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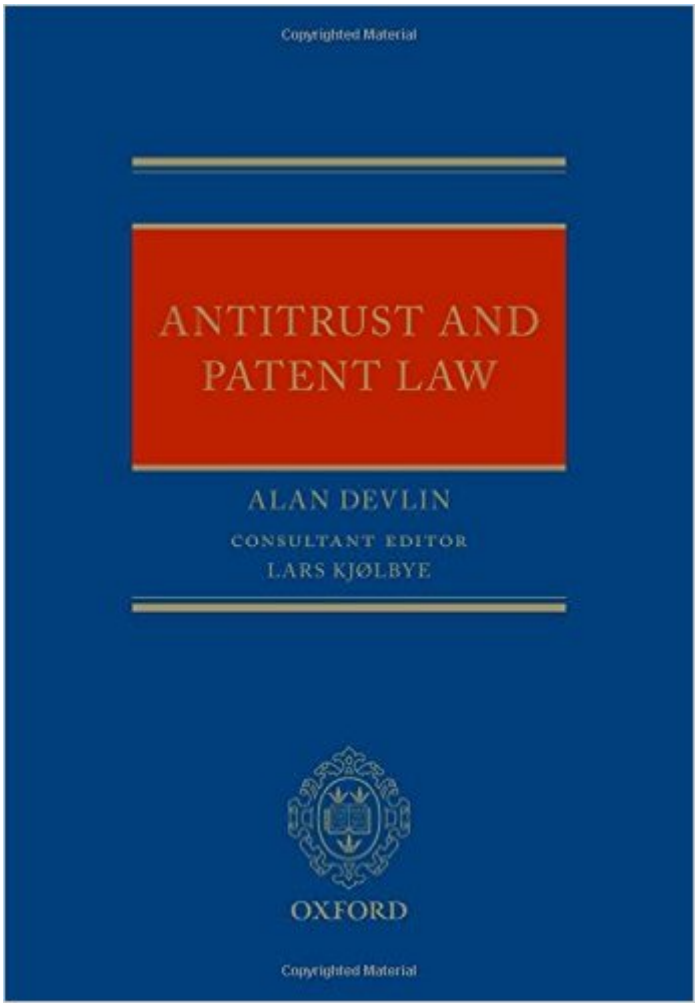
Antitrust And Patent Law



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Synopsis

Patents lie at the heart of modern competition policy. In the new economy, firms use them variously to protect their R&D, to bolster their market positions, and to exclude rivals. Antitrust enforcers thus scrutinize patentees to ensure that they do not use their intellectual-property rights to suppress competition. Today's antitrust lawyers must therefore navigate intellectual-property issues and advise clients on the procurement and assertion of patents. It is no easy task. In granting exclusive rights, patents have an uneasy relationship with competition law, which struggles in turn to apply policies developed in bricks and mortar industries to the world of technology.This book explores the acquisition and use of patents under the law of the world's two most important antitrust regimes: the United States and the European Union. It examines antitrust rules governing technology transfer, standard-essential technologies, patent aggregation, open and closed systems, coercive licensing terms that amount to misuse, evergreening tactics in the pharmaceutical industry like 'paying for delay', and patentee immunity in suing for infringement. To contextualize that analysis, the book explores the theoretical relationship between patents and competition law, addresses the U.S. 'patent crisis', the move towards unitary patents in Europe, and differences between the US and EU competition regimes. Further, the book explores idiosyncrasies governing the core antitrust questions of market definition, market power, and anticompetitive conduct in the patent setting. In doing so, the book allows those who practice, enforce, teach, or study competition law to understand the subtleties of this fascinating subject.

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Customer Reviews

HELPING ANTITRUST PRACTITIONERS SOLVE COMPETITIVELY SENSITIVE BUSINESS ISSUES IN THE NEW ECONOMYAn appreciation by Phillip Taylor and Elizabeth Taylor of Richmond Green ChambersCompetition lawyers, especially those specialising in antitrust issues, will welcome this new work of reference, published recently by the Oxford University Press. The foremost challenge facing such practitioners, says author Alan Devlin, is â ˆthe difficulty of navigating the patent-antitrust intersection, which is the object of this book.â ™The â ˆintersectionâ ™ between patent law and antitrust legislation is closely analysed in this text and explained with clarity, pointing out more than a few fundamental truths. The introduction to the bookâ ™s first section, for example, refers to the â ˆintricate relationship between competition law and the patent system,â ™ adding that â ˆpolicymakers increasingly call on competition law to ameliorate problems that are a function of patent law, making it important for practitioners in this space to understand both antitrust and patent law at a substantive level.â ™Yes, the book can assist the occasionally bemused practitioner with the task of advising clients, but equally, it offers the wider, more analytical viewpoint that is essential in global business. â ˆAntitrust-patent law is an international affair,â ™ says the author. Therefore, the book explores â ˆthe worldâ ™s most important competition regimes: the United States and the European Union,â ™ and in so doing, examines their rules and policies and the relevant economic principles that inform them.As there are notable differences between the antitrust regimes of Europe and America, the book explains why these distinctions matter, particularly for certain clients and their advisers.

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