

Abstract

The thesis reviews current patent strategies of original pharmaceutical companies and their tangled role in the fabric of European pharmaceutical innovation and competition. It addresses several components of the European pharmaceutical industry such as regulatory framework, patent filing and dispute strategies and competition law. It argues that patent law is embedded in a broader competition law framework however plays on a separate field where it governs primarily the entry to its exclusive space by market actors. However it asserts that competition law should serve as a time referee for the patent law playfield and check if the abusive prolongation of exclusive patent position does not occur. The thesis deliberates that in view of ever rising number of patent applications, abuse of the patent system may become symptomatic to the system. The Commission data presented in the Final Report on the pharmaceutical sector inquiry are again inspected. Although data should be used with caution, it revealed a good quantitative base for assessment of a system which seemingly becomes more entropic, complex and susceptible to abuse. Therefore the underlying principles in both patent and competition law should be upheld more strongly than ever. It is the principle of fairness that should have normative force and enable the Commission to address abusive patent filing and litigation strategies and finally point the warning finger not accepting abuses of patent prosecution in competition framework. The thesis offers support for better competition policy justification and defends return to fairness as a baseline norm in the EC's competition law policies in its interaction with patent law.