



ADVOCACY WORKING GROUP
MARKET STUDIES PROJECT

MARKET STUDIES INFORMATION STORE

SECTOR:

INFORMATION MARKETS AND INTELLECTUAL PROPERTY RIGHTS

UPDATED: DECEMBER 2015

Information Store

Information Markets and Intellectual Property Rights

Jurisdiction:	US - FTC	Range of Possible Outcomes										
Market:	Patent Assertion Entities											
End Date:	December 2012 (Workshop) Ongoing (Study announced May 2014)	Competition Enforcement	Consumer Enforcement	Consumer Education	Business Education	Voluntary Business Compliance	Voluntary Business Action	Recommendations to Government for Changes in the Law	Recommendations to Government to Change Market Structure	Recommendations for Changes to Government Policy	Referral to Third Parties	No Problems Found
Duration:	1 day workshop											
Source of idea for study:	FTC and DOJ experience											
Outcome (tick relevant columns):		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reason for study (what were the problems)?	<p>Patent Assertion Entity Activities Workshop. The FTC and Department of Justice held a joint public workshop to explore the impact of patent assertion entity (PAE) activities on innovation and competition and the implications for antitrust enforcement and policy. PAEs are firms with a business model based primarily on buying patents and then attempting to generate revenue by asserting them against businesses that are already practicing the patented technologies. The workshop examined the economic and legal implications of PAE activity, as distinct from prototypical “non-practicing entity” (NPE) activity, such as developing and transferring technology. Panelists included academics, economists, industry representatives, and private attorneys.</p> <p>Patent Assertion Entities study. The FTC is studying PAE organization and activity to develop a better understanding of how PAEs may impact innovation and competition.</p>											
Link to report:	<p>2012 Workshop: http://www.ftc.gov/opa/2012/11/paeworkshop.shtm Study-related information: https://www.ftc.gov/policy/studies/patent-assertion-entities-pae-study</p>											

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Jurisdiction:	France	Range of Possible Outcomes										
Market:	Standardisation/ certification											
End Date:	November 2015	Competition Enforcement	Consumer Enforcement	Consumer Education	Business Education	Voluntary Business Compliance	Voluntary Business Action	Recommendations to Government for Changes in the Law	Recommendations to Government to Change Market Structure	Recommendations for Changes to Government Policy	Referral to Third Parties	No Problems Found
Duration:	22 months											
Source of idea for study:	Internal											
Outcome (tick relevant columns):												
Reason for study (what were the problems)?	<p>The Autorité decided, on its own initiative, to review the process used in France for standardisation and certification in the light of competition law.</p> <ul style="list-style-type: none"> - By facilitating compatibility and interoperability between products or services, the adoption of standards may benefit competition, as it promotes diversity of offer and allows purchasers to compare goods or services more easily, thus improving competition on the merits. Conversely, a misused standard may restrict market competition. The Autorité recommends streamlining standardisation bodies and their working methods, with the reinforcement of steering by the overseeing body <i>AFNOR</i> and increased transparency during the standardisation process; - Regarding the certification activity, the Autorité recommends that the Accreditation committee <i>COFRAC</i> publish a list of areas in which accreditation is necessary, along with associated costs. <i>AFNOR</i> should also better dissociate its activities of public interest from the commercial operations of its subsidiaries. Similarly <i>AFNOR</i> and public authorities should prevent any risk of confusion over the commercial use of the NF mark (<i>Norme Française</i>, or 'French standard'), and draw the implications for NF certification process. - Finally, with special reference to construction and public works sector, the Autorité recommends that the common legal standardisation process be applied to the sector, and that the role of the sector monitoring body be redefined. 											
Link to report:	<p>Press release in English: http://www.autoritedelaconurrence.fr/user/standard.php?id_rub=607&id_article=2672</p> <p>Full opinion in French: http://www.autoritedelaconurrence.fr/pdf/avis/15a16.pdf</p>											

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Jurisdiction:	Finland	Range of Possible Outcomes									
Market:	Copyrighted Works Market										
End Date:	June 2014	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found									
Duration:	1 year and a half										
Source of idea for study:	Own initiative (as part of the Government's programme to promote healthy competition)										
Outcome (tick relevant columns):			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reason for study (what were the problems)?	To investigate the impact of copyright legislation and the operations of collective management organisations on the markets using copyright-protected music and audio-visual content. The users of copyright-protected works include especially TV and radio companies; enterprises in the tourism, hotel and restaurant sectors; and telecommunications operators.										
Link to report:	Collective management and the functioning of the copyrighted works market (in Finnish)										

