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“Application of Competition law to Patent licensing from Developed Countries to Developing Countries----From A Comparative Perspective between China and EU”

Patent licensing is a contract between a patent holder (licensor) and a licensee in order to authorize licensee to produce and commercialize the products. In today's knowledge-based economy, patent licensing plays a very important role in many industries, especially hi-tech industries. Moreover, most Asian developing countries, such as China, are the manufacturing countries; much of their economic growth depends on technology transfer through foreign direct investment (FDI), and foreign investment enterprises or multinational corporations (MNCs) of developed countries who own the majority of Intellectual property rights. Licensing agreement is a good way to transfer the technology from west to east, but also accompanying with the anti-competitive effects: price fixing, coordinated output restrictions among competitors, or foreclosure of innovation and etc. It is necessary to apply competition law to control the anticompetitive effects of patent licensing. European competition law is tailored to cover Intellectual property rights in general and licensing agreement in particular. In contrast, competition law is quite new and not well developed in most Asian developing countries. According to the experience of EC competition law, how to appropriate apply competition law to patent licensing in Asian developing countries, particularly in China. Furthermore, international technology transfer should be considered in both domestic and international level, is it possible to collaborate between EU and Asian developing countries?