltd v ZTE Corp. and ZTE Deutschland GmbH*, Case [C-170/13](#).
- See also: Module 5