Jurisdiction:	US - DOJ	Range of Possible Outcomes									
Market:	Information Markets and Intellectual Property Rights										
End Date:	December 10, 2012	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found									
Duration:	One-Day Public Workshop (Ongoing follow-up study undertaken by Federal Trade Commission)										
Source of idea for study:	Department of Justice Antitrust Division and Federal Trade Commission										
Outcome (tick relevant columns):			<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reason for study (what were the problems)?	To explore the impact of patent assertion entity activities on innovation and competition and the implications for antitrust enforcement and policy.										
Link to report:	No official report has been issued by the Agencies, but Public Comments and a Transcript are available at http://www.justice.gov/atr/events/public-workshop-patent-assertion-entity-activities										

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Jurisdiction:	US - FTC	Range of Possible Outcomes									
Market:	IP in standard setting										
End Date:	June 2011	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Duration:	1 day workshop										
Source of idea for study:	FTC experience										
Outcome (tick relevant columns):											
Reason for study (what were the problems)?	<p>Workshop: Tools to Prevent Patent "Hold-up": IP Rights in Standard Setting. The FTC hosted a workshop addressing legal and policy issues surrounding the inclusion of patented technology in collaboratively set industry standards. The workshop was part of FTC's policy project to examine the legal and policy issues surrounding the problem of potential patent "hold-up" when patented technologies are included in collaborative standards. As part of the project, the FTC held a workshop and sought views of consumers and the legal, academic, and business communities</p>										
Link to report:	<p>Workshop transcript, an agenda, and additional event-related materials are available at: https://www.ftc.gov/news-events/events-calendar/2011/06/tools-prevent-patent-hold-ip-rights-standard-setting</p>										

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Jurisdiction:	US - FTC	Range of Possible Outcomes																						
Market:	Patents and technology in various industries																							
End Date:	May 2009 (hearings) May 2010 (workshop) March 2011 (report)	<table border="1"> <tr> <td>Competition Enforcement</td> <td>Consumer Enforcement</td> <td>Consumer Education</td> <td>Business Education</td> <td>Voluntary Business Compliance</td> <td>Voluntary Business Action</td> <td>Recommendations to Government for Changes in the Law</td> <td>Recommendations to Government to Change Market Structure</td> <td>Recommendations for Changes to Government Policy</td> <td>Referral to Third Parties</td> <td>No Problems Found</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>	Competition Enforcement	Consumer Enforcement	Consumer Education	Business Education	Voluntary Business Compliance	Voluntary Business Action	Recommendations to Government for Changes in the Law	Recommendations to Government to Change Market Structure	Recommendations for Changes to Government Policy	Referral to Third Parties	No Problems Found	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Competition Enforcement	Consumer Enforcement		Consumer Education	Business Education	Voluntary Business Compliance	Voluntary Business Action	Recommendations to Government for Changes in the Law	Recommendations to Government to Change Market Structure	Recommendations for Changes to Government Policy	Referral to Third Parties	No Problems Found													
<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>													
Duration:	Appx. 3 years																							
Source of idea for study:	FTC experience																							
Outcome (tick relevant columns):																								
Reason for study (what were the problems)?	<p>To explore the interplay of legal standards, patent examination practices and procedures, remedies in legal actions challenging patents, innovation, and competition, the FTC held eight days of hearings between December 2008 and May 2009. The hearings explored how markets for patents and technology operate in different industries, whether those markets operate efficiently, and how patent policy might be adjusted to respond to problems in those markets in order to better promote innovation and competition. In addition, the FTC cosponsored a workshop with the Patent and Trademark Office (PTO) and the Department of Justice in May 2010, on the intersection of patent policy and competition policy.</p> <p>Following the hearings and workshop, and taking into account testimony, written submissions, and independent research, FTC staff drafted the report, "The Evolving IP Marketplace: Aligning Patent Notice and Remedies With Competition." The report examines the role of technology markets and patent markets in innovation. It recognizes that collaboration and technology transfer have become increasingly important pathways to innovation with significant benefits for consumers, and that patents play an important role in supporting technology markets, and undermining that role would harm innovation. At the same time, there are increasing complex business models in markets for patents that do not involve technology transfer. The report includes recommendations for adjustments to the legal rules and practices related to obtaining patents and remedies that are better aligned with competition policy without undermining patent law's support for innovation.</p>																							
Link to report:	Hearings series: https://www.ftc.gov/news-events/events-calendar/2009/05/evolving-ip-marketplace Workshop: https://www.ftc.gov/news-events/events-calendar/2010/05/intersection-competition-policy-patent-policy-implications Report: https://www.ftc.gov/reports/evolving-ip-marketplace-aligning-patent-notice-remedies-competition																							

