

NEW APPROACHES TO ASSESSING ABUSE OF DOMINANT POSITION IN RELATION TO STANDARD-ESSENTIAL PATENTS IN EU COMPETITION LAW

ABSTRACT

The present thesis deals with the assessment of abuse of dominance in relation to a Standard-Essential Patents as a globally developing phenomenon of recent years. The assessment of abuse of dominance is examined in the context of EU competition law, in particular in the light of recent decision-making practice of the European Commission and the Court of Justice of the EU.

This thesis examines whether European competition law is close to finding a firm standard in assessing abuses of dominance by competitors who benefit from intellectual property rights from patents on standardised technology. This firm standard is specified in two ways. The first level is whether in EU competition law the unwillingness of the owner of the Standard-Essential Patent to license such a patent is considered as an abuse of a dominant position. On the second level, it analyses under which circumstances a negatory action brought by a Standard-Essential Patent owner against a licensee in bad faith can be considered as an abuse of his dominant position.

In Chapter 2, the thesis introduces key concepts related to Standard-Essential Patents and standardisation. Chapters 3 and 4 analyse the decision-making practice of the European Commission and the Court of Justice of the EU, in particular with regard to the recent Court of Justice judgment in *Huawei v. ZTE*. The next chapter presents approaches to assessing abuse of dominance in relation to patents on standardised technology in the context of selected EU Member State jurisdictions. It also analyses the relevant soft-law of the European Commission.

KEY WORDS:

Standard-Essential Patents; SEP; Abuse of Dominance; EU Competition Law