

IPR BRIDE & COMPETITION GROOM

DR S CHAKRAVARTHY

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FLYER FOR THE BOOK

IPR Bride and Competition Groom is a book penned by Dr. S. Chakravarthy, published by the Administrative College of India (ASCI), Hyderabad. It was launched (virtual) on 21 Nov 2020. The author is a civil servant (Indian Administrative Service), now retired.

The relationship between Competition Law control and Intellectual Property Rights is, inherently contradictory as there is a potential conflict between the two, in that the existence and the exercise of IPRs may often produce anti-competitive effects through the monopoly power granted to the holder of the rights. IPR Laws allow for the establishment of enforceable and exclusive rights for the inventors of new and useful products, more efficient processes, and original works of expression. The economic rationale for Intellectual Property (IP) protection is that it encourages private investment in R and D and spurs innovation. Through technology transfer agreements, inventors are enabled to commercialize their inventions and benefit from them. Intellectual Property Rights (IPRs) contribute towards dissemination of innovation and facilitate commercial development of ideas.

One of the avowed objectives of Competition Law/Policy is to ensure that new technology, products, and services are traded or licensed in a competitive atmosphere. In other words, it seeks a competition driven market in the interests of consumers. Old technologies are constantly replaced with new technologies. This impels competitors to feel motivated to increase efficiency, improve their products or create new products in order to maintain their share of the market. Competition Law promotes competition by prohibiting anti-competitive mergers, collusion, and exclusionary uses of monopoly. It encourages innovation. For checkmating enterprises from indulging in anti-competitive practices and in abuses of dominance, Competition Law is considered to be a curative tool. It is for this reason that Competition Laws all over the world are allowed to kick in when enterprises need to be prevented from monopolizing or attempting to monopolize trade and commerce. Social reasons warrant that Competition Law should help prevent possible market failures and market distortion and should that happen give a signal to the policy makers to take steps to repair, reinstitute, and redevelop the market.

Given the dichotomy and conflict between IPR Laws and Competition Law, it is essential to devise an effective mechanism for walking the tightrope between them. Both IPR regime and Competition regime are indispensable and ergo, a clear and balanced harmony requires to be posited. Competition Law is hostile to anti-competitive practices but operates towards protection of practices, which help in furtherance of the smooth functioning of the market. Broadly it can be

inferred that IP Laws seek to protect individual interest and Competition Law protects the market. This book navigates the contours of the conflict between IPR Laws and Competition Law, micro analyses the conflict with case laws in support and examines the interface dimension between them. Cited and described in the book are a number of case laws, each dealing with one practice or another that could fall within the mischief of Competition Law.

New Age Markets dealing with Digital Regime, Big Data and Disruptive Technologies and their relationship with Competition Law have been given a detailed treatment in the book. The author has listed two kitties, the first of reasonable conditions and the other of unreasonable conditions in IPR licence agreements. He has also flagged two Advisories of permissible and non-permissible conditions that could be followed in drafting licensing agreements. Amendments have been suggested to the Indian Competition Act, 2002. Most of them are in descriptive mode and need to be fine tuned in legal language.

Accompanying this flyer is a set of blurbs from the pen of eminent persons and experts on the subject matter of the book. See **WHAT THEY SAY**.

The book can be purchased in terms of the advice attached.

WHAT THEY SAY

The book is an outstanding addition to the literature on the subjects of IPR and Competition law. Dr. Chakravarthy importantly brings out the fact that both these subjects ultimately aim at consumer welfare, one by encouraging innovation and the other by ensuring competition in the market place. Dr. Chakravarthy is an erudite scholar, with a fine sense of humour - a rare combination - and has produced an outstanding and eminently readable book, by harmonising the goals of IPRs and Competition Law. I commend the book to all students of law, and to practitioners of the disciplines both in and outside the Government.

Mr. K. Padmanabhaiah, IAS (Retd), Chairman, Court of Governors, Administrative Staff College of India, Hyderabad.

I congratulate Dr. Chakravarthy for this great scholarly initiative on both the interplay and interface between IPR and Competition Law. He creatively articulates that IPRs are a double-edged sword; they enhance dynamic efficiencies by creating incentives for innovation but potentially may undermine efficiencies through the market power they place in the innovator's hands. Efficient wealth maximization requires that a line be drawn between conduct of an IP holder that is permissible and that which is impermissible. This aspect has been beautifully captured in this Book.

Mr. Ashok Kumar Gupta, Chairperson, Competition Commission of India, New Delhi

Writing a book on a subject like the interface between Competition Law and Intellectual Property Rights presents a daunting task, which Dr Chakravarthy with his vast experience has accomplished with remarkable ease and finesse. I wholeheartedly congratulate Dr Chakravarthy and commend this book to all Judges, lawyers and legal scholars who are interested in keeping pace with the legal problems posed by technology.

Dr. T.K. Viswanathan, Padma Shri Awardee, former Secretary General, Lok Sabha & Union Law Secretary Government of India

This erudite volume is a treasure for both the lawyer and the layman for education and entertainment.

Mr. Justice T.N.C. Rangarajan, former Judge, High Court of Andhra Pradesh, Hyderabad

Dr. Chakravarthy's book, "IPR Bride and Competition Groom", is a product of great scholarship, long and varied experience in both theoretical and practical aspects of Competition Policy and Law as well as a well-known commitment to the subject of Competition. It is an intellectually challenging, as well as satisfying, experience to grasp the intricacies of complex facets of IPRs and Competition Law dealt with in this book. The author, Dr. S. Chakravarthy, richly deserves to be complimented for coming out with this major contribution.

Mr. S. Narayanan IAS (Retd), Former Indian Ambassador to the WTO.

Dr. Chakravarthy's years of experience and unique ring-side view of the developments surrounding the intersection of competition and intellectual property laws in India makes this book a valuable addition to a library. In an era where India continues to strengthen economic regulation in a vibrant market economy, Dr. Chakravarthy provides us with a road map to the future, with a unique perspective of the past.

Mr. Samir Gandhi, Advocates & Solicitors, AZB & Partners, New Delhi

A through ,incisive and comprehensive treatise on IPR's and competition law that deals with all aspects of possible conflict and complementarity and intersection of the two supposedly diametrically opposite concepts. A very well written comprehensive book. A superb must read for students and practitioners of Competition Law...

I wish the book great success.

Ms. Pallavi Shroff, M/s Shardul Amarchand Managaldas and Co.

Dr Chakravarthy has produced a veritable essay in pure scholarship, marrying two improbable suitors, to a theme wedded to economics and law. In the real world these two, namely the exclusive rights to an IPR and the resultant riches, and the quest to quell an abusive chase to that monopolistic treasure, are both a carrot and a stick, that every business enterprise strives and every competition agency struggles daily to achieve. This book captures that palpable tension and celebrates the spirit of success.

Dr. Chakravarthy is the Conquistador of Competition Law

Mr. Ramji Srinivasan (Senior Advocate), President, Competition Law Bar Association of India.

ADVICE ON HOW TO PURCHASE THE BOOK

The Administrative Staff College of India (ASCI) has published the book titled **IPR Bride and Competition Groom** authored by Dr. S Chakravarthy, IAS (R) presently Honorary Visiting Professor in the College. The book runs to about 360 pages and is priced at Rs. 599.

Those who desire to purchase the book may please make a request to the Editor, Administrative Staff College of India, Bella Vista, Hyderabad-500082, Telangana. His email id is editor@asci.org.in. Tel. No. 04066534241.

Including the Speed Post charge, the total price of Rs. 700 per book should be remitted to the following account of ASCI .

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