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Jurisdiction:	US - FTC										
Market:	Exploring privacy	Range of Possible Outcomes									
End Date:	March 2010	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Duration:	6 months										
Source of idea for study:	Bureau of Consumer protection										
Outcome (tick relevant columns):											
Reason for study (what were the problems)?	Three roundtables aimed to explore the privacy challenges posted by the vast array of 21 st century technology and business practises that collect and use consumer data. The goal was to determine how best to protect consumer privacy while supporting beneficial uses of the information and technological innovation.										
Link to report:	https://www.ftc.gov/news-events/events-calendar/2010/03/exploring-privacy-roundtable-series										

Jurisdiction:	Denmark											
Market:	The market for office software, i.e. word processing, spreadsheets, presentations etc.	Range of Possible Outcomes										
End Date:	August 2009	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Duration:	Approximately 2 years											
Source of idea for study:	The Danish Competition Authority was requested by the Danish government to conduct the study.											
Outcome (tick relevant columns):												
Reason for study (what were the problems)?	The purpose of the study was to identify possible pro- and anti-competitive effects on the market for office software given the mandatory implementation of one or two open standards for document formats in the Danish public sector. The particular standards considered were ODF and OOXML.											
Link to report:												

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Jurisdiction:	Estonia										
Market:	IT systems for sector of pharmaceuticals (wholesale and retail)	Range of Possible Outcomes									
End Date:	March 2009	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Duration:	3 months										
Source of idea for study:	Market participants										
Outcome (tick relevant columns):		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reason for study (what were the problems)?	Competition situation in the market of pharmaceuticals (highly concentrated market), special IT systems supporting market leaders etc.										
Link to report:											

Jurisdiction:	US - FTC										
Market:	Securing Personal Data in the Global Economy	Range of Possible Outcomes									
End Date:	March 17, 2009	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Duration:	2 days										
Source of idea for study:	Bureau of Consumer protection										
Outcome (tick relevant columns):		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reason for study (what were the problems)?	The FTC, in conjunction with APEC and the OECD, hosted the conference addressing how companies can manage personal data-security issues in a global information environment where data can be stored and accessed from multiple jurisdictions.										
Link to report:	https://www.ftc.gov/news-events/events-calendar/2009/03/securing-personal-data-global-economy										

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Jurisdiction:	Norway												
Market:	Norwegian software markets	Range of Possible Outcomes											
End Date:	2008	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found											
Duration:	1 year		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Source of idea for study:	Assignment by the Ministry		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Outcome (tick relevant columns):			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reason for study (what were the problems)?	<p>The software markets differ from traditional markets because of economies of scale and network effects. These features imply that one firm may become dominant in the market and furthermore that software developers compete for the market instead of competing within the market. The software markets are therefore seen as dynamic and driven by rapid technological change and large investments in research and development, where the interaction between competition and incentives to innovate is of great importance.</p>												
Link to report:	http://www.konkurransetilsynet.no/ImageVault/Images/id_1746/ImageVaultHandler.aspx												

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Jurisdiction:	US - FTC											
Market:	Intellectual Property	Range of Possible Outcomes										
End Date:	April 2007	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found										
Duration:	5 years		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Source of idea for study:	Bureau of Competition		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Outcome (tick relevant columns):		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Reason for study (what were the problems)?	<p>Starting in 2002, the Federal Trade Commission and the Department of Justice (DOJ) held hearings on competition and intellectual property issues. In 2007, the agencies issued a joint report to inform consumers, businesses, and intellectual property rights holders about the agencies' competition views with respect to a wide range of activities involving intellectual property.</p> <p>The report discusses issues including: refusals to license patents, collaborative standard setting, patent pooling, intellectual property licensing, the tying and bundling of intellectual property rights, and methods of extending market power conferred by a patent beyond the patent's expiration.</p>											
Link to report:	<p>https://www.ftc.gov/reports/antitrust-enforcement-intellectual-property-rights-promoting-innovation-competition-report</p> <p>For more information, see https://www.ftc.gov/news-events/press-releases/2007/04/federal-trade-commission-and-department-justice-issue-report</p>											