

**INTELLECTUAL PROPERTY AND COMPETITION:
THE PROPER ROLE OF ANTITRUST POLICY**

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- I. Relative Contributions of Innovation and Competition to the Economy
 - A. Relationship to IP policy
 - B. Not of Antitrust Concern

- II. Basic Antitrust Approach: Identify Practices that are Anticompetitive and not Justified by IP Policy
 - A. Identifying Anticompetitive Practices -- Institutional Limitations and threat of False Positives

 - B. Patent "Misuse" v. Antitrust Violation

 - C. Unilateral Exclusionary Practices
 - 1. Market Power; *Independent Ink*
 - 2. *Walker Process*
 - 3. *Noerr-Pennington* and Infringement Actions
 - 4. Patent Accumulation, with or without Nonuse; Acquired Patents
 - 5. Unilateral Refusal to License

 - D. Horizontal Arrangements
 - 1. Price-Restricted Licenses
 - 2. Horizontal Territorial Restraints; Product Division (Field-of-Use Restrictions)
 - 4. Patent Pools
 - 5. Standard Setting
 - 6. Settlements; Restraints Concerning Patents of Dubious Value

 - E. Non-horizontal Arrangements
 - 1. Patent ties; Origins of Patent Misuse Doctrine
 - a. Tying of Unpatented Staples
 - b. Package Licensing, Blanket Licensing, Block-Booking
 - 2. Exclusive Dealing
 - 3. Resale Price Maintenance
 - 4. Vertical, Intra-brand Nonprice Restraints

 - F. Remedies
 - 1. Antitrust Remedies
 - 2. Nonantitrust Alternatives